

# Being a barrister

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I, Stephen James Halsall confirm that the work presented in this thesis is my own. Where information has been derived from other sources, I confirm that this has been indicated in the thesis.

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## **Abstract**

This study provides a conceptual bridge between barristers' professional training and educational academic expertise, facilitating an intellectual dialogue between those two areas of professional knowledge. The need for such a dialogue is impelled by my discovery of a dearth of research into legal professionalism particularly in relation to concepts of social learning, apprenticeship and communities of practice (Lave and Wenger, 1991).

Focussing on a snap-shot case study of a previously unexamined stage in the professional education and formation of barristers, I develop novel understandings of the complex process of becoming a barrister and of participants' connections with the nested communities (Brannan, 2007) of the bar. From these understandings I then develop new theoretical perspectives on the notion of communities of practice (Lave and Wenger, 1991) and novel analytical approaches based on understandings of professionals' motivational factors, (Parsons, 1939) and consensus formation (Goffman, 1959) underpinning professional formation.

My study reveals a community of practice dedicated to excellence and a notion of service to others but also uncovers novel perceptions of sequestration and new understandings of new-comer/old-timer relations. The understandings uncovered here led me to create a new theoretical notion of learning terrains, a development of conceptions of learning territories (Fuller and Unwin, 2004, 2005) and my own novel notion of pervasive learning, a new perspective on participatory practice based learning.

I conclude by contextualising my uncovered understandings and my theoretical refinements and developments in relation to some of the most recent theoretical developments in professional education and formation; including notions of comingling of propositional and practical knowledge (Guile, 2014a); workplace re-contextualisation (Guile, 2014b); and, professional apprenticeships (Fuller and Unwin, 2014). This additional contextualisation further enhances the value of my conceptual bridge in light of up to the moment understandings of professional learning and formation.





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## **Chapter 1**

### **A distinctive contribution to research and learned discourse**

#### **Introduction**

My research provides a conceptual bridge (Lave and Wenger, 1991, p.123) granting access to the world of barrister training and enabling educational academics to access a realm of professional practice previously closed to them. In creating this connection I also hope to allow barristers and those responsible for barristers' training to access the expertise of educational professionals. My goal is to facilitate an intellectual dialogue between those two professional cadres.

The focus of my research is an investigation of trainee barristers' understandings of their experiences of what it is to be a barrister and the process of becoming a barrister at the stage of their training known as pupillage. The trainees' understandings which I examine here are enriched and illuminated by their trainers' understandings of their own experiences of being and their perceptions of the process of becoming a barrister. These multiple understandings are further contextualised within an overarching framework provided by theories of social learning and current theoretical understandings of what it is to be a legal professional. In particular I contextualise my interviewees' comments in light of the communities of practice framework (Lave and Wenger, 1991) and the notion of legitimate peripheral participation and provide for further elucidation of that framework with additional theoretical notions. I have used these additional notions to refine the understandings conceptualised within and explained by the communities of practice framework. I have also further defined and developed that theoretical framework in the course of my analysis.

To assist the reader in understanding my experience and understanding of the bar prior to conducting this research I will now give a brief summary of my experience as a member of the bar and as an educator of barristers. I will also provide additional contextualisation for the reader and expand upon that summary, in a more introspective analysis of my own pre-conceptions, later in this chapter when I deal with my position as an insider researcher.

At the time of writing I am a barrister of 18 years' call and a door tenant at Drystone Chambers. I am an accredited Inner Temple advocacy trainer and a member of Inner Temple Advocacy Training Committee ("ITATC") with 15 years' experience of teaching intending barristers on the Bar Professional Training Course ("BPTC") at City Law School ("CLS"). The fact that the first three or possibly four lines of this paragraph are essentially meaningless to non-barrister academic readers and are readily understandable to barristers is, I would suggest, a preliminary indication of the importance of the conceptual bridge that I intend to build. All of the terms above and other bar specific terms, will be translated for the non-barrister reader where relevant, in the course of this and subsequent chapters.

At the time of writing I am also Quality Assurance Coordinator on the BPTC and a Learning Development Fellow at CLS. I was previously CLS Educational Development Associate and a member of the Good Academic Practice Group. I would suggest that the fact that some of these roles are unfamiliar to some barrister readers further emphasises the importance of the conceptual bridge that I build in the course of this study.

I have undertaken this research because, as a barrister and a professional educator, I am concerned at the lack of application of external educational expertise in professional training for the bar. As a consequence of this concern I have carried out this study to create a conduit of knowledge transfer between the educational community and the professional legal training community. I intend that this conduit will provide for a two-way flow of knowledge. My research will enable barristers and barrister trainers to access the theoretical knowledge of the educational community. My research will also enable educational academics to engage with the education and training systems used at the bar and with notions of professionalism current in the legal community. In enabling that access and engagement my research will address empirical deficiencies in relation to the bar, facilitate theoretical innovation in relation to notions of communities of practice and help to address the policy and practice needs of the bar. My experience of the bar and education enables me to identify the lack of discourse between the professional cadres of educators and barristers. I am, therefore, placing myself, and the analysis contained in this thesis in the position described by Wenger (1998) of a '*broker*', one whose membership of several communities of practice enables and facilitates alignment of diverse perspectives, Wenger (1998, p.109).

This research is an important, distinctive and original contribution to the field of study of professional education in the context of theories of social learning and

theoretical understandings of what it is to be a legal professional. It underscores and brings to light the lack of empirical data in relation to many aspects of the notion of communities of practice, in particular in relation to lawyers and more particularly to trainee barristers. My analysis of those engaged in communities of practice delves into an area of communal practice that has so far gone relatively unnoticed in the educational literature. It provides, therefore, an insight into barristers' specific community of practice. It also contributes to the continuing academic debate centred on the definitional parameters of the conceptual frameworks of communities of practice and legitimate peripheral participation and enables me to posit innovative theoretical developments and refinements. I would suggest that the importance of conducting this research at this time is further underscored by two matters related to policy and practice at the bar. Firstly, there have been recent changes to the types of business relationships that barristers are permitted to engage in (The Legal Services Act, 2007; The Bar Council, 2015) in that they are now permitted to provide legal services to the public through business entities that may be partially or wholly owned or managed by non-lawyers, as opposed to the traditional approach of offering those services as self-employed professionals. Secondly, potential changes to pre-pupillage education and the pupillage stage are currently under discussion in the profession (The Bar Standards Board, 2015). The Bar Standards Board only submitted an application to regulate one of the three possible forms of the business entities, within the first set of changes, on 27 June 2014 (Lexis Nexis, 2014) and was authorised to do so from January 2015 (The Law Gazette, 2014). The second set, of potential changes, are at a general consultation stage and have not yet been decided upon or implemented. My study will, therefore, provide an invaluable resource of perceptions at the bar prior to such changes being widely implemented or implemented at all.

As is apparent above, where I indicated my current roles, a first stage in opening up the bar to the input of educational academics is to clarify its rather opaque structures and nomenclature. A logical way to do this is to introduce the reader to the concepts summarised by the bar's structures and nomenclature in the same sequence that trainee barristers are often introduced to them. Trainee barristers encounter these concepts as part of the process by which they become barristers, sometimes encountering the new concept prior to, just prior to or even contemporaneously with their need to engage with it. I will, therefore, introduce the reader to these concepts below in a mainly sequential discussion of the steps that need to be taken to become a barrister.

## **The Bar of England and Wales**

### **How to become a barrister**

The process of becoming a barrister has three, sometimes four, distinct stages. These begin with taking a law degree or, alternatively, a non-law degree followed by an intensive, one year, Graduate Diploma in Law. After this point the professional training for barristers and solicitors takes separate routes and intending barristers must attend the BPTC while intending solicitors attend the Legal Practice Course.

The BPTC is a one year course focused on procedural knowledge and practical skills such as advocacy. On successful completion of the BPTC trainees are 'called to the bar' by their inn of court. The concept of being 'called to the bar', often known simply as 'call' is essentially a formal recognition of having reached a particular stage in the process of becoming a barrister. After the call ceremony a person can describe him/herself as a barrister. A call ceremony is much like a graduation ceremony and a barrister's seniority and experience is often assessed by reference to year of call. That is to say a barrister of five years' call is generally expected to be more experienced than a barrister of three years' call. Although call takes place shortly after successful completion of the BPTC it is distinct from the graduation ceremony for the BPTC which takes place at the university where the trainee studied for that course. The call ceremony takes place at the trainee's Inn of Court.

Intending barristers must then complete a 12-month 'pupillage', essentially an apprenticeship, which consists of two distinct stages. These two stages last six months each and are, consequently, known as first-six and second-six. In order to commence pupillage an intending barrister, 'a pupil', must apply for and obtain an offer of pupillage from a set of barristers' chambers. A set of chambers is principally, an association of self-employed barristers who share administrative and rental costs between themselves. Pupils are attached to an experienced barrister who will be their pupil supervisor in chambers and the specific supervisor may change between first and second-six. In first-six pupils assist with their supervisor's work but cannot be advocates in court and in second-six pupils continue to assist the supervisor but also conduct their own work as an advocate in court. In first and second-six chambers will pay pupils a basic income. In second-six this is potentially supplemented by the pupils' own earnings although these are likely to be limited and are often paid some months after the work is actually completed.



The structure and content of pupillages are strictly controlled by the regulator, the Bar Standards Board (“BSB”) but are administered on a day-to-day basis by chambers. If a pupillage is properly administered in accordance with BSB requirements it is expected that the pupil should learn significantly from the pupil supervisor. The ultimate goal of pupillage is to be given tenancy, that is, a permanent position as a barrister in that chambers. This is often decided by a vote in which all current members of chambers are entitled to take part. It is important to note that obtaining a tenancy does not entitle a barrister to an income or to any work that might produce an income. It simply entitles the successful applicant to pay rent and other expenses to chambers and to be considered for any work of a suitable level that comes into chambers. The allocation of work is decided by specialist administrators called clerks who are not usually lawyers themselves.

The barristers who are members of chambers are known as tenants. Some part-time barristers who may mainly be involved fulltime in teaching or in other roles are called door tenants. More senior barristers sometimes receive the rank of Queen’s Council (“QC”) confirmed by official state notification called ‘letters patent’ issued by the Lord Chancellor who is the member of the Government’s cabinet responsible for the Courts. Each set of chambers will elect an experienced barrister to be their head of chambers.

Individual chambers and the barristers within them tend to either focus on criminal law or civil law. The term criminal law is self-explanatory but civil law means, in an English context, law focussing on non-criminal conflicts such as breach of contract or various duties that individuals owe to one another. Some chambers and barristers deal with both criminal and civil cases and these are known as common law chambers. It is also helpful at this point to distinguish the terms civil law and common law which I have just explained from the terms common law jurisdiction and civil law jurisdiction. This differentiation will assist the reader when in reading my review of literature in the next chapter.

Simply put, common law jurisdiction means a legal jurisdiction like England and Wales where, in addition to statute book law, additional law is made in court by judges and is binding on subsequent judicial decisions in other court hearings. Civil law Jurisdiction means a legal jurisdiction like France where all or most law is written into a statute book by the government and judges’ decisions are not in principle binding on subsequent hearings.

Each Barrister must be a member of an Inn of Court in order to practice and must join that inn before commencing on the BPTC stage of training. There are currently

four Inns of Court, the Honourable Society of the Inner Temple (“Inner Temple”) The Honourable Society of the Middle Temple (“Middle Temple”) The Honourable Society of Lincoln’s Inn (“Lincoln’s Inn”) and The Honourable Society of Gray’s Inn (“Gray’s Inn”). In former times the Inns effectively regulated the profession and maintained standards but over time these responsibilities devolved to the Bar Council which in turn devolved portions of them to the BSB (The Bar Council, 2015). The Inns often own the property which barristers’ chambers’ rent as their business address. Office holders within the inns are often voluntary roles held by barristers and senior role holders are called benchers and addressed by the title ‘master’. There is some overlap in senior roles between the inns, chambers, the bar and the judiciary.

The discussion above gives an overview of the bar and a number of the interconnected relationships within it. There are a number of additional pieces contextual information and explanations of terms that could be made here but rather than burden the reader with an excessive vocabulary specific to the bar or explanations of possible scenarios I will provide subsequent contextualisation and translation at relevant points below and in the chapters which follow.

### **The inn’s role in this study**

The inns were responsible in the past for training intending barristers and today that role manifests itself primarily as training pupils and new practitioners in advocacy skills. The inns also provide a level of enculturation through formal dinners which trainees must attend prior to call and which pupils and barristers may attend. There are also formal dinners and less formal breakfasts and lunches during training events through which enculturation may occur and although these are not compulsory it would be surprising if a pupil or trainer did not attend most of these in the natural course of attending the training days.

It is the educational role of one inn that has enabled me to access my interviewees. I am primarily interested in the professional training and enculturation experiences that individuals undergo during pupillage. The context in which pupils undertake much of their training is highly localised and individualised as all the pupils, in any one year, are distributed between various chambers. Each pupil may be the only pupil or one of only two or three pupils in their specific chambers. Because of this distribution, information on pupils’ perceptions is usually difficult or impossible to access. I have been able gain access to a cohort of pupils and their trainers through the training provided by their inn and that inn acted as a facilitator in providing an

opportunity to introduce myself to its pupils and trainers in order to request their participation in my research.

My study, therefore, relates to the pupils and trainers of one inn, Inner Temple (“the Inn”). My study focusses on the training and enculturation those pupils receive at the Inner Temple and through those pupils’ interviews I have also explored the process of enculturation into the broader community of practice which occurs during pupillage, pupils’ perceptions of becoming and being a barrister and facilitators, barriers and impediments to their professional progression. In the chapters that follow, therefore, I analyse pupils’ and trainers’ perceptions to gain an understanding of what it is to be a barrister and the processes by which individuals acquire the professional identity of ‘being a barrister’. I also develop an understanding how to contextualise that identity and process of becoming in terms of theories of social learning and develop refinements of aspects of those theories.

In chapter two I discuss the reasons for the theoretical contextualisation that I have chosen. In order to fully appreciate my arguments there the reader needs to be aware of the educational processes that my interviewees experience at the inn’s training. That process is explained immediately below.

### **The inn’s training**

The inn’s training for pupils has six components: an introductory evening where the format for the forthcoming training is explained; a criminal and a civil case analysis session, where the legal and evidential factors in some civil and criminal case scenarios are discussed with an experienced trainer; a residential weekend at which most of the advocacy training including witness handling and some socialisation and enculturation occurs; an applications day at which advocacy training in civil applications takes place; a mock trial at which pupils take part in a mock criminal or civil trial in a real court room; and, a refresher evening towards the end of the course at which pupils experience some more advocacy training to refresh their minds and skills. When I say witness handling I mean the primary skills of trial advocacy, that is to say examining witnesses in one’s own case and cross examining opposing witnesses. When I say civil applications I mean an important advocacy skill set within the civil law bar characterised by applying to a judge to persuade him/her to grant some order or come to some decision. Such applications are part of the skill set known at the bar as ‘submissions’ and are more akin to a speech by the barrister, with significant interruptions and questions by the judge, than witness

handling, which can be characterised by the barrister asking the witness a series of questions.

At all of these components of the inn's training, except for the two case analysis sessions and the introductory evening, teaching and learning occurs through the Hampel method which is described more fully below. At all of these sessions the trainers will be members of the bar whose experience of the bar may range from relative new-comer to very highly experienced. Trainers' status within the bar and the inn may range from relatively junior to very senior. In all sessions where pupils experience the Hampel method there will be two trainers in the training room one of whom will be an experienced trainer and may also be highly experienced in practice. By this means practice experience is incorporated into all the pupils' main advocacy training sessions. The Hampel method is practice based in that it mimics real life practice scenarios with mock but realistic case papers such as witness statements and previously agreed evidence.

### **The Hampel Method in Action**

Any use of the Hampel method in advocacy training begins with a pupil performing an advocacy task while observed by the trainer and in the case of the inn, two trainers. Advocacy tasks may include giving an opening or closing speech or a submission (an argument on a specific point) to the court or it may be examination in chief of a witness on the advocate's own side of the case or cross examination of a witness from the other side of the case. For the system to be effective the trainer must keep a careful note of the pupil's performance and specifically write down the exact words used by the pupil and/or the exact behaviour of the pupil in relation to any training point the trainer later decides to raise. The method consists of six components; headline, playback, rationale, prescription or remedy, demonstration and replay (Inner Temple, 2011, p.35) (Advocacy Training Council, 2009 and 2015, pp.6-11), which are described in more detail below.

### **Headline**

The first task for the trainer is to create an appropriate headline for the training point observed. Essentially the headline needs to summarise the training point in a way that is meaningful and memorable to the pupil within a short phrase or a single word. Based on my observations the use of a short phrase is somewhat more common

and this may be because a phrase may have greater explanatory power for the pupil than a single word.

### **Playback**

The next task for the trainer is to playback the pupil's error, generally using the pupil's precise words or an accurate description of what they did. An important aspect of playback is that its specificity is intended to enable the pupil to accept that the training point truly does relate to his/her personal performance and is not simply some generic point or some point unhelpful to that pupil.

### **Rationale**

The trainer must now explain why the training point needs to be corrected so that the pupil understands why it is necessary to improve and the benefits that might be expected from doing so. I would suggest that this approach has a reflective component for the pupil.

### **Prescription/Remedy**

The trainer must now provide a means of solving or reducing the training point raised. This is such a crucial stage of the process that trainers, when being trained as trainers, are commonly told that if they cannot think of a solution they should not raise the training point and that it is an inappropriate approach to do otherwise. To understand why such an approach is inappropriate it is only necessary to consider the position of a pupil who is told that s/he is doing something wrong but that the trainer doesn't know how to remedy it. The pupil's confidence may be undermined but with no benefit gained in terms of improved performance in return. Essentially, it seems logical to suggest that providing a headline without a prescription is not training but anti-training as it, at least, risks worsening future performances while providing no opportunity for improvement.

### **Demonstration**

The trainer should now give a demonstration of how to perform the advocacy task properly. In Inner Temple training it is implicitly recognised that all advocates make errors and so trainers are told to strike a balance between providing a demonstration that is long enough to assist the pupil but short enough to reduce the risk of making

an error themselves, perhaps even the error they are aiming to correct in the pupil. This approach to the demonstration indicates to me that the purpose of the inn when using the Hampel method is not simply to teach pupils to become excellent advocates by observing experienced practitioners but also to give them the analytical tools with which to make themselves into excellent advocates.

### **Replay**

The pupil is now invited to re-perform the task while correcting the error. To ensure that the pupil's confidence is supported by a positive outcome and not undermined, and given the implicit recognition of the propensity of all advocates to make errors, as mentioned above, this replay performance is generally short. No further feedback is given on any additional errors observed at this point. It seems sensible to me to suggest that the Hampel method as applied by the inn is implicitly adopting Kolb's (1991, pp.58-60) notion of circular learning systems and repeated applications of the method will constitute a learning spiral of the type described by Northedge and Lane (1997, pp.20-22).

### **Contextualising ethical and practical issues**

In seeking to build a conceptual bridge and provide a two way conduit of knowledge transfer between educational academics and the professional community of the bar and play the role of a '*broker*' between these communities I have sought above to clarify the rather opaque structures and nomenclature of the bar of England and Wales. It seems to me that an equally important task for me, in order to facilitate reader understanding of the discussion that follows in subsequent chapters, is to address at an early stage the ethical and practical issues relating to my study. I say this because a number of these issues seem to me to derive from the particular structure of relationships within the bar and from perceptions of these which may be less clear to non-barrister readers. For this reason I have decided to deal with ethical and practical issues immediately below and to follow that discussion with a candid disclosure of my personal perceptions of the bar and the way in which it seems to me that those issues and perceptions locate my research in the context of real world research (Kvale, 1996) structured by real world constraints.

## **Ethical Issues**

There are concerns that pupils suffer from undue work pressure and pressure to conform and these are common anecdotal themes in discussions of pupillage at the bar. The inn's training potentially provides a situation freer from such concerns than the chambers locational situation and as we shall see in subsequent chapters the controversial nature of a number of my interviewees' comments supports the notion that the context of the inn provides a protective location in which to express views.

Concerns that pupils' views may be reported back to or read by members of their chambers have been dealt with in this study by anonymising returns before analysis and by distributing an appropriate letter to participants, informing them that reporting will be anonymised, provided here in appendix one. As an additional safeguard participants were asked to sign a consent form, see appendix two. By signing the consent form participants agreed to respect the confidentiality of other participants and also agreed that the data collected could be used for academic and research purposes. I also obtained an agreement from the Inn, which was recorded in meeting minutes of the ITATC meeting of 11<sup>th</sup> February 2013, to respect the confidentiality of my pupil and trainer interviewees.

Concerns about anonymity were further dealt with by indicating, in the letter that the participants received explaining the research and its purpose, that the results would be held and used in an anonymous format. Participants were also explicitly informed that no information, which could be used to identify them, would be used in reporting the research, and that all interviewees would be specifically requested to respect the privacy and confidentiality of other pupil and/or trainer participants in the research. Participants were told that they had the right to withdraw at any stage. Participants were also specifically informed that their involvement would make a valuable contribution to our understanding of pupil barrister training.

Concern that there could be a perceived relationship, between pupils and/or trainers and myself were dealt with by me not training at any training sessions in the year that interviews were conducted. I also ensured that I was introduced to pupils simply as a researcher so that prospective pupil interviewees were not immediately alerted to my connection with the inn or the bar. I was introduced to the pupils by the trainer who was speaking at the normal introductory lecture of the advocacy training weekend. Pupils were also specifically told at this point by that trainer that there would be no benefit or detriment to them if they did or did not participate. To ensure transparency for my interviewees I was completely open about my connections and roles if subsequently asked or if the issue came up in conversation.

Each interviewee was also given an opportunity to ask me questions about the research after the interview.

## **Practical considerations**

### **Availability and contribution levels**

Time is precious for barristers and for pupil barristers. Pupil participants in this research are time pressured and have heavy workloads. The Inner Temple training sessions are a valuable learning opportunity for these pupils before their personal practice in court begins. It was essential, therefore, to conduct the research in such a way as to ensure that pupils' learning opportunities were not impeded. It is also true that time constrained individuals may, while intending to participate in research, never quite find the time to fit it into their busy schedules. For this reason and the reasons given above it was helpful to conduct the research when possible in a location where the pupils were already present by a means that minimised time intrusiveness and maximised pupil input. I therefore recruited interviewees at the advocacy weekend and interviewed them at the end of the applications days. Interviewees who were unable to be interviewed at the applications day were interviewed in groups or individually in subsequent interviews. All individuals who specifically wanted an individual interview were interviewed subsequent to the applications days. All subsequent interviews were at dates close in time to the applications day. Further details of the specific way in which interviews were conducted are discussed in chapter four.

There is also a potential tension generated by the possibility that some individuals may be more forthcoming in a group environment, as comments by other interviewees spark thoughts in their own minds, while some interviewees might be less willing to talk freely if others are present. Moreover, in a group interview scenario there is always the risk that one or more individual may dominate the session in such a way that some other interviewees are less willing to or feel less able to contribute as fully as they might otherwise do. I would suggest that this is potentially a higher risk in a profession where strong or forceful personalities are perceived to be a positive. As we shall see in chapter four, contribution levels by my interviewees were in general equivalent whatever the group size and interaction with other interviewees tended to spark related contributions.



## **Piloting**

It was necessary to pilot my interview questions prior to interview to ensure that they were fit for purpose. As pupils are difficult to access, other than through the inn as described above, it was not possible to trial the questions with pupils. Instead they were piloted on a barrister colleague who had once been a student of mine and who was now involved as a trainer at another inn and also an individual with a law degree who had not studied on the BPTC nor on any other legal professional programme. One of these test subjects was, therefore, more highly qualified than the pupils and about as highly qualified as some trainers and had been through similar experiences to both in qualifying. The other test subject was less qualified and experienced than the pupils but had a level of knowledge and understanding of their context and experience. It seemed to me that these two test subjects' experience and knowledge straddled the area in which my potential research interviewees would be located and allowed me to triangulate, therefore, on an appropriate form for my questions. If questions were clear and meaningful to each of these two test subjects then they would likely be clear and meaningful to the research interviewees. On running preliminary trial interviews with the test subjects one interview question was split into two questions for clarity and one other was rephrased, again for clarity. Some additional questions were added for trainers and some other questions rephrased slightly for trainers to take account of their difference in experience from pupils and ensure clarity. The questions that I asked pupils and trainers can be seen at appendices four and five.

## **Reflections on my role as an insider researcher**

The advantages and disadvantages of my position as an insider researcher are discussed below along with my personal preconceptions, which may potentially flavour my analysis.

### **Insider Researcher – advantages**

The advantage of my experience as a member of the inn, BPTC tutor, inn trainer, barrister and former pupil is that it vitiates the need for a pre-ethnography to form an understanding of the context in which pupils and trainers operate. I am already familiar with that context, at least in terms of my own personal perceptions. My position as an insider researcher also enables me to see issues that others might

not and to take an appropriate approach to protect my interviewees in response to those issues. Two examples of these approaches are dealt with immediately below.

In seeking to report the full spread of interviewees' views I have made use of my knowledge as an insider researcher to maintain protection for their anonymity. My position as an insider researcher enables me to see ethical concerns that might not be immediately apparent to others. One interviewee, Malcolm, has a high ranking role within the bar and talked about specific communities and roles within the wider bar some of which he had experience of. His areas of experience are so specific as to make him identifiable within a small community of trainers. Consequently, to ensure his anonymity I have differentiated the communities that he discussed as 'Community A', 'Community B' etc. I have also differentiated the senior roles that he discussed as 'Role 1', 'Role 2' etc. Neither the sequence of numbering nor the lettering selected indicates relative ranking. That is to say Role 1 is not designated as Role 1 to indicate seniority over Role 2 or vice versa nor is Community 'A' designated as 'A' to indicate any superiority in ranking to Community 'C', nor do the selection of the identifiers 1 and 2 or A and B indicate ordinal sequence or any ranking or contextual adjacency in relation to other roles or communities.

One other interviewee, 'Arthur', requested additional protection for his identity which I gave him. Arthur is a senior trainer and a very senior practitioner. In interview he spoke extensively on a wide range of topics but part way through the interview expressed a concern about confidentiality lest he be identifiable from his comments. He then indicated that this issue would be resolved if I did not quote him directly. For this reason I have paraphrased and summarised his words while striving to remain true to their original sense.

### **Insider Researcher – disadvantages**

As an insider researcher I may have preconceived notions which impact on the interview process and on analysis of interviewees' responses. I may not be conscious of these preconceived notions. Interviewees may also perceive and respond differently to a perceived insider. Interviewees' perceptions of and responses to me may vary depending on their personal view of how centrally or peripherally I participate in the community and their position relative to me in any perceived hierarchy.

It was necessary, therefore, for me to attempt to recognise my own preconceptions before engaging with interviewees. I also needed to be continually self-critical with

regard to my potential preconceptions and their impact on preparation, interview and analysis. I endeavoured, throughout my study, therefore, to set aside my known preconceptions and adopt an informed but open-minded approach. Since I recognise that it is never possible to set aside all preconceptions or to be fully aware of them, I also applied this approach on a continuing basis throughout the preparation, interview and analysis stages of my research. In doing so on a continuing basis I attempted to be particularly careful when I became aware of my previously unrecognised preconceptions on any topic.

By adopting a carefully thought out set of questions for interviews, scrutinising these for preconceptions before use and piloting them, I believe that I went some way towards reducing the impact of my preconceptions. Any preconceptions remaining within the questions' formulation have been, I believe, further reduced by allowing interviewees to answer freely and go 'off-topic' when they wished to. Throughout my analysis I have also striven to be alive to the fact that answers which I may initially have identified as being off-topic could in fact be central to the interviewee's perception of the topic. This approach has, I believe, helped to illuminate additional useful and unexpected information which I have detailed in my subsequent analysis chapters.

Distortion, of interviewees' responses, because of tensions generated by their perception of me, in relation to themselves, in terms of insider issues, centrality of participation or hierarchy seem to me to fall into two sets of issues:

- (a) Pupils or trainers who perceive me as an insider. It is likely that the impact of this issue was reduced by the approaches set out in the ethical section above including me not conducting any training in the year that interviews were conducted, by me being introduced simply as a researcher at a normal introductory lecture, by me being subsequently open about my role when asked and by making it explicit that no benefit or detriment to potential interviewees would flow from their participating or not participating in interviews. These approaches are dealt with in more detail in my ethical section above;
  
- (b) Trainers or pupils who perceive me as an outsider. For those who perceive me as an outsider relative to their own position it is likely that the impact of this issue was ameliorated by the strategy set out in the ethical discussion in

this chapter and mentioned briefly above. For all trainers and pupils the issue was, I believe, further reduced by conducting my preparation and interview stages professionally and by allowing interviewees to express off-topic views in the interview.

It seems to me, however, that these preconceptions can never be fully dealt with at the preparation and interview stage as they may potentially form part of individuals' understandings of perceived hierarchical relationships within community of the bar. Indeed some aspects of pupils' and trainers' perceptions of me may be relevant to understanding their overall conception of that community. It was, therefore, necessary for me to continue to be aware of the possibility of such preconceptions impacting on the information received and illuminating it, throughout the interview and analysis stage. In chapters three and four I deal more extensively with the steps that I have taken to enable the reader to have confidence in my analysis.

### **Introspective analysis of my pre-conceptions**

In the discussion immediately above I have addressed my perceptions of the impact of my role as an insider researcher on my preparation for this study, on the interviews and on my analysis and the steps that I have taken to deal with these. The reader, being aware of these perceptions and potential impacts can contextualise my research in light of these. The reader, however, is not yet aware of my personal preconceptions about what it is to be and to become a barrister. It seems to me that in contextualising my research the reader will find it useful to know what my views were prior to this study, to know in other words, what is inside the head of this insider researcher.

I believe that to have any professional role is a privilege and that to have a professional role necessarily imposes on the role holder a duty to strive for excellence in professional work and a duty of service to those that the professional is responsible for. Law is, in my perception, central to many political, business and personal relations and certainly, in my view, the key to much dispute resolution in these relations. The duties imposed on a barrister, therefore, should be at least as high and in my personal view higher than on any other professional. In my view excellence is necessitated by the critical impact of a barrister's role on others. I believe that imposing a duty of excellence and service is, therefore, justified by factors external to the individual professional in that by doing so a benefit is provided

to wider society and I would hope that the desire to achieve excellence may also be a motivating factor for individual professionals. My personal perception is that this excellence and service also needs to be motivated by factors internal to the individual professional and that this motivation may be founded in a range of philosophical and/or religious morality or humanist values or mixture of these, dependent upon the individual professional. I should state explicitly that to me all of these motivators have equivalent potential value as they are specific to the individual. If the societal and individual benefit is delivered it does not matter to me what philosophical justifications and motivations the professional holds in his/her head to motivate him/her in achieving this. For me personally, professional excellence, notions of service and facilitation of these are justified and motivated by a desire for broader societal benefit.

My perception of becoming a barrister is that it is a difficult route to follow requiring dedication and devotion by the intending barrister over a long period and also a measure of luck. It was my belief before conducting this study that a number of intellectual, informational, structural, social and economic impediments stand in the way of intending barristers and a number of structures exist which may assist them in becoming excellent professionals. It was also my view that a number of informational disparities may also stand in the way of the bar achieving the excellence in professional education that many at the bar desire and may reduce the effectiveness of those structures and entities seeking to assist trainee barristers in becoming excellent professionals.

I also believe that the process of socialisation and enculturation into the professional identity of being a barrister has an important impact in creating professionals who will strive for excellence and exhibit a duty of service to those that they are responsible to. As a corollary to this I also believe that professional entities such as the inns can have an important role to play in facilitating and driving the enculturation process to ensure future excellence. Although my intention, prior to conducting my research, was simply to describe and explain previously unexamined enculturation processes, within an appropriate theoretical framework, rather than to challenge those process, a number of interviewees' comments gave rise to concerns, including some completely unexpected issues, challenging aspects of the present enculturation process.

It is the reduction of informational disparities that I mainly seek to address in this study by building a conceptual bridge between the bar and educational academics. My personal view is that reduction or amelioration of informational, structural, social

and, if possible, economic impediments will facilitate access to and equality in relation to the professional life of the bar and I see this as a good thing. If the information reported in this study assists with that goal and supports the professional entities such as the inns in facilitating this I will regard that as an additional benefit. That is why I regard myself as fortunate to have had access to such a large proportion of the pupils at Inner Temple in the year of my study.

It is logical to deduce that my personal preconceptions of being and becoming a barrister may flavour my analysis. Although I have endeavoured throughout my study to set my personal views aside it seems to me that it is useful to the reader to know what my views were, prior to commencing my study and indeed still are, so that the reader may appropriately contextualise my deductions and perceptions.

Whatever the reader may think of my internal perceptions and motivations, if the external effect of these is beneficial to the bar, educational academia and the public then they will serve some useful purpose. If, in other words, my internal perceptions and motivations drive me to conduct research that enables me to build the conceptual bridge, between the two professional cadres, that is the purpose of this study, then the bar, educational academia and the public will all benefit.

### **Real world research**

My earlier explanation of the structure and relationships within the bar, when examined in light of the ethical and practical considerations and the impact of my role as an insider researcher discussed above and my disclosure of personal preconceptions discussed immediately above seem to me to help to locate my research in the context of real world research (Kvale, 1996) structured by real world constraints. My study, in this contextualisation, is not impelled by a positivist, logic driven quantitative approach aimed at deducing purportedly “*scientific evidence [confined to] quantifiable facts*” (Kvale and Brinkman, 2009, p.12) nor is it aimed towards uncovering “*eternal truths*” (Faigley, 1992) (Beckett and Hagar, 2002, p.8). My study, rather, it is an attempt to understand participants’ perceptions of their personally contextualised experience (Beckett and Hagar, 2002, pp.118-119).

Beckett and Hagar’s (2002) analysis, however, focuses on informal workplace learning. The training which forms the subject matter of my research is a mixture of informal and semi-formalised practice based learning, in that the inn’s training contains some formal characteristics such as the requirement that pupils pass the

course and the taught case preparation sessions, which take place in a pupil participatory but trainer led classroom context. The inn's training, however, also contains very significant informal components such as the need to perform simulated practice tasks such as advocacy and the potential for peer to peer learning. The inn's training also exists within the context of the informal workplace based learning system that is pupillage. Moreover, although everyone is required to pass the course, anecdotal evidence from pupils and trainers suggests that the inn devotes significant extra support resource to those pupils (perceived by trainers to be) at risk of failing ensuring that they do in fact pass, essentially deformatizing in practice a formal requirement. Furthermore, the experiences of pupillage and the inn's training are located within a multi-context continuum in which pupils and trainers operate as variably peripheral and yet highly trained participants. Pupils are highly trained in a front loaded potentially positivistic education and training sense. Trainers are highly trained and more central participants. All participants, however, operate within the context of interlocking memberships of inn, chambers, bar and legal profession. This interlocking membership continuum generates differential sources of authority that participants may be subject to or exercise authority through and from. It seems to me that this contextual continuum is highly compatible with post-modern perceptions of dispersal of authority, see Becket (2002, p.190).

For the reasons given and due to the complexities discussed above, a qualitative, perceptual validation approach seems to me to be more appropriate than a scientific analytical approach in building an understanding of being an becoming a barrister. In light of the discussion above it seems to me that a qualitative analytical approach is the only one that could do justice to the situational and relational complexities of the bar and thus help to generate a better understanding of participants' perceptions about their personal phenomenological and hermeneutical perceptions of context. Consequently, I adopted a qualitative approach in my research and conducted interviews of a type that Kvale (2007) would describe as a professional conversation designed to elicit and record knowledge. The specific methodology and methods that I have adopted to do this are discussed in chapters three and four.

### **Concluding remarks**

In this chapter I have indicated that this study provides a context within which non-lawyers, and in particular educational professionals, can form an understanding of barristers' training. In the discussion above I have begun the preliminary stages of

this process with the translation of some bar specific terms and by providing a contextualised understanding of pupils' training at the inn. I have also dealt with and contextualised some ethical and practical considerations and provided personal contextualisation of my role as an insider researcher and reported my personal preliminary perceptions. I have done this so that an impartial reader can be aware of these matters in reading the subsequent sections of my study. I have suggested that a qualitative, perceptual validation approach will be the most appropriate given the real world constraints of my sample population.

In chapter two, I will review relevant aspects of the literature on professional learning and highlight a dearth of current relevant research in relation to barristers and barrister training. I will then develop my rationale for selecting the communities of practice (Lave and Wenger, 1991) framework as my main focus of analysis. In chapters three and four I will develop my thinking on methodology and method. In the chapters that follow I will also develop the notion of internal motivations more formally in the context of professional socialisation (Parsons, 1939) and presentations of the self (Goffman, 1959) to create a conceptual bridge between the two professional cadres of barristers and those responsible for barristers' training and educational professionals.

In my final chapter I will summarise the theoretical innovations that my research has uncovered from my new empirical data and my study's important, distinctive and original contribution to the field of professional education and formation literature. I will then contextualise and locate that contribution within a generative discussion of some of the most recent theoretical developments in professional education and formation, including: notions of comingling of propositional and practical knowledge (Guile, 2014a); workplace re-contextualisation (Guile, 2014b); and, professional apprenticeships (Fuller and Unwin, 2014). I will detail the further insights which my research provides into those recent theoretical developments and identify the novel research routes into those areas provided by my study. I will also make a number of important policy and practice recommendations in relation to the profession.



## **Chapter 2**

### **Reviewing the existing literature**

#### **Introduction**

In chapter one I suggested that my research is intended to provide a conceptual bridge granting access to the world of barrister training and enabling educational academics to access a realm of professional practice previously closed to them. In creating this connection I also hope to allow barristers and those responsible for barristers' training to access the expertise of education professionals. My goal is to facilitate an intellectual dialogue between those two professional cadres.

In this chapter I review relevant aspects of the literature on professional learning. In doing so I will develop my rationale for selecting the communities of practice framework (Lave and Wenger, 1991) as an appropriate conceptual lens (Hughes, Jewson and Unwin, 2007) through which to better understand the notion of being a barrister and the process of becoming a barrister.

#### **Theoretical issues**

There is presently a gulf between the study of professional legal education and study of the law and this gulf manifests itself particularly in relation to the professional practice of barristers in England and Wales. Legal academics tend to focus almost exclusively on substantive legal issues taking little interest in the process of legal education whilst educational academics often have limited knowledge of law and likely an even more limited knowledge of professional legal education and the structures and architecture of the legal professions. Those academics who do take an interest in both law and education mainly focus their attention on undergraduate legal education or at most, and to a somewhat limited extent, education in relation to pre-professional, vocational or professional skills programmes. Moreover, much of this latter area of interest is analysed by academics in relation to two distinct areas. The first of these areas of analysis focusses on common-law countries other than England and Wales (see Baron and

Corbin, 2012) where the professional structure may be quite different from England and Wales. The second area of analytical focus is on civil law jurisdictions where the professional structure is certainly different from England and Wales.

There appears, therefore, to be a significant conceptual and informational gulf or in legal parlance a lacuna, between the current areas of research into law and lawyers and existing educational research into other workplace training. That lacuna, however, is not in my view an unbridgeable gulf. My research is intended to provide one potential means to bridge that gulf. In creating that conceptual bridge it is important to define firstly, what I mean by the term legal professionalism and secondly, the understandings of learning that underlie this study. I say that this is necessary because it seems to me that a more defined notion of legal professionalism will help the reader to better understand what I believe pupil barristers are seeking to learn to be and become. Determining what conceptualisations of learning I believe will assist us in comprehending that process will also, in my view, assist the reader in understanding the justifications for the analytical framework that I have adopted.

### **Concepts of professionalism**

There is a dearth of literature relating to barrister training, a particular shortage in the English and Welsh context and more particularly a scarcity of analysis in relation to barristers and the sociological culture of learning. Within the literature available there is also an ambiguity in defining what is meant by legal professionalism. This is unsurprising as Eraut (1994) notes that the concept of professionalism is difficult to define even within what he calls an 'ideal type', which he specifies the legal profession to be.

Professionalism, is unsurprisingly, viewed by the barristers' professional body, the BSB, as a positive and as a locus of identity for barristers. Indeed the BSB report makes this point strongly, referencing numerous academic sources in support (Larson, 1977; Burrage, 1996; Evetts, 2006; Faulconbridge & Muzio, 2008 and Sommerlad, 2007, 2008, cited in LETR, 1/2012). Professionalism is, however, still considered difficult to define in a non-tautological way, particularly in the context of barristers' practice, (Lord Justice Moses', Ebsworth Lecture, 2012). Indeed the LETR (1/2012, p.11) affirms Sherr & Paterson's (2008) view that assessing legal practitioners' competencies is fraught with difficulty. LETR (op cit) reports that few

systems for assessing lawyers' professional competence have been able to formulate clear objective criteria for measuring competence that were not tautological.

Many current attempts to define legal professionalism shy away from a sociological culture of learning approach, as was noted by Gerst and Hess (2009, p.513). Indeed many current approaches to professional education, of any sort, also side-step that approach (Mertz, 2007, p.95 and p.98; Krieger, 2008, p.265). Moreover, several definitions of professionalism, in the context of professional education, focus on basic notions of 'rule following' (Webb, 1998, p.137). The underlying premise of rule following conceptions of professionalism, 'compliance professionalism' is that a person behaves professionally when they follow the rules of their particular profession. It is apparent that a rule following definition must give rise to concerns about which concepts underpin those rules. Compliance professionalism, also gives rise to concerns that such an approach may impede the use of internal moral guidance by professionals (Mark, 2008, p.6).

Another approach to defining the concept of professionalism can be described as what I term 'business model professionalism'. Business model definitions of professionalism commonly begin with notions of professional independence, exemplified as notions of being "*traditional*" (Wallace and Kaye, 2008, p.1021 and p.1024) and of professionals having "*autonomy and competence*", (Nelson and Trubek, 1992). Some writers add to this basic definition, additional conceptions of; contextual awareness, honesty, fair play and independence of judgement and even business management practices (Stuckey et al, 2007). Indeed the LETR, quotes, the Bar Council to say,

*"...all the available research supports the view that today's consumer expects expertise as of right; it is the level of service over and above expertise that is the means by which client satisfaction is truly to be judged"*, (Bar Council, 2006, pp.3-4, cited in LETR, 1/2012, p.9).

The Bar Council's perception of client satisfaction, as an implicit proxy measure for quality, is in my view essentially an inherent aspect of a business model approach.

Many aspects of the business model approach and compliance professionalism seem to me to be more compatible with notions of economic efficiency and appear to understate concepts of internal moral or socially inculcated guidance. Even concepts, sometimes listed within the business model approach, which are

intrinsically compatible with moral or social motivations, e.g. honesty and fair play (Stuckey et al, 2007) are not clearly defined but are simply stated and listed. Indeed I believe that an example of that minimalist approach to defining professionalism beyond the business or compliance models can be seen in the Bar Standards Board's Future Bar Training Consultation document (The Bar Standards Board, 2015b) which explicitly mentions notions of the market which seem to me to be compatible with a business model approach. I say this because in that consultation document the Bar Standard's Board reports that its own Draft Professional Statement

*"...sets out the knowledge, skills and attributes of a competent barrister."*  
(The Bar Standards Board, 2015a)

The draft professional statement does indeed set out the '*technical legal characteristics*' which incorporate skills required of a barrister and these include advocacy, drafting and knowledge of law. The draft professional statement contains a separate section on '*working with others*' and another on '*Management of Practice*' and the latter of these includes the organisational and management skills required of a barrister. The treatment of professional standards, in this document, however, relates to complying with regulatory requirements, observing the primacy of the barrister's duty to the court and dressing and speaking appropriately (The Bar Standards Board, 2015, p.8). These requirements seem to me to be more closely related to notions of compliance professionalism. The section on personal values and standards does indeed identify integrity, honesty, pursuit of equality, sound judgement, full preparation, adopting a reflective approach and continual development of knowledge as aspects of the way in which barristers should act but also includes issues such as avoiding unnecessary fees which seem to me to have both business and integrity implications. This entire section, however, is dealt with in only eight short paragraphs spread over a total of just one and one third pages of a 14-page document. The paragraph in the personal values section which seems to me to be least related to business model approaches is the paragraph which says that barristers will,

*"...act with the utmost integrity and independence at all times, in the interests of justice, representing clients with courage, perseverance and fearlessness."* (The Bar Standards Board, 2015, p.13).

These are commendable sentiments but are only 22 words in a 14-page document which tends to support my suggestion of the current primacy of business model and compliance approaches to notions of professionalism in the available literature.

It seems to me that the focus on customer satisfaction of the business model and rule following compliance notions of legal professionalism suggests that these approaches are logically more compatible with concepts such as modernistic reductionist and quantitative understandings of learning. They are, therefore, in my view, less compatible with theories derived from understandings of the sociological culture of learning.

The focus by the Bar Council and some legal academics on business model notions of legal professionalism is unsurprising in my view as market forces, as a determinant of individuals' actions, are topical in much analysis of the legal and other professions. Socio-cultural approaches to understanding legal professionalism and barristers' personal understandings of their professional motivations have been significantly neglected. This focus is unsurprising to me because it seems logical to me to infer that legal professionals, educators and regulatory bodies will apply the theoretical knowledge that they already have to understanding legal professionalism but many are often not familiar with socio-cultural theories of professional learning and most educational academics are not familiar with the legal profession.

The understandings of participants' perceptions of what legal professionalism is which I have obtained in my research have enabled me to reframe notions of legal professionalism within the context of socio-cultural theories of learning. This reframing has enabled me to rectify the neglect that this contextualisation has suffered in relation to the legal profession.

My research is, therefore, pivotal in moving towards a more clearly stated understanding of sociological and cultural conceptions of legal professionalism. The information which I have obtained in interview is fundamental to moving past the current web of tautological and self-referential business model definitions of legal professionalism. The innovative impact of my research is implicitly confirmed by Rowe, Murray and Westwood's (2012) analysis, which makes it apparent that many definitions of legal professionalism focus on a business model approach.

The importance of examining legal professionalism from the perspective of socio-cultural theories of learning is further confirmed by the suggestion that a confluence of group values is the key to creating a sense of community (Edvinsson, 2002, citing

Nicholson, 2000 and Westwood, 2001, 2004). The proposition that “*shared values*” are “*essential*” (Rowe, Murray and Westwood, 2012, p.126) if people are to work together effectively also supports, I would suggest, the significance of my research. The imperative for my research is also demonstrated by the proposal that such communal perceptions will assist in facilitating cooperation and resolving conflict within the group (Nicholson, 2000; McKenna and Maister, 2002; Ward and Smith, 2003).

The value of my approach is further confirmed by Rowe, Murray and Westwood’s (2012, p.127) indication, quoting Barker (1993) that working together creates, “*a system of value based rational rules*” (Barker, 1993, p.433) that is a set of norms by which community members control themselves and against which they measure their own behaviour. That value is further corroborated by Rowe’s additional proposition (2012, p.127) quoting McLoughlin and Luca (2002) that development of such norms will facilitate personal development of professional “*personal transferable skills*” (McLoughlin and Luca, 2002, p.572).

My research, therefore, provides a valuable opportunity to obtain a fuller understanding of notions of what legal professionalism is within the context of sociological theories of learning.

### **Working towards a definition of legal professionalism**

The analysis above suggests that the concept of professionalism is difficult to define and legal professionalism more so. Baron and Corbin (2012) begin to construct a concept of legal professionalism by incorporating concepts from various UK, US and Australian reports and sources, including: the Advisory Committee on Legal Education and Conduct (“ACLEC”) (UK); the Cramton Report (US) (American Bar Association, 1979); the MacCrate Report; the Carnegie Report (US) (American Bar Association, 1992); the Best Practices Project (US) (Clinical Legal Education Association, cited in Stuckey et al, 2007), all as reported by Gerst and Hess (2009, p.514); and also, the Carnegie Report (US) (Carnegie Foundation for the Advancement of Teaching) as cited by Sullivan et al (2007, p.22).

Baron and Corbin’s (2012) definition of professionalism includes the concepts of, “*Justice, fairness and high ethical standards*” (Baron and Corbin 2012, p.101) which they draw from ACLEC (1996, Para 2.4) “*Notions of shared norms, high standards of competency and conduct*” (Baron and Corbin, 2012, p.102) which they obtain from Professions Australia (1997) “*A sense of public obligation*”, (Baron and Corbin,

2012, p.102) which they elicit from Pound (1953, p.5) and notions that professionalism, “*Is about engaging other people as much, maybe more, as it is about applying theories and facts*” (Baron and Corbin, 2012, p.103) which they derive from Perry (2008, p.165).

This putative definition seems to me to include two sets of concepts. The first of these sets of concepts seems to me to be related to commercial service culture, business model and compliance professionalism approaches, i.e. providing good service within professional rules is professional. The second set of concepts seems to me to go beyond the business model approach and is related to a moral or utilitarian perception of human reality, i.e. it is professional to do what is right. It is apparent that the first of these may vary from client to client and the second is quite subjective. This variation and subjectivity means that knowing what it is to be a legal professional is a dependant on the perceptions of individual lawyers and clients. Since what constitutes being a legal professional is a notion that is dependant on variable and subjective perceptions this implies that determining what motivates individual engagement in the educational process which creates legal professionals is also difficult to deduce with any certainty. If it is unclear what a legal professional is then logic suggests that it cannot be clear how to learn to become a legal professional.

This current lack of certainty, deriving as it does from subjectivity, makes the responses of my interviewees an invaluable resource in deriving understandings of their perceptions of what legal professionalism is in relation to the bar of England and Wales and the processes of becoming a legal professional, specifically a barrister. In order to make the best use of that resource and relate understandings of notions of legal professionalism to notions of teaching and learning it is important to select appropriate theoretical notions of learning to assist in my analysis.

In working towards selecting an appropriate theoretical approach in the sections that follow I will examine notions of work-based learning, including conceptions of didactic teaching, non-didactic learning and notions of learning in apprenticeship. Examining these notions of work-based learning seems to be a logical approach as I would suggest that professionals must learn and develop in the context of the workplace and that this form of learning is an important aspect of being a professional. Given the dearth of literature relating to barrister training identified above I will, in the remainder of this chapter, from time to time, include some short references to my interviewees’ responses which I believe help to illuminate and validate my choice of the theoretical approach that I have adopted in my analysis.

## **Work-based learning**

In considering work-based learning there are a number of theoretical perspectives which shed light on professional learning. It seems sensible here to differentiate these into traditional perspectives, focussing on teaching in which knowledge is transferred from the teacher to the student and progressive perspectives based on experiential learning (Kolb, 1991; Northedge and Lane, 1997; Lave and Wenger, 1991) in which learners acquire knowledge and proficiency in a reflective experiential context.

The traditional approach is sometimes known as the standard paradigm. I will, therefore, use the term 'Progressive Paradigm' to characterise experiential learning contexts.

## **The standard paradigm**

Within the standard paradigm a didactic approach to learning is adopted in which the key relationship is the teacher and student dyad and in which the teacher transfers knowledge to the student, often in a traditional classroom setting. This paradigm often focusses on acquisition of knowledge how to do something rather than actual application of skills in a situated context. The standard paradigm encompasses conceptions of didactic teaching. The concept of commoditisation of learning is implicitly embedded in notions of the so-called standard educational paradigm (Lave and Wenger, 1991). It seems to me, therefore, that the standard paradigm is, logically, often more directly applicable to notions of classroom based teaching than learning in the workplace.

## **The progressive paradigm**

The progressive paradigm posits notions of education which incorporate learning by the student from a range of non-didactic sources and in which the key relationship is between the learner and the knowledge or skill learned. This paradigm more often focusses on actual application of skills to do something rather than acquisition of knowledge of how to do something, often in a situated context such as the workplace. The progressive paradigm encompasses conceptions of learning such as Kolbian learning cycles (1991), Northedgian learning spirals (1997) and Lavean



notions of communities of practice (1991). The progressive paradigm is compatible with the suggestion that the incorporation of social context into conceptions of learning fractures notions locating the individual as the focus of acquisition of knowledge (Lave and Wenger, 1991). This paradigm is also compatible with the suggestion that socially participatory notions of learning in context, de-commoditise and re-socialise learning as a product of participation (Hughes, 2007, p.31). It seems to me, therefore, that notions of socially participatory learning in context are intrinsically compatible with conceptions of work-based learning in apprenticeships.

### **Learning in apprenticeship**

Pupillage has always seemed to me to be or to be closely akin to a form of apprenticeship albeit rather old-fashioned in its external presentation. I say that it is old-fashioned in presentation because to some extent pupillage, the inns and the bar appear to the outsider to manifest the traditional appearance of the London medieval guilds still in existence today. Pupillage can also be differentiated from the modern popular conception of apprenticeship and also from the medieval guilds in that it focusses on professional skills rather than trade skills. Pupillage does, however, provide for situated peer-to-peer learning and contexts where new-comers learn from old-timers in professional workplace learning milieus. To my mind the situated workplace nature of pupillage positions it close in perceptual location to many conceptions of apprenticeship. Moreover, as we shall see in subsequent chapters several interviewees spontaneously identified or described pupillage as an apprenticeship. Putative rationales for that identification are discussed in chapter six and suggest that this is a deep seated perception. For these reasons it seems sensible to me to treat pupillage as at least closely akin to an apprenticeship and to use, therefore, theoretical frameworks which are configured to examine apprenticeship in order to help us to understand pupillage. A pre-eminent example of such a framework is Lave and Wenger's (1991) conception of communities of practice.

The inn's training in which my interviewees were engaged as trainees or trainers specifically centres on a situated form of learning in simulated practice scenarios, described in chapter one, which they gain access to as members of a specific community and in which they also undergo sociological enculturation. As we will see in subsequent chapters a number of interviewees specifically identified the sociological enculturation which trainees undergo as part of their training and stressed the relevance of trainers' experience brought directly from practice to the

learning process and the value of peer-to-peer contact. These interviewees' perceptions, therefore, highlight the value of the communities of practice framework to my study.

### **Communities of practice**

In developing a system for analysing learning capable of including the non-classroom contexts of apprenticeships Lave and Wenger (1991) describe the notion of communities of practice as a '*conceptual bridge*', to enable one to,

*“generate analytic terms and questions fundamental to [an] analysis [of]”, location and organisation mastery, problems of power, access, and transparency; developmental cycles of communities of practice; and its basis in the contradiction between continuity and displacement”, (Lave and Wenger, 1991, p.123).*

Lave and Wenger (1991, pp.91-117), therefore, provide a useful theoretical structure for analysing a system of apprenticeship such as pupillage within a qualitative approach to phenomenological and hermeneutical data. Lave and Wenger explicitly indicate that their approach examines the structure of resources, issues of transparency, relations of new entrants to the discourse of practice, methods by which identity and motivation are generated as new-comers move towards mastery and conflicts and contradictions inherent in the learning and transformation process. Lave and Wenger's approach is essentially a constructivist approach in that all human activity exists within a network of societal relationships (Leont'ev, 1979, pp.46-47, cited in Lалуvein, 2007) in which learners are embedded in the construction of the understandings that they acquire. Pupillage and pupillage training at the Inn can, therefore, in my view be characterised as, in the words of Lалуvein (2007),

*“...a process of engagement which produces knowledge and understanding” (Lалуvein, 2007, p.74).*

The bar of England and Wales is an extremely complex professional community situated within a series of overlapping and interrelated relationships. The bar is connected with a range of other professional and non-professional communities,

public and private entities, the state and the public. It is also connected to international communities and bodies of equivalent diversity and breadth of scope. Within the bar's interrelationships are equally complex connections between multiple entities such as the inns, the Bar Council, the BSB and the circuits. All of these entities will have shared and divergent interests with each other and all are nonetheless a part of the bar. Inside each entity there will be a continuum of individuals of a variety of status levels and positions each of whom has his or her life strategy, both long and short term. These strategies will involve a multiplicity of components including roles within and usages of the entities mentioned above. Peripheral or central participation for any given individual may well vary in relation to the relationships between that individual and any specific entity and also in terms of relationships within the entities.

In studying such a complex community of practice there will be a range of perspectives to be considered from a variety of interconnected individuals, in relation to a variety of different topics and relationships. Each individual could, potentially, be operating at any given level of central or peripheral participation in their community. Each topic addressed will potentially have a given weight, value or immediacy specific to that individual. Membership of the community will, however, imply (Laluvein, 2007, p.96; Murphy et al, 1998, p.2) and also generate through the medium of ever more central legitimate participation, (Lave and Wenger, 1991) a perception set sufficiently shared so that the community members can understand each other.

Moreover, there are a range of gender, ethnicity, age and class diversities to be considered. One would hope that the gender balance and ethnicity balance of pupils would reflect underlying distributions in society. Anecdotal indications on the gender structuring of the legal profession and the author's own observations, however, indicate that in terms of gender at least, it is likely that this will not be the case with regard to some of the more central roles, such as trainers and IATC members. The same is likely true in relation to class differentiations and it is clear that more central participants will tend to be older. These diversities may well give rise to significant differentiation of perceptions which may impact, to varying degrees, on the transformation process by which peripheral participants become more central in their participation and develop a professional persona.

Several academics have identified weaknesses in the communities of practice conceptual framework. Definitional difficulties, within that framework, have been noted with regard to the term 'community of practice', (Hughes, 2007) and the

nature of Legitimate Peripheral Participation within a hierarchical structure (Fuller, 2007). A number of sources have indicated that resolving these definitional issues will require further empirical evidence from a broad range of putative communities of practice (Hughes, 2007; Fuller, 2007) and an iterative relationship between theorists and researchers in developing the conceptual framework as a robust analytical tool (Hughes, 2007). I would suggest that my study provides a unique opportunity to acquire that additional empirical evidence from a relatively unexamined community and, therefore, facilitates further iterative discourse between theorists, researchers and also legal educationalists.

Hughes, Jewson and Unwin (2007) use the conceptualisation of communities of practice as a lens through which we can clarify our understanding of learning. I would suggest that this analytical tool, the focussing artefact provided by the conceptual lens of the communities of practice framework, has the potential to be directed through a range of additional perceptual windows, provided by other theoretical understandings to broaden our understanding of such communities and of learning processes within them. In the chapters that follow I discuss additional theoretical notions, which I use as focussing artefacts to refine the understanding provided by the communities of practice framework. In particular I use Goffman's (1959) notions of presentation of and by the self and the veneer of consensus and Parsons' (1939) understanding of professional socialisation to clarify the reader's understanding of the community that I am examining.

In examining the educational and training systems and methods used at Inner Temple to train prospective barristers I have sought to understand the perceptions of participants in relation to that community and the related communities with which it intersects. My study, therefore, provides a valuable source of empirical evidence in relation to an area of communal practice that has so far gone relatively unnoticed in educational literature. This evidence forms a qualitative resource, comprising part of the empirical basis on which theorists may draw in further refining the definitional parameters of the communities of practice analytical framework. In addition to this my empirical evidence provides a useful starting point in terms of contextualising the training of pupil barristers within the communities of practice analytical framework. That evidence also situates my interviewees' understandings within the formal educational theoretical framework of the communities of practice conceptual lens.

This study has been written in the interpretivist tradition taking account of participants' inherent rationality in reacting to their contextual setting and events within and around that setting. The epistemology within which my study is situated

is a constructivist approach, examining participants' understanding of the learning experience (Crotty, 1998, p.8) and of the process of becoming a legal professional in the context of the connections between individuals, groups and entities.

This constructivist approach is a broadly inclusive system of analysis which necessarily contains notions of contextual understanding. This inclusive approach means that interviewees may individually choose to frame their understandings as educational, philosophical or motivational components of their personal understanding of reality. My approach does not seek to prioritise or deprioritise any particular perspectives but rather to form an understanding of what participants' perceptions of their experienced reality actually are. This system of analysis also embodies some aspects of an ontological approach, which could perhaps be termed, 'Soft Ontology', in that it examines how things are perceived to be by participants rather than how things 'actually are'.

The system of analysis that I have adopted, therefore, can be mapped onto a theoretical continuum. The system's location on the theoretical continuum is somewhere between systems of subjective analyses, which might attempt to dictate how things should be perceived to be, and systems of objective analyses which might attempt to deduce whether certain understandings may be correct and others false. My analysis, therefore, is concerned with what understanding interviewees perceived to be a correct understanding of their contextualised experiences. Essentially I have sought to learn how participants perceived things to be rather than what 'is correct' or how things 'are'.

My constructivist, soft ontological approach suggests a number of analytical themes and these have relevance to a range of resources in the literature which I will address in further detail below.

### **Analytical Themes**

In conducting this analysis there are several broad themes which provided a useful set of conceptual focussing artefacts. These artefacts helped me to develop a better understanding of the topics and concepts considered, within the context of the specific Inner Temple community of practice.

Themes that I have considered here are the sociological culture of learning, practical professional skills learning in sociological cultural context and conceptions of

professionalism. I have not adopted the modernist psychological theoretical approach to learning, embodied in notions of behaviourism nor will my analysis focus on the individual as the locus of learning. Individuals have formed the source for my qualitatively derived information but my analytical focus has been on individuals' perceptions. Those perceptions have been contextualised within the workplace and situational relevance of the information.

In considering broader themes identified here a number of topics or sub-themes have been examined in light of participants' perceptions of situational factors relevant to those topics. The relative value attached by participants to the topics was also examined.

The topics considered were:

- legitimate peripheral participation;
- transitions;
- learning paradigms and archetypes and educational forms utilised within the community;
- contextual and social setting in which learning occurs;
- peer and non-peer contributions to the learning process;
- specific structures and practices of the community in relation to the learning process;
- terms of engagement between new-comers and old-timers;
- tensions and congruencies between new-comers and old-timers;
- hierarchical structuring and distribution of power;
- structural form of community in context of other communities and entities including;
  - nested communities (Brannan, 2007),
  - constellations of communities (Jewson, 2007), and,
  - multiple potentially overlapping or intersecting communities (James, 2007);
- distribution and delineation of boundaries in context of nested communities of practice;
- boundaries;
- boundary crossing;
- boundary crossing facilitators and impeters;
- motivational drivers within community; and,
- philosophical self-justifications.

These broad analytical themes and sub-themes can be summarised, in the context of my sample group by the twin themes of: what it means, within the profession, to 'be a barrister' or 'become' a barrister, that is to say their professional identity and, the methodology of training in professional legal skills, that is to say their professional socialisation.

## **Rational for Selecting the Themes**

### **The Sociological Culture of Learning**

Notions of socially contextualised learning within the conceptual framework of communities of practice (Lave and Wenger, 1991) provide a useful conceptual artefact for examining 'apprentice type' learning scenarios. This framework, therefore, seems to me to provide a suitable focussing artefact for examining the community of barristers because much of the social structure, within which learning occurs for pupil barristers, could be perceived to be akin to apprenticeship in an old style 'Guild' of tradesmen or professionals.

This conceptual framework also provides a useful overarching theme around which I have configured the other themes of this study and facilitated the framing of interview responses within the context they were derived from.

Within this framework identity development is central to the process of learning (Guile and Ahamed, 2011) and is seen as a process of construction and reconstruction of identities and reformulation of the self in an iterative re-contextualisation, a concept derived from Evans, Guile and Harris (2009) and Guile (2010) which,

*“ refers to the idea that concept and practice change as professionals use them in different settings, for example, in the curriculum and/or workplace, and that learners' understanding and use of concepts and practices develop as they make iterative transitions between education and work, based on the use of, for example, work shadowing, visits, placements, etc. throughout the period of their initial formation.” (Guile and Ahamed, 2011, p.18)*

The concept of re-contextualisation, therefore, provides a means of mapping the transitional route for pupils from front loaded knowledge based teaching to a process of professional learning through continuous re-contextualisation.

The pupillage form of situational learning, whether it occurs within the inn community, chambers community or wider nested or overlapping communities and constellations of communities (Brannan, 2007; James, 2007; Jewson, 2007) is intrinsically at odds with conceptions of the role of commodity in learning (Engeström, 1987, cited in Lave and Wenger, 1991, p.114). From some perspectives concepts of commodity in learning seem somewhat akin to the concept of skills artefacts, such as peer input. Proponents of the communities of practice analytical framework (Lave and Wenger, 1991) however, indicate that concepts of commodity and artefact within the learning process can be distinguished for the following reasons. The concept of commoditisation of learning is implicitly embedded in notions of the so-called standard educational paradigm. Learning through legitimate peripheral participation in a community of practice, however, and the associated concept of skills artefacts, relates to socially embedded learning (Lave and Wenger, 1991). This social context fractures the placement of the individual at the focus of analysis in relation to acquisition of knowledge and is, for me, congruent with recent socio-material perspectives which de-centre human agency in understandings of professional practice (Fenwick, 2014, pp.141-162). Socially participatory notions of learning in context, therefore, de-commoditise and re-socialise learning as a product of participation Hughes (2007, p.31).

Fenwick's (2014) socio-material perspective however, extends Lave and Wenger's (1991, pp.101-103) notion of skills artefacts beyond the physical 'technologies of practice' to include conceptual skills artefacts, including, I would suggest peer input. In the chapters that follow I develop innovative focussing artefacts using notions posited by Goffman (1959) and Parsons (1939) which provide a novel means to understand the mechanisms and motivations underpinning professionals' adoption not only of 'technologies of practice' but also, crucially of conceptual skills artefacts Fenwick (2014). My novel focussing artefacts enable enhanced understandings and new perspectives of the complex relational structures between peers to emerge from my study which illuminate my understanding of perceptual skills artefacts such as peer input.

In contextualising learning as a socially participatory shared communal experience Lave informs us that,



*“Being Human is a relational matter, generated in social living, historically, in social formations whose participants engage with each other as a condition and precondition for their existence”, Lave (1996, p.149)*

It is apparent to me, therefore, that the community of practice analytical framework is at some variance with the so called standard educational paradigm and with the teacher-learner dyad, (Hughes, Jewson and Unwin, 2007). This socially participatory framework is posited by its proponents as flowing from an older philosophical lineage examining relationships between education and individuals’, *“lives and development”*, (Hughes, Jewson and Unwin, 2007, p.3). I would suggest that this heritage is very old indeed and that its importance today can be contextualised in terms of notions of participatory learning within the community of practice framework by relating that framework to Dunne’s (1993) analysis of Aristotle’s perceptions of pursuit of theoretical knowledge as being justified for its own sake and of itself deemed to justify the quest for professional excellence. I say this because it seems to me that notions of excellence in participatory learning in a community of practice may logically be understood as the excellence of contextualised application that Aristotle described as *phronesis* (Dunne, 1993, p.246). These notions are also, for me, compatible with notions of the progressive paradigm discussed above.

It seems to me, therefore, that there is a significant degree of synergy between the conceptual focus provided by a learning framework founded in older understandings of the learning process and research into learning within a historically old apprenticeship or guild-like community. Re-contextualisation of these older understandings in the modern world through the communities of practice framework is also conducive to understanding an older community attempting to meet the professional strictures of the modern world. For me this synergy implicitly acknowledges historical contextualisation as well as social contextualisation.

### **My research contextualised by sociological theories of learning.**

Those academics writing in the communities of practice archetype, however, raise a number of issues and note certain absences of information which are of direct

relevance to the contextualised process of professional training examined in this thesis.

The community of practice archetype engenders three important concepts: firstly, that apprenticeships can be more effective for learning acquisition than classroom based education; secondly, that learning rather than teaching is the explanatory variable in the relationship between the two; and, thirdly, that learning in apprenticeship situations is, “*context[ually] embedded*”, (Hughes, Jewson and Unwin, 2007). This conception of learning as situated in a societal and historical context is enriched by the notion that learning acquisition opportunities are further contextualised as and through a process of enhancing one’s own position and standing within a particular community of practice as one develops from ‘new-comer’ to ‘master’ (Hughes, Jewson and Unwin, 2007) through,

*“[P]articipation that is first legitimately peripheral but that increases gradually in engagement and complexity”, (Lave and Wenger 1991).*

It is also permeated by the notion that learning has a “*quintessentially social character*”, (Lave and Wenger 1991).

This relational context between less and more central participants can be usefully framed within the topics set out above in terms of:

- the terms of engagement between new-comers and old-timers,
- tensions and congruencies between new-comers and old-timers;
- hierarchical structuring; and,
- the distribution of power.

### **Sequestration**

The concept of sequestration describes an exploitative relationship structure in which old-timers acquire the benefit of new-comers’ work without providing appropriate opportunities for training and advancement in return (Lave and Wenger, 1991). In understanding the terms of engagement between new-comers and old-timers conceptions of the potential for tension between continuity of the community and displacement of current practitioners by new-comers (Lave and Wenger, 1991, p.114, as derived from Fortes, 1938 and Goody, 1989) provides some guidance. Lave and Wenger (1991, pp.104-05, pp.114-15), however, also make quite general

arguments about the impact of sequestration on learning and on continuity and displacement. In my discussion below I develop and suggest some additional perspectives on these concepts and contextualise these in light of additional theoretical perspectives from other authors. I also relate these notions to aspects of my interviewees' contributions. In doing so I would suggest that I add value to the concept of sequestration as a means of developing understandings professional learning.

If sequestration levels of new-comers' work product by central participants, is viewed by peripheral participants as disproportionately high, the input incentive for new-comers to engage in the community is reduced. In this situation one of two outcomes is likely:

- (i) the replacement/continuity equation will remain as it is, favouring those in central locations and, consequently, the continuity of the community will be destabilised as new-comers see little benefit in membership; or,
- (ii) the replacement/continuity equation will rebalance and the community will continue albeit in a somewhat different structural format.

I would suggest that the later scenario is compatible with on-going re-negotiations of power relations within the community and is, more likely to be associated with longer lasting communities of practice. It is, however, new-comer participants' perceptions of sequestration or otherwise that are important for this purpose rather than any normative evaluation of these practices and those perceptions. I have, therefore, sought to explore those perceptions in interview and have received some surprising responses in relation to sequestration.

In relation to notions of boundaries, boundary crossing and boundary crossing facilitators and impeters, conceptions of sequestration cannot only be considered in isolation. Such notions must also be contextualised in relation to development and broadening of the concept of transparency. Lave and Wenger (1991, p.102) define transparency in apprenticeship contexts, in a narrow sense, as relating to access and in particular to the tension between opportunities to learn and the risk of sequestration of one's work but do so in relation to a given community. Fuller (2007) focusses on the broader contextual positioning of legitimate peripheral participation, not simply examining the community's nature, how it came to be and how that might change but rather broader issues such as:

- who is in it?
- what other related communities do its participants also participate in?

- how did they come to be so involved? and,
- how might that change and why?

In terms of continuity and replacement, therefore, I would theorise that if a participant does not feel that s/he is truly a member of the community then that participant is less likely to believe they will gain the benefits of community membership. That participant is, therefore, more likely to seek to prioritise membership of other communities. Fuller's analysis, therefore, takes these concepts beyond the level of the individual and collective and broadens them to the level of multiple inter-related communities (Brannan, 2007; James, 2007; Jewson, 2007). As we shall see in the following chapters this variable prioritisation of various communities has relevance to my interviewees' perceptions of differential expectations that they have of the nested communities that they are members of.

Lave and Wenger (1991, p.102) in dealing with transparency note the tensions between learning opportunities and possible sequestration of labour. Their concept of the '*use value*' (Lave and Wenger, 1991, p.112) of apprenticeships summarises the tension between the utility that old-timers acquire from novices' input and the '*exchange value*' that novices receive for their input. The exchange value may include remuneration and/or an opportunity to move towards more central participation. Eraut (1991, p.6) specifically mentions the variable inputs and outputs which law pupils may supply or receive. I would hypothesise that new-comers' perceptions of these may potentially underpin the tensions identified by Lave and Wenger (1991) in the context of pupillage. It is apparent that the relative values at which use value and exchange value are exchanged between novices and old-timers, the '*terms of trade*' for individuals within the community of practice, may be set externally, negotiated locally or fixed by a mixture of both. It seems logical to suggest that in negotiating terms of trade communities of practice will need to address tension between whether old-timers will kill the community by preventing access to new-comers or ensure its continuance by providing sufficient support to new-comers. That tension is also an issue on which my research has elicited information in interview. That information supported my hypothesis that new-comers' perceptions of the variable inputs and outputs that they supply and receive do have an impact on their perceptions of intra-community tensions.

One other form of sequestration is that novices may also be given such large volumes of work that learning is inhibited in that they must focus on performance rather than mastery, as described in Baron and Corbin (2012). Indeed interview and anecdotal evidence reported in my analysis in subsequent chapters suggests that

work volumes in pupillage are high and that interviewees and the providers of anecdotal information perceive this as impeding their learning and progression within the community.

In relation to the terms of trade between new-comers and old-timers discussed above Fuller and Unwin (2004; 2005) indicate that the range and distribution of knowledge and skills between central and less central participants is not even and that each individual's prior experience of learning and their consequent knowledge base, their, learning "*territory*" (Fuller and Unwin, 2004; 2005) will vary. In practical terms this might imply that while peripheral participants learn from those more central, they also bring in knowledge and skills less common among and more valuable to more central participants. It seems to me that this could be expected to be the case in communities of practice embedded within a rapidly changing and or developing society. Moreover, Eraut (1994, p.6) notes that pupillage is the educational form, of all those adopted by the professions, least likely to require trainers, "pupil-masters", to articulate their own level of knowledge. One might theorise that pupillage is, therefore, an educational form which facilitates central participants in contributing less and receiving more than they might otherwise do. I would also hypothesis that in this context, not only may trainers or central participants not know what they know (Eraut, 1994, p.15) but they may not know what they think they know. In fact interviewees' actual comments reported in my analysis tended to support Eraut's (1994) suggestion and my hypothesis drawn from it.

Evaluation of new-comers' and old-timers' perceptions of tensions and congruencies between them; hierarchical structuring and distribution of power; sequestration, and transparency are topics which have all been identifiable in the interviewees' comments founding my research. The information gathered in this regard and the analysis that I have performed were highly instructive in developing a deeper understanding the continuity of these relationships and how they may change over time and in response to stimuli.

### **Practical Professional Skills Learning in Context**

The sub-theme of legitimate peripheral participation certainly seems to have relevance in terms of the conceptual contextualisation of practical professional learning. I say this because practical learning requires participation and

presupposes that participation is legitimate. A number of areas of concern with this sub-theme have, however, been identified by academic commentators and these are considered below.

There are inconsistencies within Lave and Wenger's (1991) analysis with regard to, whether the communities of practice framework focusses on learning from 'someone' or on learning to do 'something' (Hughes, 2007, pp.30-40). It seems apparent that learning to do something is more readily associable with practical skills learning and learning from someone less so. 'Learning from' is logically more likely to be associated with the so called standard paradigm and with the teacher-student dyad. Conversely, 'learning to' logically tends to have a closer theoretical connection to the communities of practice conceptual framework and the progressive paradigm suggested above. The boundaries between 'learning to' and 'learning from' are not absolute, however, and as Hughes (2007, p.33) notes, learning, even within the standard paradigm, can never be decontextualized. Indeed this perception posited by Hughes (2007) is supported by my interviewees' responses in the chapters that follow as it was apparent that there is also an aspect of practice experience incorporated within didactic learning facilitated by professionals within the community of practice situated learning scenario.

There are also identification issues with the communities of practice framework in that communities which appear to be, or self-describe themselves as, communities of practice may not be compatible with academic understandings of that conceptual framework. Rather than incorporating legitimate peripheral participatory methods of learning, they may be, in effect, centres of instruction constructed around the supposed standard paradigm. Indeed a number of management resources suggest that a community of practice is essentially a constructible entity. This view implicitly suggests that those who appear to be more central participants in such entities can create them to achieve a specific purpose of their own. This management analysis further suggests that within these entities learning is more properly characterised not as 'learning from' or 'learning to' but rather as 'learning for a specific purpose' (Hughes, 2007). True communities of practice, however, are different from other social groupings in that social relations are,

*"[F]ormed, negotiated and sustained around the activity that has brought people together"* (Fuller 2007, p.21)

It seems logical to suggest, however, that these 'constructed' communities would still have some, characteristics of broader communities of practice. Hughes also raises further concerns that the communities of practice conceptual framework may, in these situations, simply be substituted for the standard paradigm as an example of best practice for generating business efficiency. I would suggest that these notions and concerns have implications for some topics, drawn from the broader themes, identified above, particularly:

- specific structures and practices of the community in relation to the learning process;
- hierarchical structuring and distribution of power;
- boundaries;
- boundary crossing;
- boundary crossing facilitators and impeters; and,
- structural form of community.

In fact as the reader will see in subsequent chapters useful understandings in relation to these topics were obtained by my research interviews and indicated that the community of practice that I focussed on, Inner Temple, appears to be what I term here an 'endogenous' community of practice, that is to say it is a naturally occurring community rather than a constructed entity.

It is also important to bear in mind, the impact of hierarchical frameworks within and between multiple communities in a locational context (Fuller, 2007). Fuller suggests that a more finely sifted analysis of communities of practice will provide a broader approach than, as Hughes, Jewson and Unwin, (2007) describe it, "*merely specifying*", locational positioning of the analyses, and will help to determine whether micro, meso or macro understandings will be empirically useful.

Engeström (2007) further critiques the communities of practice framework suggesting that as it needs to be understood in historical relational context of the given community that its analytical power may be lessened in modern business contexts. Lave and Wenger (1991, p.115) however, asserted that when changes occur in forms of production then tensions between learning opportunities and sequestration of work and between community continuity and displacement do not evaporate but restructure themselves to fit the new environment. In the course of my analysis it seems to me that some evidence of such restructuring was deducible by way of analogy from my interviewees' responses.

It is clear that further empirical analysis related to Fuller's hierarchical concerns will be useful in relation to the bar today. Studies informed by Engeström's criticism, in relation to modern business contexts, will also have relevance for the new business structures which may be created in the legal profession in response to LETR. Of particular interest may be whether existing tensions and contradictions of today do restructure themselves in future and if so how rapidly they do so. As a starting point for such research the understandings of participants' current perceptions of hierarchy and historical context examined in my study and the analogical evidence of current restructuring uncovered in my analysis will be invaluable.

In forming understandings of power relationships within communities of practice Callon (2007) and Law and Hassard (1999) also reported in Hughes, Jewson and Unwin (2007) apply Actor Network Theory. They posit the perception that as legitimate peripheral practitioners become more centrally involved in the community they become more tightly bound to old-timers' 'webs of action'. This perception is borne out by Butler's (1995, p.45) perception, reported in Hughes, Jewson and Unwin (2007, p.9) that mastery of a practice intensifies 'subjugation' of the one achieving mastery. In other words to master a practice one must submit to the rules and procedures which define mastery. This is because in submitting to the rules and procedures of practice one places oneself in an implicitly subordinate position to those who determine those rules and procedures. This view is consistent with Foucault's (1983) assertions, reported in Hughes, Jewson and Unwin (2007, p.10) that the process of acquisition of knowledge in a workplace context can enhance the acquirer's controllability and notions that this enhanced controllability is achieved by generating internalised pliability to external inputs and self-control. In subsequent chapters I develop notions of professional socialisation, posited by Parsons (1939) and presentation of the self and particularly the 'veneer of consensus' posited by Goffman (1959) as additional focussing artefacts for the communities of practice conceptual lens. It seems to me that these focussing artefacts provide mechanisms and internal self-justifications for the processes of subjugation and enhanced controllability as a given individual progresses towards centrality. My perception of the controlling role of these mechanisms and justifications are also supported by my interviewees' comments in subsequent chapters.

Brannon's (2007) perception of 'nested' Communities of Practice which may be contiguous, congruent, corresponding, intersecting or which may well potentially be contemporaneous, concurrent or consecutive in time is itself consistent with James' (2007) conception of multiple, potentially overlapping or intersecting communities and both have relevance to the issue of the positional location of boundaries.



Brannan raises concerns that the nested nature of some communities may generate enhanced impediments to entry for new-comers but James considered the protective properties that multiple communities provide to one's sense of self if required to leave a community or if a community is defunct. Logic also suggests that membership of one community might provide active or passive support for a member in relation to position within another community. Jewson (2007) also notes the concept of a "*constellation*" of interlinked communities of practice derived from the members' employment and indicates the potential for conflicts of allegiance but also the potential for tangential or indirect trajectories in positioning oneself within the various communities. The absence of incorporation of concepts of non-work social differentiations is also raised by Hughes, Jewson and Unwin (2007, p 172).

It seems to me that the inn's pupils are located within a constellation of multiply interlinked communities which include the inn, their chambers, their fellow pupils in their training year, the other communities which constitute the wider community of practice at the bar and the bar as a whole. They may also be members of external groups and communities which have varying levels of value for them and which may be linked to varying degrees. The additional contextualisation provided by these notions of nested or overlapping communities and constellations of communities seems to me to help us to understand the relationships between various elements of the wider bar community of which the inn community is one element

It seems logical to suggest, therefore, that the understandings of participants' current perceptions of power relations and social context, uncovered in this study, are academically highly valuable. It also seems logical to suggest that in addition to the twin themes of professional identity and professional socialisation identified above, given the issues of sequestration and multiple nested communities described here, that an additional theme would assist my analysis. That theme is the factors that interviewees perceive to facilitate or hinder their progression within that community. That theme, when considered together with the twin themes identified above seems to me to form a thematic triad which provides a helpful structure for addressing my research question below.

### **My research question**

In conceptualising practice based training sessions within the framework provided by theories of social learning and current theoretical understandings of what it is to

be a legal professional it has been necessary to take account of the strengths, weaknesses and definitional issues within the communities of practice conceptual framework (Lave and Wenger, 1991) identified above. In doing so I found it useful to address the following question.

*What understanding, clarification or delineation of the notion of communities of practice can be provided by examination of Inner Temple pupil training and specifically by examination of how pupil barristers and their trainers understand the:*

- *interactions, connections and structures within their community of practice;*
- *educational and relational interactions within the community;*
- *constructional, contextual, locational, hierarchical and authoritarian configuration;*
- *interpersonal and intercommunity connections; and,*
- *re-locational opportunities and entry, boundary and migration issues?*

In the analysis that follows I have sought to locate these issues in the context of the tensions and contradictions implicit within the communities of practice framework.

In answering this question, several sub-questions were also of assistance:

1. How do participants understand the relationships between the training system, their own contribution to this and becoming a member of the community?
2. How do participants understand the relationships between new-comers and old-timers, hierarchies and distribution of power in the community and the impact of class, gender and ethnicity issues?
3. How do participants understand the forces which created the community of practice and boundaries and barriers to entry, progression and exit?
4. What are participants' understandings of what legal professionalism is, how and where one learns the skills and knowledge underpinning it and what motivates participants to learn these?

In the course of my study, interview data was recorded on all of these sub-issues except for the forces which created the community of practice. Data was only provided to a very limited extent in passing in relation to class, gender and ethnicity.

## **Concluding thoughts**

In this chapter I explained the reasoning behind my selection of the communities of practice (Lave and Wenger, 1991) framework as an appropriate conceptual lens (Hughes, Jewson and Unwin, 2007) through which to better conceptualise notions of being a barrister and understandings of the process of becoming a barrister. I have also set out the research question around which my analysis centres. In my next chapter I will explain the methodology underlying my analysis and I will develop my thoughts on the additional focussing artefacts provided by Parsons (1939) and Goffman (1959). I will also describe the novel theoretical concept of 'pervasive learning' which I developed in the course of my analysis.



## **Chapter 3**

### **An interpretivist approach to developing an understanding of becoming and being a barrister and generalising from participants' experiences**

#### **Introduction**

In chapter one I stated that the purpose of my research is to investigate pupil barristers' experiences of the process of becoming and being a barrister. This transformation process experienced by individuals in becoming a barrister is multi-faceted and takes several years to complete. The transformation process also takes place in several locations both during formal education and, subsequently, in the workplace and involves several distinct but related sequential stages. Attempting to understand the complex process of becoming a barrister requires careful examination of specific stages of this lengthy process of professional formation. My research specifically focusses on a snapshot of perceptions during one important stage of that process, the training that pupil barristers receive from their inn during their pupillage year and specifically focusses on interviewees' understandings of that learning experience (Crotty, 1998, p.8). From the information provided by that snapshot, I then make some generalisations about questions such as what it means, within the profession, to 'be a barrister' or 'become' a barrister. In the analysis chapters that follow I will examine these understandings within the framework of educational themes such as socio-cultural and cultural-historical conceptions and theoretical understandings of learning and what it is to be a legal professional. I have selected those conceptions and theoretical understandings, in particular the communities of practice framework (Lave and Wenger, 1991) because of its focus on understanding notions of apprenticeship. In my literature review, chapter two, I mentioned that Hughes, Jewson and Unwin (2007) posit the conceptualisation of communities of practice as a lens through which we can clarify our understanding of learning. I also suggested in chapter two that this analytical tool, the focussing artefact provided by the conceptual lens of the communities of practice framework, could be directed through a range of additional perceptual windows, provided by other theoretical understandings to broaden our comprehension of such communities and of learning processes within them.

As pupillage is essentially one form of apprenticeship the communities of practice framework provides an apt conceptual lens and an appropriate theoretical context through which generalisations may be identified. In the current chapter I set out the framework which I used to provide the interview responses and to carry out that analysis.

In my literature review, chapter two, I noted that a number of academics have identified weaknesses in the communities of practice conceptual framework including definitional difficulties with regard to the term 'community of practice'. A number of academic sources, identified in that chapter, have indicated that resolving these definitional issues will require further empirical evidence from a broad range of putative communities of practice (Hughes, 2007; Fuller, 2007) and an iterative relationship between theorists and researchers in developing the conceptual framework as a robust analytical tool (Hughes, 2007). The need to resolve these definitional difficulties and posit generalisations has led me to deduce that the focussing artefact provided by the conceptual lens (Hughes, Jewson and Unwin, 2007) of the communities of practice framework will need to be directed through a range of perceptual windows to broaden our understanding of such communities and of learning processes within them.

In coming to the generalisations that I posit I have considered pupils' and trainers' perceptions of: what pupils have to do during the training stage that is covered by my snapshot; their feelings about what they have to do; the changes that they believe that they are experiencing; and, their perceptions of the impact of those changes on their skills and abilities as a barrister. I have also considered interviewees' perceptions of which aspects of those changes are undertaken and experienced by them voluntarily and which changes and experiences they feel they are compelled to undergo. Some interviewees have also provided information about their experience of other stages, as part of their discussion and contextualisation of the pupillage training stage.

My research is set firmly within the interpretivist methodological tradition and a constructivist approach, examining participants' understanding of the learning experience (Crotty, 1998, p.8). Within the interpretivist constructivist epistemology, reliability attached to generalisations does not relate to sample size or statistical suitability, as it would within a positivist framework. Rather, for the interpretivist methodological tradition reliability is derived from, two factors: firstly, from accurate recording, analysis and reporting of the data; and, secondly from the sample being a reasonable cross section of the underlying subject population group.

*“Assessing representational generalisation turns on two broad issues. The first is the accuracy with which the phenomenon have been captured and interpreted in the study sample. This will depend on the quality of the fieldwork, analysis and interpretation. The second issue is the degree to which the sample is representative of the parent population sampled. Here, as we have argued in chapter 4, representation is not a question of statistical match but inclusivity; whether the sample provides ‘symbolic representation’ by containing the diversity of dimensions and constituencies that are central to explanation.”* (Ritchie and Lewis, 2003, p.269)

This notion of reliability founded not only on sound fieldwork, analysis and interpretation but also on the inclusivity and symbolic representativeness of the sample group, represents an understanding of reliability within the interpretivist tradition. I will term that notion here as ‘interpretivist reliability’. The first limb of interpretivist reliability, in relation to the fieldwork and interpretation, is dealt with in more detail in the reliability and replication section of chapter four. In relation to the second limb I would suggest that as I obtained interviews from a large proportion of the facilitating inn’s pupil body for the year in which my snapshot was taken and as the inn is one of only four inns in England and Wales, the suitability of the sample group as a symbolic representation of the inn’s wider pupil population is apparent. The inclusion, as interviewees, of trainers, who are more central participants in the inn community, suggests that the sample also symbolically represents the wider barrister community within the inn to some extent. I would argue, therefore, that the interview responses obtained are a highly reliable set of responses for the purposes of an analysis conducted within the interpretivist methodological tradition in that they satisfy the second limb of interpretivist reliability.

In this chapter I provide an analytical toolset to assist the reader in understanding my interpretation of the interviews reported in my analysis. In providing this framework I intend to make explicit this work’s contribution to the field of professional education. Making that contribution explicit is a task with two key elements. The first of these elements is to make the training and enculturation processes that pupil barristers experience accessible to non-barristers and in particular accessible to educational academics. The second of these elements is to facilitate a better understanding of the weaknesses and implicit tensions and contradictions currently within the communities of practice conceptual framework (Lave and Wenger, 1991; Wenger, 1998) and the definitional issues identified by

writers such as Hughes (2007) and Fuller (2007) and also, as appropriate, to facilitate an understanding of the strengths of that analytical framework.

By developing the application of the communities of practice framework into the relatively unexplored context of barristers' professional education my analysis provides readers with a more broadly based understanding, not only of the extent and scope of barristers' training and enculturation but also of the potential weaknesses and strengths of the communities of practice framework.

### **The research question revisited – expectations and challenges**

In chapter two I suggested that in conceptualising practice based training sessions, within the framework provided by theoretical understandings of learning, it is necessary to take account of the weaknesses and definitional issues identified in the communities of practice conceptual framework (Lave and Wenger, 1991; Hughes, 2007; Fuller, 2007). Seeking to gain a clearer or more fully delineated understanding, of the notion of communities of practice, led me to conduct an examination of Inner Temple pupil training, specifically looking at how pupil barristers and their trainers understand and contextualise pupils' training and enculturation. In constructing a conceptual framework to contextualise interviewees' responses, within the communities of practice conceptual framework, a number of important aspects of participants' understandings and perceptions were identified as potentially useful, specifically their understandings of:

- interactions, connections and structures within their community of practice;
- educational and relational interactions within the community;
- constructional, contextual, locational, hierarchical and authoritarian configuration;
- interpersonal and intercommunity connections; and,
- re-locational opportunities and entry, boundary and migration issues.

From these aspects several sub-questions were derived, specifically:

1. How do participants understand the relationships between the training system, their own contribution to this and becoming a member of the community?



2. How do participants understand the relationships between new-comers and old-timers, hierarchies and distribution of power in the community and the impact of class, gender and ethnicity issues?
3. How do participants understand the forces which created the community of practice and boundaries and barriers to entry, progression and exit?
4. What are participants' understandings of what Legal Professionalism is, how and where one learns the skills and knowledge underpinning it and what motivates participants to learn these?

Additional useful topics were also identified and in designing the interview questions I sought to enable information to be gathered on these aspects, sub-questions and topics in context of the tensions and contradictions implicit within the communities of practice framework. After interviews the responses obtained were indexed to reflect my perception of the responses' connection to the themes, sub-questions and topics mentioned above and this was done by the procedures and methods discussed below.

### **The procedure adopted**

In the remainder of this chapter I refine the theoretical and contextual environment within which my research is set and link these to the case study methodology that I have adopted. In my next chapter I will explain the procedure and method by which, in subsequent chapters, notable elements detected in the phenomenological data will be identified.

When I say phenomenological data here I mean the interviewees' subjective responses on their life world context (Kvale and Brinkman, 2009). In adopting a phenomenological approach to understanding the data I am seeking to capture interviewees' interpretations of their lived experiences. My choice of a case study methodology is derived from a desire to capture those experiences accurately as a case study methodology is strongly consistent with a phenomenological approach in that it enables me to capture interviewees' lived experiences in their own words. Indeed my choice of a case study approach is also consistent with Yin's (2003) criteria which are discussed in more detail below.

I will also explain in my next chapter how I have, in subsequent chapters, gone on to abstract key underlying dimensions of these hermeneutical responses and a number of overarching categories derived from these (Ritchie, Lewis, McNaughton Nicholls, Ormston, 2014, p.315). When I say hermeneutical responses in this study I mean responses framed by the participants' cultural and contextual perceptions. From these I then sought to infer additional implicit overarching categories where appropriate (Ritchie, Lewis, McNaughton Nicholls, Ormston, 2014, p.315). From these abstracted and inferred overarching categories I have also sought to identify or deduce representational generalisations in the interpretivist tradition which seem to me to illuminate the understandings and perceptions which form the focus of my research question.

I have also sought, in subsequent chapters, to map and identify linkages, associations and inter-reactions in my data (Dey, 1993 cited in Ritchie, Lewis, McNaughton Nicholls, Ormston, 2014). Where possible I have sought to map linkages between interviewees' espoused or otherwise perceived attachment to communities and sample population subgroups and to attributes such as their beliefs, perceptions and behaviours (Ritchie Lewis, McNaughton Nicholls, Ormston, 2014, pp.318-326). I have mainly aimed to begin this process by identifying linkages on the basis of simple single links, which were revealed in the data, between phenomenon and attributes such as interviewees' attitudes, experiences and beliefs and those interviewees' behaviours and actions. My method for seeking to identify linkages between phenomena was to carefully examine interviewees' descriptions of those phenomena and then to seek connections between the phenomena on the basis of those descriptions (Ritchie, Lewis, McNaughton Nicholls, Ormston, 2014, p.321). I then sought to identify linkages between typology sub-groups and the explicitly expressed and the implicitly deduced perceptions of interviewed participants. In seeking to identify linkages between typology subgroups I have carefully examined the phenomena associated with each subgroup and sought to make deductions supported by these (Ritchie, Lewis, McNaughton Nicholls, Ormston, 2014, p.322). I have used a central matrix/data summary as an analytical tool to assist me in identifying linkages and making deductions (Ritchie, Lewis, McNaughton Nicholls, Ormston, 2014, p.322).

From the linkages that I identified I then sought to ascertain or to deduce theoretical generalisations which seemed to me to provide the basis of a clearer or more fully delineated understanding, of the notion of communities of practice (Hughes, 2007; Fuller, 2007).

## **Researching pupillage – justification for a case study methodology**

Yin (2003, pp.9-11) suggests that case studies are appropriate for studies focussed on explaining phenomenological matters, in which the behavioural events are not strictly controlled by the interviewer and which have a primarily contemporaneous focus.

In considering Yin's conditions in relation to my research we find that this study is well suited to a case study method. In my study the purpose of the interview questions is to seek to comprehend how interviewees understand the becoming process of their transformation to being a barrister and potentially to explain why they hold those perceptions. This purpose meets Yin's first criterion and narrows the most appropriate methods down to case study, experiment or historiography (Yin, 2003, pp.9-11).

Behavioural aspects such as, the interviewee's personal context (Beckett and Hagar, 2002, pp.118-119) the formative and transformative experiences that interviewees have experienced prior to interview, and their responses to and understandings of these are clearly beyond my control as interviewer. The context dependant socio-historical experiences of the interviewees (Beckett and Hagar, 2002, p.154) and the instances of their exposure to these are also, at the time of interview, beyond my control. The interviewees' understandings of the relationships between the processes that they experience and the nested constellations of overlapping communities within which they experience them (Brannan, 2007; Jewson, 2007; James, 2007) and the instances of their exposure to these are beyond my control too. This absence of control is also an important part of my research method as I am focussing on understanding interviewees' perceptions in the context that they find themselves in rather attempting to fit them into a context of my own perceptions. As we will see below, in order to facilitate this focus in conducting the interviews I have actively sought to minimise my control as interviewer and my approach has been to allow each interviewee free rein in their replies. This focus and that approach meet Yin's second criterion and narrow down the most appropriate methods for my study to case study and historiography (Yin, 2003, p.9-11).

My questions and the interviewees' responses are contemporary and contemporaneous and are directly related to participants' current training. The

interviewees were either in the midst of being trained or training others or had recently completed training or recently trained others at the time of interview. All of the pupil interviewees were still undergoing pupillage at the time of their interview and all interviewed trainers were still active inn trainers when interviewed. Yin's analysis suggests that a case study approach is an appropriate method in these circumstances. This contemporary and contemporaneous context meets Yin's third criterion and narrows down the appropriate method for my study to a case study (Yin, 2003).

In addition to Yin's criteria it is important to remember that in conducting the interviews I am eliciting and recording information in a professional conversation (Kvale, 2007) which is a form of ethnography and ethnographic research is also compatible with a case study approach. I am also seeking to understand processes of transformation, a research focus which Gerring (2007, pp.43-45) and Hodgkinson and McLeod (2010, p.177) all cited in Magliore (2013, p.139) also suggest is compatible with a case study analysis.

Given the discussion above it is apparent that a case study approach is the most appropriate approach for my particular study. It is, however, also helpful to consider whether the object of my analysis, the pupils and barristers engaged in Inner Temple pupil training during my snapshot period, are an appropriate entity for my case study research. Säljö (2007) suggests that the analysed entity should be compatible with the object of the analysis. The object of my analysis is the processes by which individuals become barristers and the related perceptions of those individuals in relation to those processes. My entity for analysis is a year group of pupil barristers in the midst of an inn of court's pupil training scheme, who are actually engaged in the transformative process at time of the case study, and some of their trainers who play a role in facilitating this transformation. Logic suggests that this group is, therefore, an appropriate entity for my case study analysis.

In addition to the theoretical justifications for a case study discussed above practical and logistical considerations are also relevant. A practical issue impacting on the structure of the method adopted is access to the interviewees. As I discussed in chapter one pupil barristers are difficult to access or contact directly and have significant demands on their time. The inn agreed to provide access to the pupils and to introduce me and my request for interviewees to its pupils. The inn also provided access to pupils in order to conduct interviews at the end of applications training days. In doing so the inn played the role of a facilitator. The times at which

access could be facilitated were logistically limited and it was unlikely that equivalent access could be provided by the inn by any other means or at other times. Although I was able to follow up pupils missed on the applications day with subsequent interviews at a later time, many pupil interviews occurred on the applications day. It was also less likely that access to other pupils could or would be provided by other potential facilitators, with whom I have no direct connection. The practicalities of pupil availability and the logistics of access to pupils, therefore, made a case study based on one inn's pupils in one year group logistically practicable and necessary as well as theoretically justifiable.

The method that I have adopted, therefore, is an ethnographic case study of a single inn's pupils and trainers providing a snapshot of interviewees' perceptions during one year of inn training for those pupils. A series of open questions were asked in interview based on the research themes. These questions were followed by supplemental questions and/or limited clarification or explanation, if appropriate, so that a non-leading approach to question clarification was adopted where interviewees were unclear on the question's meaning. My clarification of misunderstood and misheard questions was designed to be non-leading in that I sought to limit any personal input to and distortion of interviewees' answers by simply reading the question out and/or inviting interviewees to interpret the question in the way they thought best. My intention, in adopting this approach, was to avoid the leading approach reported by Kvale and Brinkman (2009, p.7) which was previously used by Bourdieu, Parkhurst and Ferguson (1999).

It seems logical to suggest that the initial questions asked would have a tendency to elicit answers which are open to phenomenological and or hermeneutical analysis (Kvale and Brinkman, 2009). The supplemental questions asked and the approach adopted when questions were not understood by interviewees would logically have also been compatible with a hermeneutical understanding of the answers given (Kvale and Brinkman, 2009).

The discussion above suggests that a case study is the most appropriate method for conducting my analysis and this view is further supported by the theoretical perspective around which this analysis is structured, the communities of practice (Lave and Wenger, 1991) conceptual lens (Hughes, Jewson and Unwin, 2007).

Lave and Wenger's (1991) notion of communities of practice helps us to understand how performance of or compliance with social practices and/or work practices helps to enculturate new-comers into those social and work practices and the community as part of their day-to-day experience. In the context of barrister training the

communities of practice framework can, therefore, help us to understand the processes and practices underlying the enculturation of the successive groups of barristers into the profession. The process and practices, with which individuals engage, however, have a dualistic characteristic. From some perspectives the enculturating practices are pre-existing and participants come to them to engage with them. From other perspectives the enculturating processes and practices are, at least in part, structured, created and reconfigured by the engagement of individual participants over time.

This dualism implies that while the communities of practice approach assists in developing an understanding of the enculturation process, the phenomenological process is, however, different for each individual. This differentiation of lived experience, therefore, must imply that the process of understanding in practice is unique and individual for each participant in the community. Dualism further implies that while the enculturating practices and processes may exist prior to participant engagement with them, they can only be understood through the experience of participant engagement.

I am, therefore, using the communities of practice framework to understand the processes by which individuals become barristers. In order, however, to understand unique individual phenomenological experiences taking place within this process as clearly as possible, case study analysis provides an invaluable additional perceptual resource.

### **The Interviews and the interviewees**

As I mentioned above the interviewees represent one year group of pupil trainees and volunteer trainers. All of the pupils are going through the pupillage stage of their training during the process of becoming a barrister at the time of their interview. Although some pupils have experience of work life outside the bar or legal practice experience prior to pupillage these are not common experiences for pupils. Essentially the pupils interviewed are, for the most part, all at the same or a similar position of centrality of legitimate participation (Lave and Wenger, 1991) in terms of the communities of practice conceptual framework. The trainers in their everyday working life outside training are barristers and judges and occasionally legal academics and have a range of levels of experience as practitioners and trainers. Trainers have, therefore, a diversity of degrees of centrality of legitimate

participation within the inn community and within the related nested constellations of overlapping communities (Brannan, 2007; Jewson, 2007; James, 2007).

Table One in appendix six summarises the external experience of interviewees by providing anonymised but relevant characteristics of interviewees. Table One should, therefore, enable the reader to place interview responses in the interviewees' locational context within community. The reader should note that not all the interviewees listed in Table One are reported in my analysis. This is because in my analysis I have quoted or paraphrased the interview responses which seem to me to provide the best or most concise exposition of an idea or concept or support for those ideas or concepts and I have sought to avoid repetition (see Table One in appendix six).

In this study I have used the communities of practice framework as a conceptual lens (Hughes, Jewson and Unwin, 2007) to help me to select the unit of analysis on which my research is centred and to identify the issues that I will investigate. I have selected one specific year group of pupils at one inn as my unit of analysis because, as an insider researcher, my perception of the structure of pupillage is that it is akin to an apprenticeship and incorporates a significant learning and enculturation by participation component. My understanding, therefore, fits well within current understandings of communities of practice within the academic literature. In directing my focus and assisting me to identify issues for investigation, the communities of practice framework has also facilitated me in selecting appropriate themes and topics for analysis and to formulate suitable interview questions.

In order to observe, examine and develop an understanding of the processes of barristers' professional education using the communities of practice framework, or indeed any other analytical framework, it is necessary to have the clearest possible comprehension of pupils' perceptions of the socialisation, enculturation and training processes which pupil barristers undergo as part of their professional training. This necessity requires us to establish clear definitions of the scope of terms used in discussing the interviews. Key terms and concepts for careful definition in this analysis are socialisation and context. By defining these terms below, within the specific context of the analysis that I am conducting, I hope to enable the reader to better comprehend what meanings these terms likely incorporate for the interviewees. The explanations of the definitions below make reference to understandings expressed by interviewees in this study and so are specific to my particular case study group. A number of interview responses are mentioned by way of example or for clarification of a point in the analysis below within this chapter

without quotations. These are supported by the interview responses reported in the subsequent analysis chapters and/or by my contemporaneous perception of the interview.

## **Socialisation**

Socialisation is a process which occurs throughout an individual's life and by which society, entities and organisations within it disseminate social norms, philosophical understandings and behaviours to society's members who then accept and internalise them, adopting them as their own norms understandings and behaviours (Clausen, 1968, p.5; Macionis and Gerber, 2010, p.104).

I will term this broad perception of socialisation 'pan-societal socialisation'. I would suggest that socialisation of an individual into a specific national or regional identity is an example of pan-societal socialisation. The concept of socialisation can also aid our understanding of relationships below the pan-societal level in the case of individuals' internalisation of the norms, values and behaviours of groups and entities which exist below the pan-societal level. This occurs when an individual becomes part of a group or entity and begins to understand and internalise the group's norms. I will term this form of socialisation 'sub-societal socialisation'. Socialisation into the military or a religion or a club are useful examples of instances of sub-societal socialisation.

It is important to note that the concept of socialisation does not necessarily include any notion of legitimacy of participation or even insider status within the group to which one is socialised. I would suggest that history is littered with instances where individuals have been compelled to accept the norms, values and behaviours of societies and groups from which they are themselves excluded or to act as if they accept them and I will term this notion, 'forced socialisation'.

In the context of a community of practice, however, socialisation will occur through the process of participation in and engagement with the community and it seems logical to suggest that it will generally occur in the context of legitimate participation. In this study I will use the concept of socialisation to enhance our understanding of concepts of participation, relative centrality of participation and communities of practice. In essence, as we shall see below I am using the concept of socialisation to add an additional level of value and understanding to notions of communities of practice.



Embedded constructs such as contextually embedded socialisation and social learning events, contexts and structures are particularly relevant to the community of pupil barristers given the contextually embedded events such as proscribed and non-proscribed formal dining within the community bringing together new-comers and old-timers in a constrained social context, unique or near unique social and economic structures and entities, and an unusual professional culture described in chapter one.

Socialisation into a profession has a number of distinct components. All of these components form part of the process of learning to become something or indeed someone other than what one was before and/or to present oneself to others as such. Two components which have particular relevance for the professional training of barristers are the identity component of the occupation, that is to say what or who is understood or accepted as being a barrister, and the expertise component of the occupation, that is to say what does a person accepted as being a barrister need to know. Goffman (1959) provides a useful insight into the identity component and Parsons (1939) supplies some additional perspective on identity but specifically puts forward a very useful insight on the professional expertise component.

### **The identity of 'barrister'**

In relation to the identity component of the occupation it is clear that pupil barristers are learning how to behave in given contexts and how to self-present so as to be identified by peers and others as a barrister. Essentially the trainee barrister is like any individual playing a part and also learning how to present a performance in a manner convincing to others and potentially to him or herself (Goffman, 1959). It is, however, also important to recognise that there may be several commonly accepted ways of being which fulfil a professional identity. These various forms of being a barrister may also be expected to be applied by different individuals at different times and/or at different professional locations. Within the communities of practice framework we would also expect the identity component, and the presented identity component of being a barrister to vary with centrality of prior participation.

There are likely to be several ways of being a member of any profession or work based identity and this differentiation can easily be understood by taking a non-law example. Let us take the example of a person who is a musician by profession and whose instrument is the violin. We then make the further assumption that the individual in question is highly skilled and musically fully qualified to the highest levels and is capable of playing any piece of music required of him/her. If we are

told that the violinist is playing this evening with the London Philharmonic Orchestra we could reasonably expect one set of social interaction skills to be applied by the individual in that context. If we are told that the violinist is playing this evening with a country and western band we could reasonably expect another set of social interaction skills to be applied and if we are told that the violinist will be playing this evening with an Irish ceili band we will reasonably expect something else. Each set of social interaction skills will include different presentations of the self to the self and to others and indeed differing levels of belief in that presentation by the self (Goffman, 1959, pp.28-30). Indeed learning to apply only one or two of these social skill sets is more likely to be the norm so it is clear that the learned enculturation of how to be a musician playing the violin and the impression presented or 'given of' (Goffman, 1959, p.19) by the musician of the type of musician s/he is, will have an impact on the musician's life experience and life chances. The underlying musical skills may well be the same or very similar in all these contexts but the learned and applied social interaction skills necessary to be co-applied alongside the musical skill vary in each case.

The notion of the presentation of the self in a community of practice could be interpreted as presenting oneself in a similar manner to the other community members and/or to the community members of an equivalent level of centrality in participation. Conversely presentation of the self could be interpreted as presentation of oneself in the manner that the presenting individual believes is expected for their particular level of centrality of participation. In focussing on notions of presentation of the self in a community of practice I am adding an additional level of value and understanding to notions of communities of practice.

In applying this notion of different ways of being to the barristers' professional context a number of immediate differentiations within the profession can be seen. The most obvious of these to a non-lawyer is that which is anecdotally expressed within the profession in relation to the difference between civil and criminal practitioners. Criminal practitioners are anecdotally characterised by some as being more hard-nosed with more developed advocacy skills. This skill set is generally perceived as being a prerequisite of criminal practice as criminal barristers, even the most junior, deal on a daily basis with high impact matters which can have significant effects on their clients and on society. Civil practitioners may be characterised by some as having a deeper knowledge of legal and procedural rules but less advocacy experience. A deeper knowledge of rules and procedure is seen by some as the meat and drink of civil practice whereas advocacy skills are sometimes perceived as a less crucial requirement.

These perceptions of the characteristics of different types of practitioner are consistent with Goffman's notion of '*the veneer of consensus*', in which individuals suppress their true view in order to support the co-presented consensus of the group as to how things are or should be (Goffman, 1959, p.21). Once an approach to perceiving what a barrister is or should be or how he or she should behave is established in any group of people it becomes more difficult to alter (Goffman, 1959, p.22). Whether or not there is any truth in these or any other typological differentiations within the profession is for the purposes of my study less important. What is more important for my study is whether pupils going through the process of training perceive any given typological differentiations to be accurate or give the impression of perceiving them to be accurate and then act on that perception. What is crucial here is that pupils' perceptions of what a barrister or a particular type of barrister 'is' will form the template that the pupils will mould themselves to or will be moulded to fit. Indeed new-comers may well present themselves as sharing a perception of the profession simply in order to comply with what more central participants present themselves as believing. If pupils do this then this shared perception may continue to be maintained over time, even as the new-comers themselves become more central participants. The perception may be maintained by a given individual by an internal desire to satisfy peers' and superiors' apparent attachment to that perception (Goffman, 1959, p.31).

### **Expertise and its acceptable application**

Parsons (1939) offers a very useful insight on the professional expertise component. As I discussed above the term socialisation describes a process by which society and entities and organisations within it disseminate social norms, philosophical understandings and behaviours to society's members who then accept and internalise them, adopting them as their own norms understandings and behaviours (Clausen, 1968, p.5; Macionis and Gerber, 2010, p.104). I also discussed the perception that socialisation can occur on a broader pan-societal level or on a narrower sub-societal level. Examples of sub-societal socialisation would be socialisation into the norms of individual entities, organisations or businesses.

Lave and Wenger's (1991) notion of communities of practice focusses on how individuals become part of a community of practice and is, therefore, an analysis based on a form of sub-societal socialisation. Within this framework the term 'participation' is specifically reserved for a form of socialisation, into workplace or professional norms, by members of that community, with particular but not exclusive

focus on the socialising engagement of new-comer members. For Lave and Wenger participation is the means by which an individual becomes part of a community of occupational practice (Lave 1993, 2003, pp.3-30). The communities of practice framework has, therefore, been used to examine participation in a range of occupational practices including several that do and several which do not fit within the notion of 'professional' occupations. Although this broad examination of occupational practices has very significant value in developing our understanding of occupational learning it would be helpful to have a means of sharpening our focus to specifically examine professional occupational practices. Parsons (1939) provides such a means.

Parsons (1939) writing over 50 years prior to Lave and Wenger (1991) specifically considers the socialisation of professionals into their professions and suggests that professional socialisation has specific characteristics which differentiate it from other socialisation processes. Essentially Parsons is examining a subcomponent of the broader notion of socialisation which fits neatly with Lave and Wenger's subsequent thoughts on participation. Parsons' insight is, therefore, particularly useful in understanding perceptions of participation in the context of a profession such as the bar.

In identifying these specific professional socialisation characteristics Parsons begins by drawing our attention to the general perception that rationality is viewed as a positive in many endeavours,

*"The businessman, the foreman of labor, and not least the non-scientific professional man such as the lawyer, is enjoined to seek the "best", the most "efficient" way of carrying on his function, not to accept the time honoured mode. (Parsons, 1939, p.459)*

From Parsons' perspective the authority of professionals is limited to their area of professional competence and derives from their possession of knowledge (Parsons, 1939, p.459) and from their use of that knowledge to pursue their client's best interests (Parsons, 1939, p.462). Although we might intuitively suspect that pursuit of the clients' best interests indicate altruism, as we will see below Parsons specifically repudiates that view.

Possession of knowledge requires that professionals are: rationally critical; have superior technical competence; and, engage in client/professional relationships which are based on universalistic criteria (Parsons, 1939, p.459). That is to say that

in client/professional relationships the same rules will apply to all clients (Parsons, 1939, p.462). Universalistic relationships are distinguished in Parsons' analysis from particularistic relations, such as family relations, which Parsons suggests were until recent times the societal norm for human relations.

Considered, therefore, in light of the analytical framework that I have adopted in this thesis I would argue that Parsons' suggestion that the professional authority of lawyers rests on their professional competence and their possession of knowledge is essentially another way of saying that their authority depends on their being perceived to exhibit the excellence of contextualised application that Aristotle described as *phronesis* (Dunne, 1993, p.246) and also requires impartiality in the application of *phronesis*.

I would further suggest that maintenance of the professional authority of barristers as a group is a precondition to continuity of the community of practice and has a direct bearing on tensions between continuity of the community and displacement of current practitioners by new identified by Lave and Wenger (1991, p.114). Indeed this view would seem to be supported by the fact that the bar code of conduct core duty five specifically directs that,

*"You must not behave in a way which is likely to diminish the trust and confidence which the public places in you or in the profession."* (The Bar Standards Board, 2014, 2015, p.23)

The prior code prohibited, engaging in conduct,

*"likely to diminish public confidence in the legal profession or the administration of justice or otherwise bring the legal profession into disrepute."* (Bar Standards Board, Code of Conduct, 2004, 2013, p.9)

As I mentioned above Parsons also, innovatively, repudiates the perception that professions are altruistic in nature whilst businesses are self-serving and draws attention to the view that in all walks of life individuals seek to achieve two bicameral goals: objective success and personal reputation (Parsons 1939, p.463-4). Parsons provides a means of understanding the motivational drivers behind workplace socialisation. Parsons uses the specific example of lawyers as professionals and this bicameral approach to help to explain lawyers' motivations. Neither of these

goals is fixed in terms of content but for a lawyer objective success might include financial reward and/or success in the court room. For a lawyer reputation might include standing within the community of barristers and lawyers and within the nested communities of practice, perhaps exemplified by pupillage in or membership of a chambers with a good reputation, attainment of roles on committees, specific occupational roles or ranks such as Recorder [part time judge] or Queen's Counsel [a senior lawyer]. Parsons' approach, to legal professionals, has essentially gone unexamined in the 76 years since he wrote and I intend to make use of it in my analysis here.

It should be immediately apparent that the relative proportions of the various potential components of these forms of success may vary from individual to individual and to some extent the two categories of success overlap in that achievement of components of one may facilitate or impede achievement of components of the other. Essentially objective success and personal reputation consist of a variety of subcomponents which can be combined in a range of different ways from individual to individual and which may be interchangeable or substitutable for one another. The individual, however, must combine these subcomponents and indeed acquire them in a manner that is acceptable within the profession or reputational standing will be lost (Parsons, 1939).

What is happening, therefore, when an individual is socialised into a profession is that s/he learns the desired modes of achievement within that profession, the appropriate mix between the two and the acceptable '*institutionally approved*' (Parsons, 1939, p.464) methods for achieving those goals. Achieving objective success by unapproved means may lead to reputational loss (Parsons, 1939, p.464) to the individual and possibly the community and subsequently, I would suggest, to reduced opportunities for objective success.

A pupil barrister, therefore, is learning from the community by participation in it, what s/he needs to achieve to be viewed as a success and the acceptable ways in which that success should be achieved.

Pupil barristers are learning to apply technical skills and knowledge in a public and social context while adjusting the performance of that practice to take account of the specific public and social context. They are, thereby, potentially developing the excellence of application in context that Aristotle described as *phronesis* (Dunne, 1993, p.246) and learning the appropriate ways in which they may achieve this (Parsons, 1959). In doing these things they are engaging in two distinguishable but interrelated learning processes. They are learning the professional expertise

uniquely required of a barrister, and they are learning the identity required to be identified as a barrister by others. It is on their perceptions of that identity, therefore, that significant elements of my analysis focus.

### **Contextualising socialisation**

Pupils' understandings of their learning experiences are structured by a number of factors. Some of these factors are antecedent to the interview period, in the sense that their effect is operational before the pupils attend the inn's training. Some of these factors are current during the interview period, that is to say that pupils are in the process of acquiring that expertise or being acculturated into a way of being at the time of the inn's training.

One key experience flowing from antecedent factors is that all pupil interviewees have obtained pupillage and so cannot usually, without some exceptional event, be excluded from completing pupillage. Pupils are clearly aware of this factor and some expressed the view in interview that this awareness generated greater willingness to discuss personal career circumstances between pupils on the course. The acquisition of pupillage greatly reduces the scope for sequestration of their work (Fortes, 1938; Goody, 1989; Lave and Wenger, 1991, p.114) as they will likely complete pupillage successfully in any event and therefore, gain some benefit from their work. The pupils are, however, still not entirely protected from sequestration as they do not yet have tenancy, workloads are variable and beyond their control (as per Baron and Corbin, 2012) and the extent to which sequestration can occur depends on specific context (as per Fuller, 2007). Indeed in interview some pupils discussed sequestration although using other words to describe the concept.

Refining expertise is of course possible in spite of the existence of these antecedent factors as is gaining additional skills and expertise and pupils have made some mention of this and the contribution that the inn's trainers made to these gains. Indeed antecedent experience may advantage a pupil in training to be a barrister as their, learning "*territory*" may include knowledge and skills less common among and more valuable to more central participants (Fuller and Unwin, 2004, 2005). In my analysis of interviews, therefore, I have sought to focus on expertise learning in the context of refining skills already partially developed, that is to say how pupils felt that they had developed their pre-existing legal skills and added new skills to them, particularly in relation to advocacy skill, the key barrister skill. The main focus of my study however, has been on the topic of learning how to be a barrister, enculturation, as this is one of the key skills that pupils are learning and refining.

Although this aspect of learning is, at first glance, implicit learning, many interviewees seem to have an explicit awareness of the process although their responses are not, of course, couched in the terms of educational theory. It is clear in principle, however, that pupils' learning experiences in relation to expertise and identity are differential and dependant on learning context.

The specific format of those learning experiences, however, provides an innovative opportunity to critique our current understandings of the communities of practice framework and examine its limitations.

### **Limitations of the notions of learning and teaching within the communities of practice framework**

Current understandings of learning within the communities of practice framework, perceive expertise as developing within practical situations. In differentiating between the teaching curriculum, focussed on classroom teaching, and the learning curriculum, in which learning and the development of expertise derives from skills practice in work or professional situations, Lave and Wenger (1991) reject the teaching curriculum and imply that the learning curriculum can be the source of all practical learning. Essentially the communities of practice framework, as we currently understand it, implies that most things, including professional skills and excellence in the practice of those skills, can be learnt through apprenticeship type learning. The original formulation of the communities of practice conceptual framework, however, has been challenged by academic commentators on a number of grounds and many such challenges centre on concerns about looseness in definition (Hughes, Jewson and Unwin, 2007, p.4). The potential for uniqueness of form for any professional practice community, discussed in the 'Expertise and its acceptable application' section above is consistent with Aristotle's conception of Phronesis (Dunne, 1993, p.246) and is implicitly accepted in the suggestion that what is now required is a sustained dialogue between theory and research (Hughes, 2007, p.39) to assist the educational academic community in determining what does or does not constitute a community of practice.

My research, however, goes some way to ameliorate these concerns and/or shed light on areas for further research in that it provides a new perspective on the communities of practice framework. Pupils attending inn training are learning from more central participants by performing practice skills, a modality which could



generally be expected to occur within the learning curriculum. A significant element of this contribution to their learning, however, derives directly from the teaching curriculum. This conflation of curriculums occurs because of the specific pedagogy adopted within the inn's training. The Hampel method, which is the main teaching method used by the inn at advocacy weekends and applications days, engenders the transfer of knowledge and skills, which the trainers themselves have developed and may have initially gained through engagement with practice at the bar but this is achieved through the medium of the teaching curriculum.

I described in chapter one how the inn's trainers use the Hampel method to train pupils in advocacy and other skills. I also described in that chapter the mechanism by which the Hampel method is used when trainers, who are central participants in the community and experienced practitioners, observe pupils individually performing barrister skills such as advocacy. The trainers then identify any errors or points for improvement in the pupil's performance, provide a memorable headline point summarising the error or potential improvement and playback the error to the pupil so that s/he knows exactly what s/he did wrong. The trainer then provides a rationale as to why that error is an error or why that performance should be improved, suggests a solution to enable the pupil to correct the error or achieve the improvement and then demonstrates the correct approach to the pupil by performing the practice skill his/herself while the pupil watches.

In relating this teaching method to the communities of practice theoretical framework it is apparent that the Hampel method of teaching provides a framework within which aspects of central participants' practice skills, their thinking and their philosophical perceptions can be taught to the pupils in a classroom context. Essentially what appears to be happening in the inn's training is that the teaching curriculum, as embodied in the Hampel method, is contextualised by practitioners acting as trainers and tailored by them to mimic their experience of participation in practice. This is done on an ad hoc basis for each pupil, at each performance, in order to meet the individual pupil's learning needs at that particular moment. This teaching method, therefore, enables the benefits which flow from the learning curriculum to be specifically added onto the teaching curriculum by experienced practice participants. The notion that the teaching curriculum can be permeated by skills and knowledge deriving from practice and more usually associated with the learning curriculum is previously unrecognised in the discussions surrounding the communities of practice framework. I will term that novel notion, which I have developed, 'pervasive learning'.

In a pervasive learning context the teaching curriculum is, therefore, potentially an important component in the development of professional expertise and supports the learning curriculum. Pervasive learning potentially enables expertise and skills, which are normally developed in practice in the community, to be taught in a suitably contextualised learning scenario. This notion of disseminating central participants' practice skills by means of pervasive learning is a novel concept within academic discussion of the communities of practice framework. Pervasive learning provides a subtle implied critique illuminating the limitations of Lave and Wenger's original conceptions of how less central participants develop skills and increase the centrality of their participation in communities of practice. Interviewees' responses, relevant to this notion, will be discussed in the analysis chapters that follow and will help to ascertain the explicit impact of this notion on the communities of practice framework in the context of the bar.

It is sensible to note, however, that although the communities of practice notion fits well with the teaching and learning methods just described it may relate less well to teaching with more limited practice simulation. An example of this more limited simulation in the context of pupil training at the inn would be the case theory analysis session which precedes residential advocacy sessions. The case theory session focusses on the facts and the law related to the simulated cases which are the basis of advocacy exercises. In the case theory analysis session a practitioner works through the simulated case with pupils to help them develop a perception of what they think has happened in that case. The purpose of this session is to help the pupils prepare for the tasks that they will need to perform during the advocacy exercises. During the advocacy exercises, in practising their advocacy skills, the pupil will ask the witness questions from the perspective of, for example, the prosecution, when examining in chief, and the perspective of the defence, when cross-examining the same witness. To formulate effective questions the pupils need to have developed a personal understanding of the facts and the law from the perspective of both the defence and the prosecution. These views will often differ in real life, as in the simulated exercises. If they did not there would be no trial as one side would accept the view of the other and admit guilt or withdraw the charges.

Although the case analysis session is conducted in a classroom format the tasks carried out are tasks which a practitioner would have to conduct in preparing for a real trial. The main difference between reality and the case analysis session is that for the pupils the process of developing a case theory in the case analysis session is mediated by the practitioner trainer. Pupils are expected, however, to have worked towards forming a perspective prior to the case analysis session. Essentially,

therefore, the case analysis session is less like simulated practice than the advocacy session but more like simulated practice than traditional classroom didactic teaching. It is therefore less compatible with understandings of learning through legitimate participation in simulated practice than the advocacy sessions but more compatible with such understandings than with a purely didactic classroom teaching format. The case analysis session, therefore, seems to me to be essentially a semi-simulated practice format and the role of the practitioner trainer is to facilitate permeation of the teaching curriculum with knowledge deriving from practice. The case analysis session is, therefore, I would suggest, also compatible with notions of pervasive learning.

### **Context**

For pupil barristers there are, as we have seen, three key locations for current learning and enculturation, chambers, practice in the courts and the inn's training. Learning in apprenticeship situations is "*context[ually] embedded*" (Hughes, Jewson and Unwin, 2007). Essentially this is situational learning within nested constellations of overlapping communities (Brannan, 2007; Jewson, 2007; James, 2007). These locations are structurally constrained and contextually differentiated. Interviewees have indicated to me that learning in chambers depends on the resources that the specific chambers devote to pupil training. It is also apparent that chambers internal sub-cultural perceptions of the role of a pupil and a barrister have impact on the training received and the way in which it is received. Practice in the courts, for the first six months of pupillage is limited to observing the work of others or doing written work that others oversee but there is generally more engagement in second six. Most pupils were interviewed during first six so this will have had an impact on the extent to which practice in the courts impacted on their expertise learning and on their perceptions of this. It is arguable, that the impact of practice in the courts in this period is significant on the enculturation element of change as this can more easily be learnt from observation and not actively practicing does not preclude other forms of engagement. Indeed the interviews support the suggestion that this enculturation occurs. The impact of inn training is constrained in that it represents a relatively short period of time-limited engagement, spread across several months, within the overall term of pupillage. It is also important to differentiate the artificial training received at the inn and prior to inn from real life training on real cases in chambers and in the courts as the inn's training is based on made up papers and

does not involve real clients. Indeed several interviewees expressed displeasure at having to devote time to read for the inn's training while real cases required work in chambers. This displeasure could be seen as a reaction to a disfavoured form of sequestration, although it would be difficult to determine who receives the benefit thus abstracted from pupils. Pupils, however, expressed a perception of being freer to discuss concerns with pupil and trainer colleagues and gratitude for the input of trainers, particularly the more senior trainers. It seems apparent to me that a sense of community is developing or is developing further from a pre-existing base during inn training and that central participants are perceived by pupils as providing some degree of behavioural example.

Whatever these perceptions are, however, it is important to understand that the perceptions that pupils have, of the learning and acculturation that they experience, will be expressed through the frame of their personal experience and their personal understanding of that experience, which for many, may be a dualistic experience.

### **The dualistic nature of pupils' experiences**

Pupils' experiences of the nature of the changes they are going through can be further differentiated as follows. Changes which are voluntary i.e. the pupil chooses to go through them and experience them for his or her own motivations. Changes which are involuntary i.e. pupil feels compelled to go through them and experience them. This compulsion may derive from either external or internal factors. Although the concept of compulsion appears at first glance to be entirely compatible with notions of '*involuntary servitude*', (Hughes, 2007, p.34) it is also fair to say that these differentiations may not always be so clear cut and may shade into a grey area where pupils choose to submit to external compulsion, which they are not required to submit to and do so because they perceive that an advantage to themselves can be gained by submission. In doing this they are using subjective internal compulsion motivated by personally desired objectives, to support external compulsion which may be objectively unjustified. An example of this would be pupils who accept excessive workloads (Hughes, 2007, p.34) and make no complaint, although they would be justified in doing so. In interviews the motivations behind this approach have been explained by interviewees by indicating a concern, whether rightly held or not, that making a protest, however justified, might have a detrimental effect on the protesting pupil's career prospects.

It is apparent from the interviews that pupils' experience of their personal expertise and identity acquisition is understood as being voluntary by some pupils in some contexts and involuntary by some pupils in the same or in other contexts. It is also apparent that there has been a mixing of these understandings in voluntary acceptance of involuntary compulsions. The inn's training, while generally perceived as positive is clearly involuntary in terms of participation and success in meeting assessment requirements. Some students have been happy to engage with the inn's training, which indicates a level of self-motivation in undertaking externally required training and others have indicated unwilling acceptance of the requirements of that training.

Essentially it seems to be the case that compulsion to engage with an activity or learning and enculturation process, when internally applied is accepted by pupils but external compulsion, even when the reasons for it are understood and accepted, is often objected to and sometimes seen as unfair or pointless. One factor relating to acceptance of external compulsion seems, from the interviews, to be other workload. One motivating issue in relation to whether external compulsion is concurred with or simply submitted to appears to be the benefit that the pupils perceive they will obtain from the compelled activity. This motivation to accept submission is entirely compatible with the acceptance of sequestration in other apprenticeship communities of practice reported by Lave and Wenger (1991) and Wenger (1993).

### **Concluding remarks**

In this chapter I have described the approach that I have used in analysing pupil barristers' experiences of the process of becoming a barrister based on a snapshot of their perceptions during their inn training during the course of their pupillage year and their understandings of that learning experience (Crotty, 1998, p.8).

I have explained and justified the procedure and case study methodology which I have adopted (Yin, 2003) I defined the specific notion of professional socialisation applied in this analysis (Parsons, 1939) and the internally and externally self-presented notion of identity (Goffman, 1959). I have discussed some of the limitations (Hughes, 2007; Fuller, 2007), of the communities of practice conceptual lens (Hughes, Jewson and Unwin, 2007). In terms of limitations addressed the contextually embedded communities within which enculturation (Hughes, Jewson

and Unwin, 2007) and situational learning occurs for pupil barristers (Brannan, 2007; Jewson, 2007; James, 2007). I have noted the potential value of less central participants' antecedent experience and that pupils may be advantaged if their prior learning "*territory*" includes knowledge and skills less common among and more valuable to more central participants (Fuller and Unwin, 2004, 2005). I have also illuminated the dualistic nature of pupils' experiences (Hughes, 2007; Lave and Wenger, 1991; Wenger, 1993).

I have defined my novel term of 'pervasive learning' to describe my novel notion that the teaching curriculum can be permeated by skills and knowledge deriving from practice and more usually associated with the learning curriculum. This concept is previously unrecognised in the discussions surrounding the communities of practice framework. I have also defined the term 'interpretivist reliability' based on Ritchie and Lewis' (2003, p.269) notion of reliability being founded not only on sound fieldwork, analysis and interpretation (limb one) but also on the inclusivity and symbolic representativeness of the sample group (limb two). I have suggested in this chapter that the inclusivity and symbolic representativeness of the sample group in my research goes some way towards satisfying the second limb of interpretivist reliability. I will address the methods by which I intend to satisfy the first limb of interpretivist reliability in my analysis in the next chapter.

In order to be confident in any compatibility identified between my data and prior studies or draw any parallel or point up any difference with other research it is also important to contextualise the interviews in a thickly descriptive context. When I say this I mean that in order to support the themes that I identify and the generalisations that I make from interviewees' perceptions, those perceptions are contextualised in a medium of 'thick description' (Geertz, 1973, cited in Ritchie and Lewis, 2003, p.268). Geertz's notion of thick description originates as an anthropological term used to support our understanding of comments made and views expressed by providing a full description of what was said, set within the context that gives those words and views meaning. The reason that I have adopted a thickly descriptive approach, therefore, is to enable the reader to assess validity in relation to similarity between the interviewees' expressed perspectives and my reporting of those perspectives in this study (Lincoln and Guba, 1985, cited in Ritchie and Lewis, 2003, p.279). The way in which I have adopted Ritchie's adaptation of the notion of thick description in my analysis is also dealt with more fully in the next chapter.

In the next chapter, therefore I will explain the procedure and method by which, in subsequent chapters, notable elements detected in the phenomenological data,

based on interview participants' subjective responses on their life world context (Kvale and Brinkman, 2009) will be identified in a manner compatible with interpretivist reliability and in a thickly descriptive context.





## Chapter 4

### Researching the process of becoming a barrister

#### Introduction

In chapter three I explained and justified the procedure and case study methodology which I have adopted. In this chapter I describe the method by which I have researched the ways in which pupil barristers and barrister trainers present their perceptions of the processes and means by which they became, are becoming or hope to become, excellent practitioners within the profession. In describing these perceptions I am going to use the notion of interpretivist reliability, a term which I defined in chapter three, to support the validity of my analysis.

My approach here has been to take the themes and sub-themes or topics, which I identified in my literature review, chapter two, and to apply these to the concepts and ideas which I have drawn from interviewees' responses and comments.

I did this in two stages. Firstly I took themes and sub-themes or topics and linked them to concepts identified within the data. Some of these concepts were explicitly expressed by interviewees and some were implicit within the data and I inferred or deduced them from the data. Secondly, I compared and contrasted these identified concepts to ensure a systematic validation of the data in order to check, "*accuracy of fit*", (Glaser and Strauss, 1967, cited in Ritchie and Lewis, 2003, p.275) through constant comparative method (Silverman 2000b, cited in Ritchie and Lewis, 2003, p.275).

In deciding whether and how to generalise from the concepts identified in the data I first took note of three forms of potential generalisation defined by Ritchie and Lewis (2003):

- 1) representational generalisation, of findings and characteristics from the research sample to the parent population;
- 2) inferential generalisation, of findings and characteristics from a given research study to other contexts; and,

- 3) theoretical generalisation, deriving theoretical principles from the research study (Ritchie and Lewis, 2003, p.264).

My study focusses on trainee barristers at an inn of court drawn from one given year-group of pupils and I have interviewed a substantial segment of that population and several of their trainers. Representational generalisations to the remainder of that year group and to other year groups from years close in time are very likely, therefore, to be relatively valid generalisations. Theoretical generalisations also seem to me to be appropriate in this study as Ritchie's and Lewis' (2003) analysis suggests that even if opportunities for representational generalisation are limited, for a given sample population, theoretical hypotheses can potentially still be generated from the data (Ritchie and Lewis, 2003).

There were two important variations in the way in which my data was collected and in the sources that my data was drawn from. These variations provided the opportunity for additional comparisons to be made and contrasts to be drawn and these additional opportunities to apply constant comparative method afforded additional validation for my generalisations. The first of these variations was that while most interviewees were pupil barristers some interviewees were trainers. The pupil interviewees were peripheral participants with more limited experience of the bar and the related nested (Brannan, 2007) communities of practice (Lave and Wenger, 1991) which constitute the bar. The trainers were experienced or very highly experienced barristers or judges, that is to say, that they were central or very central participants within the nested communities of practice. The trainers, as is to be expected, had also been pupils themselves in earlier or in much earlier time periods. This difference in centrality of participation and related experience and their membership of earlier pupillage year-groups enabled me to triangulate between the pupil and trainer experiences that I recorded to derive more highly validated generalisations.

The fact that the trainers had once been members of earlier year groups of pupils also meant that some of my generalisations could be extended to year groups further in time from my interviewee group and, therefore, to a much larger grouping of Inner Temple barristers. Given the access to the thinking and experiences of earlier year groups, provided by the trainer interviews, my generalisations relating to what it is to be a barrister are likely to be generalisable to the broader Inner Temple community while those relating to the inn's training, which has changed over time will only be generalisable to past year groups closer in time to my sample group and to future year groups in the absence of any substantial changes to training methods.

These differences and similarities in pupillage year-group membership and the membership of my interviewee group enabled me to triangulate between the experiences of different year-groups and, therefore, to broaden the group of Inner Temple barristers for whom my generalisations are valid.

The second variation in the way in which data was collected was that some interviewees were interviewed in groups, some were interviewed individually and some were initially interviewed in a group but then subsequently requested an individual interview. Some interviewees also provided additional information and comments after interview either by a short additional interview or by email. The amount of time for which each interviewee spoke in making their contribution, was generally consistent whether individuals were interviewed in groups or individually. Indeed those who were initially interviewed in groups and then requested individual interviews tended to say less in the group format and more in the individual format making an overall spoken contribution roughly equivalent in duration to other interviewees. This equivalence of the time for which interviewees spoke in most interviews suggests that they all had equivalent opportunity to contribute to the study and that they made contributions which were roughly equivalent in quantity of input. This equivalence of input means that roughly equal weight can be accorded to all views recorded at interview, as individuals seem not to have been constrained in making their contribution, relative to each other. This variation of format between group and individual interviews enabled me to compare and contrast responses further and more fully than I could otherwise have done and to generate generalisations which are more valid than they could otherwise have been.

I also obtained additional triangulation through sources (Ritchie and Lewis, 2003, p.276) derived from my own reflexions on my observations, in class, of the specific training that the sample group experienced and also from comments made by community participants outside interview. This additional opportunity for triangulation further enhances the validity of my generalisations.

My use of constant comparative method did, however, enable me to identify concerns about inconsistencies in my data collection method which could have had a negative impact on the validity and accessibility of my generalisations. The first of these concerns was that my analysis focusses on a small sub-component of society, the bar and barristers, whose professional world is relatively unknown to non-barristers. The unfamiliar nature of the bar and the experiences of barristers could make the data that I have reported and the generalisations that I drew less accessible to non-barrister academics than I would wish. This concern has been

ameliorated here by using a thickly descriptive approach (Geertz, 1973, cited with an erroneous date in, Ritchie and Lewis, 2003, p.268; and correctly cited in, Ritchie, Lewis, McNaughton Nicholls, Ormston, 2014, p.352) throughout my analysis to contextualise my research in relation to the community and in relation to theory. The thickly descriptive approach that I have adopted here, therefore, helps to substantiate my treatment of interviewees' responses and validates my generalisations drawn from them. The concept of thick description, as used in this study, is discussed more fully in the relevant section below. The second concern was that one particular group interviewed was considerably larger than any other group interviewed, which could have led to inconsistency in individual interviewee's opportunities to contribute and consequent suppression of those interviewee's true views. That inconsistency might have led to non-incorporation of suppressed views and/or inappropriate over-prioritisation of others views in my constant comparative analysis. That concern was ameliorated by using deviant case analysis as detailed below.

In the discussion that follows, therefore, I begin by setting out the way in which I have used the concept of interpretivist reliability, to understand interviewees' responses in relation to the themes and concepts mentioned above, in order to support the reliability and validity of my analysis. Next I explain how I have used constant comparative method, triangulation, thick description, analysis of interviewee contribution opportunities and deviant case analysis to generate confidence in my analysis and to support the credibility and transferability of my generalisations. I then discuss the ways in which I have developed representational and theoretical generalisations from the data.

### **Interpreting the data using interpretivist reliability**

I defined the term interpretivist reliability in chapter three as a two limbed approach to data interpretation, drawn from Ritchie (2003), in which the first limb relates to fieldwork and interpretation and the second limb relates to the inclusivity and symbolic representativeness of the sample group. In chapter three I also suggested that the second limb of interpretivist reliability was satisfied in my study as my sample population consisted of a large proportion of the parent population (Ritchie, 2003, p.269) in a given year-group of pupils and was, therefore, an appropriate symbolic representation of the inn's wider pupil population in that year. I also suggested that by including trainers in my study, who are more central participants

in the inn community, I had ensured that the sample was also, to some extent, symbolically representative of the wider barrister community within the inn. The data obtained in my study, therefore, constitutes a highly reliable set of responses on which to base an analysis conducted within the interpretivist methodological tradition. The manner, in which the method that I have adopted satisfies the first limb of interpretivist reliability in this study, is dealt with in more detail immediately below.

### **Analysing the themes and concepts**

In my literature review, chapter two, I identified a number of broad themes which provided a useful set of conceptual focussing artefacts to help me to develop a better understanding of the topics and concepts to be considered within the specific context of the Inner Temple community of practice and the broader nested communities of the bar. Those broad themes were: the sociological culture of learning, practical professional skills learning in sociological cultural context, and conceptions of professionalism. I also identified nineteen sub-themes or topics, also listed in chapter two to assist me in considering the broader themes. I suggested in chapter two that these sub-themes provided a means for examining the broader themes in light of interviewees' perceptions of situational factors relevant to those topics and the relative value attached by interviewees to those topics and sub themes. I also suggested that those broad analytical themes and sub-themes could be summarised in the context of my sample group by the thematic triad of: what it means, within the profession, to 'be a barrister' or 'become' a barrister; methodology of training in professional legal skills; and, factors facilitating or impeding the process of becoming a barrister. Those summarising themes, therefore, gave me an underlying structure against which to apply the concepts and ideas derived from interviewees' responses and comments. The process of seeking to allocate the interviewees' concepts and ideas to the thematic triad provided me with a means to develop an enhanced understanding, clarification or delineation of the notion of communities of practice in the context of Inner Temple pupil training.

I began with the expectation that any understanding that the thematic triad enabled me to develop would be specifically contextualised in light of how pupil barristers and their trainers understand: the interactions, connections and structures within their community of practice; the educational and relational interactions within the community; the constructional, contextual, locational, hierarchical and authoritarian

configuration; the interpersonal and intercommunity connections; and, re-locational opportunities and entry, boundary and migration issues. These contextualising understandings form important aspects of interviewees' potential understandings and conceptualisations.

My approach, therefore, has been to begin with the thematic triad and important aspects and then use these notions to combine interviewees' concepts and ideas identified within the data into thematically consistent categories. These thematically consistent categories related to how pupil barristers and barrister trainers present, to themselves and to others, their perceptions of being a barrister and of the processes and means by which they became, are becoming or hope to become barristers and excellent practitioners within the profession. Essentially I used the themes and important aspects as a framework and linked these to concepts which I identified within the data.

In doing this I firstly produced a document, a data summary, which contained the themes and the important aspects as headings and sub-headings under each of which I placed those responses which seemed to me to relate to that particular theme or important aspect. In selecting the correct location for each interview response, in relation to the themes and important aspects, I chose concepts which were explicitly expressed by interviewees or which seemed to me to be implicit within the data.

Secondly, I carried out an analysis on the contents of the summary (Ritchie, Lewis, McNaughton Nicholls, Ormston, 2014, pp.305-309) by comparing and contrasting the interviewees' responses and comments in relation to the concepts that I had identified to ensure a systematic validation of the data in order to check, "*accuracy of fit*", (Glaser and Strauss, 1967, cited in Ritchie and Lewis, 2003, p.275). In applying constant comparative method (Silverman, 2000b, cited in Ritchie and Lewis, 2003, p.275) it was apparent to me that some concepts that I had identified related to more than one theme or important aspect and that some concepts expressed in the interview responses related to several themes and important aspects. It was also apparent that a number of themes, concepts and ideas could be identified or were explicitly expressed by interviewees that I had not previously been aware of. By way of example, one of these novel concepts, which was explicitly expressed by interviewees, was the notion that service and contribution to others was viewed positively, particularly when more central participants contributed to less central participants. One concept which was implicit within the data and which I inferred was a desire for the respect of others. In the chapters that follow,

the deductions which I have drawn from the data have been expressly identified as being either, firstly, explicit perceptions expressed directly by interviewees or, secondly, implicit hypotheses. These implicit hypotheses have been derived through inferences which I drew from and applied to interviewees' perceptions in order to clarify and/or expand upon and contextualise those perceptions (Layder, 1993, Lofland and Lofland, 1995 and Hughes and Sharrock, 1997, all cited in Ritchie, Lewis, McNaughton Nicholls, Ormston, 2014, p.332).

I then compared and contrasted the newly identified concepts ideas and themes to ensure a systematic validation of these through constant comparative method (Silverman, 2000b, cited in Ritchie and Lewis, 2003, p.275). From the notion that contribution by old-timers to new-comers was a positive I was, for example, able to derive the view that those new-comers had an implicit understanding of the tensions between old-timers and new-comers in relation to entry barriers. I was then able to compare that implicit perception with the explicit views of two trainers, who both felt that the inn's training and the contribution of old-timers in this had a role to play in the continuity of the community. I was also able to contrast that perception and those views with the additional view, of one of those two trainers, that the inn failed some students in this regard. From this process of comparison and contrast I was, therefore, able to deduce that old-timers also had an understanding of the tensions between old-timers and new-comers in relation to entry barriers which was at least implicit and possibly explicit.

In deriving this view I was, in Ritchie and Lewis' (2003) terms, beginning by taking the identified 'key dimension' of new-comers positive perceptions of old-timers contributions to them and linking them to old-timers perceptions of the role of the inns training in maintaining the community. From this I had deduced an understanding of interviewees' perceptions of the tensions inherent within communities of practice as a broad overarching perceptual category or class. In the case of the views described here, for example, it was possible to deduce the view that both pupils and trainers have an explicit or implicit understanding of the tensions between old-timers and new-comers in relation to the continuity of the community.

In general the linkages which I have identified in subsequent chapters have been on the basis of simple single links between a typology or a phenomenon and a perception or view. This simple linkage approach was adopted as a means of avoiding incorporation of my own bias as to associated typologies. There is, however, a moderate amount of analysis of more complex typological linkages

which may benefit from further exploration through future specific research. For example in chapter five I was able to link interviewees' perceptions of the inherent tensions within the community with their own external occupational experience prior to coming to the bar to suggest that such external occupational experience may ameliorate tensions between learning opportunities and possible sequestration of labour (Lave and Wenger, 1991) and potentially enhance transparency at the professional boundaries for some new-comers.

Having considered the explicitly stated and implicitly deduced experiences and perceptions of the interviewees in context I then sought to deduce potentialities for generalisation. My next step, therefore, was to decide whether to and how to generalise from the concepts identified in my data, that is to say I had to decide which types of generalisations I could derive and justify positing that type of generalisation. In my analysis in subsequent chapters I have sought to draw representational and theoretical generalisations. For example in chapter five, from one pupil's explicitly expressed view that being argumentative and having 'big personalities' was a prerequisite way of being for barristers and another pupil's perception of the need to present herself in a manner compatible with what the profession expects I was able to deduce a shared and potentially representationally generalisable (Ritchie, Lewis, McNaughton Nicholls, Ormston, 2014, pp.310-317) awareness of the need to present oneself in a specific form that is acceptable within the profession. In chapter six I was, for example, able to identify the existence of dichotomies within the structure of the nested communities of practice from interviewees' comments and from these I was able to deduce a potential theoretical generalisation (Ritchie, Lewis, McNaughton Nicholls, Ormston, 2014, pp.310-317) supporting Lave and Wenger's (1991) suggestion that apprenticeships can fail to provide new-comers with the opportunity to develop skills. In chapter seven, I was able to uncover perceptions and link these to existing theory in a way which led me to develop further understandings from which I was able to suggest potential theoretical generalisations on the nature and quality of peer-to-peer relationships and the impact of these on participation and learning in communities of practice. In chapter eight I drew on the perception and views that I had identified in previous chapters and the generalisation that I had drawn from these to posit recommendations for future research and concept dissemination aimed at ameliorating dichotomies, transparency issues and a potential existential threat to the community which I had identified in earlier chapters.

From time to time in my analysis I also encountered views and perceptions that seemed to me to fall outside the scope of my additional focussing artefacts. At the



end of chapter five, for example I identified interviewee perceptions which seemed to me to be stepping outside the context of the inter-related nested (Brannan, 2007) communities of the bar, while still dealing with issues related to those communities. Those perceptions focussed on a new-comer's choice, pre-participation in the community, of the best potential location for professional practice when deciding between the barrister and solicitor limbs of the profession. I included discussion of these perceptions to highlight the boundaries and limitations of my additional focussing artefacts.

It has been suggested that group based interviews require relatively homogenous groups if typologies are to be accurately identified (Ritchie, Lewis, McNaughton Nicholls, Ormston, 2014, p.341). As we will see in the analysis chapters there appears to be some degree of experiential and educational and perceptual homogeneity amongst the individual interviewees in some of the multi-party and individual interviews which potentially manifests itself in the interviewees' compatible responses. This homogeneity is unsurprising to me as I would suggest that although my sample group is a reasonable symbolic representation of the inn's wider pupil population, the community of the inn and the bar as a whole is itself a small sub-group within wider society. Whether this perceived homogeneity is related to participation in that particular training and/or interview group, or in the sample population's community of practice or in the wider nested communities of practice or is otherwise endogenous is discussed more fully below.

An important individual contextual factor in these perceptions in this specific study relates to the individual's centrality of participation within the community and/or nested communities or nested constellations of overlapping communities (Brannan, 2007; Jewson, 2007; James, 2007) and sample population diversity will clearly have a bearing on this factor. An important environmental factor is the structural contextualisation of the particular community of practice. Personal perceptions are instructive in deducing the generalisability of individual perceptions and the thickly contextualised analysis adopted here and discussed more fully below should also enable the reader to assess which aspects of any perceived homogeneity or difference flow from my perceptions and which from interviewees' perceptions.

In this section I have dealt with the practical application of the method that I have adopted in analysing the thematic triad and important aspects of my study in light of the concepts and ideas expressed explicitly and implicitly by interviewees. In the following sections I discuss the ways in which I have sought to ensure that my analysis is robustly reliable and replicable and my generalisations credible. In the

following discussion I specifically consider the ways in which I have used internal validation, triangulation, a thickly descriptive approach (Geertz, 1973, cited in Ritchie, 2003, p.268) and deviant case analysis to substantiate the reliability of my analysis before moving on to discuss the ways in which I have generalised from the data.

### **Reliability and replication**

In ensuring that the reader can be confident that my analysis is credible I have sought to generate robust reliability in my interpretation of data. The following sections set out the methods by which, in doing this, I have sought to confirm the validity of my analysis and to ensure that I have derived valid generalisations.

As I have mentioned above Ritchie and Lewis', (2003, p.269) suggested solution for generating robust reliability in qualitative research is bipartite and includes firstly, accurate reporting of responses and secondly, an assessment of the compatibility of the sample population with the parent population. In this study thick description, which is discussed more fully and defined below, is provided by contextualisation of the research in relation to the community and theory in the earlier sections and also by the substantiation of interviewees' responses by quotes in the analysis sections. This contextualisation through thick description and the quotations provided goes some way towards providing for the first aspect of Ritchie's solution and enables readers to check data reliability and interpretation to assure themselves that the analytical process is appropriate (Ritchie and Lewis, 2003, p.272). The partial social and educational homogeneity between the sample population and prior cohorts, discussed above, will likely provide for some degree of confidence in the compatibility of the sample with the parent population thus providing for the second aspect of Ritchie's solution.

Within the constructivist approach taken in this study it would not be surprising if compatibility between different components of the parent population and reliability across subsequent studies in terms of naïve replication (Lincoln and Guba, 1985, cited in Ritchie and Lewis, 2003, p.270) was limited. This is because the relatively limited diversity of self-perceived background, in the sample population, as expressed in interview, may appear to add to the sample's apparent similarity with the commonly perceived characteristics of the parent population but may in fact have a different underlying cause. The similarity perceived may actually be an

indication that some enculturation into the ways of being of the parent barrister community has already occurred prior to the interview stage or prior to the pupillage stage. Similarities with the parent population may also be an indication of prior enculturation into the parent population's ways of presenting views about the community, as perceived by the interviewees, which then manifests in the form of a self-presentation of the self (Goffman, 1959) crafted to match that perception of the parent population's approach.

It is apparent in the academic literature that reliability in qualitative studies derives from consistency of interviewee perceptions and consistency of researcher interpretation (Ritchie and Lewis, 2003, p.271). For those reasons I have also sought to follow Ritchie and Lewis' (2003, p.271) suggested good practice for researchers in disclosing fully the pathways that lead to my conclusions.

Ritchie and Lewis (2003, p.272) helpfully identify five factors that support reliable qualitative research. These can, in the context of this study, be listed as striving to ensure that: the sample is representative of parent population; interview processes are consistent in permitting the full range of experiences to be reported; analysis is systematic and comprehensive and classifications and typologies are subject to multiple confirmation; interpretation is supported by evidence; and, the design and conduct of the research allows all perspectives to have an equal chance of being identified.

It is clear from earlier discussion in this chapter and in earlier chapters that the sample cohort, which constitutes a significant proportion of the inn's 2012-2013 pupil year group, is likely to be representative of that year group and the approach to validation detailed in the section below further confirms that it is representative of the broader year-group population and likely the broader Inner Temple barrister population. One structural issue, however, was that senior trainers tended to be less available for interview than more junior trainers. I did, however, interview a number of trainers of a range of seniority levels and report their views in my analysis. It is clear that my data collection was conducted in a consistent manner, subject to the issue of attendee numbers varying between various interviews mentioned above and discussed in relation to deviant case analysis below. The limited variation in the duration of a range of interviews with similar numbers of attendees, discussed below and the acceptance of additional comments after interview, either orally or by email, indicates that interviewees were given time to answer as fully as they wished and in any format that they wished. The design of the research process and its conduct, in permitting group or individual interviews, as

the interviewees preferred, clearly facilitated an opportunity for all perspectives within the sample to be expressed. This opportunity for expression, however, must have been limited to some extent in group interviews by the presence of other interviewees and in all interviews by the fact that I am an insider researcher.

My systematic approach to analysis and the fact that the interpretations derived from it are supported by evidence in the form of quotations where possible and paraphrasing in the limited number of cases where this is not possible due to the need to maintain anonymity, strongly supports the reliability of the data collected. The next issue that I will consider, therefore, is the validity of my study.

## **Validity**

Validity, credibility or transferability (Lincoln and Guba, 1985, cited in Ritchie and Lewis, 2003, p.273) occurs when research accurately exemplifies the phenomenon reported (Hammersley, 1992, p.69 cited in Ritchie and Lewis, 2003, p.273). Internal validity relates to whether the subject matter of the research is as the writer states it to be i.e. does the writer report the perceptions of the sample interviewees accurately (Arksey and Knight, 1999). Validity is, therefore, closely connected with conceptions of credibility. Ritchie and Lewis view internal validity as the key issue in substantiating generalisation and a necessary precursor to generalisation (2003, p.274). External validity relates more directly to the process of generalisation of concepts uncovered in the sample to other locations and groups within the parent population and relates to concepts of transferability (LeCompte and Goetz, 1982). In arguing that my research accurately and credibly reports the perceptions of interviewees and that my generalisations to the wider pupil and barrister populations are valid I will, therefore, firstly deal with my systems for internal validation, then my methods of triangulation, then my adoption of a thickly descriptive approach (Geertz, 1973, cited in Ritchie and Lewis, 2003, p.268) and then my use of deviant case analysis before moving on to discuss the process of generalisation that I have used.

## **Internal validation through constant comparative method and triangulation**

A comparative analytical structure is an appropriate compositional structure for case study analysis (Yin, 2014, pp.187-188). In my study I am examining a variety of different personal perspectives and understandings provided by pupils and trainers who are in the process of experiencing the same training stage component of a

process of engagement within a particular community of practice. Essentially I am taking a relativist approach within the interpretivist methodological tradition in which similar sets of experiences are reported from multiple interviewees' perspectives (Wertz et al., 2011, cited in Yin, 2014, p.188). Yin (2014, p.188) notes that this relativist approach is compatible with either a descriptive or an explanatory use of the data. I would suggest that my use of the data is descriptive and also, when appropriate, explanatory. The particular form of comparative analytical structure used in this study is constant comparative method (Silverman 2000b, cited in Ritchie and Lewis, 2003, p.275) which provides an analytical structure suitable for examining multiple experiences reported by a number of interviewees drawn from a population with some degree of individual diversity and with some variety of perspectives. The constant comparative analysis which I have used here is essentially a systematic validation of my data. It is a cross-checking of themes and hypotheses derived from one part of the sample population with other parts of the sample population to check, "*accuracy of fit*", (Glaser and Strauss, 1967, cited in Ritchie and Lewis, 2003, p.275). In this study, data derived from pupils interviewed in several groups of varying sizes has been cross compared. The robustness of this approach is enhanced by the inclusion of trainers' data in the cross-comparison, thus incorporating a diversity of centralities of participation. This approach allows for comparison across a broad range of groupings in which interviewees vary within the existing class, gender, age, ethnic, cultural and other differential identities existing within the sample group. The sample population is further differentiated in this study in terms of experience, centrality within the community and the extent to which their reported perspectives are influenced by being interviewed in a group or interviewed individually. The diversity of the cross-comparison that I have conducted is further enhanced by the fact that trainers, while all were interviewed individually, have a broad range of personally specific experience in practice and training. Some trainers are very experienced practitioners new to training and some are experienced trainers less centrally placed in relation to practice. Consequently the central or peripheral positioning of trainers participating exhibits a degree of diversity. This diversity allows for triangulation between the responses of interviewees with characteristics that are relatively diverse for the parent population and enables me to identify and derive concepts, ideas and novel themes that are robustly reliable.

My triangulation through constant comparative method is additionally supported by some limited additional triangulation through sources (Ritchie and Lewis, 2003, p.276) which is achieved by adding my reflexions and observations on some

aspects of the training that the sample group experienced and on the nested communities (Brannan, 2007) within which they are embedded. This approach to triangulation is further enhanced by a small number of comments, which I have termed anecdotal comments provided by non-interviewees. These are discussed more fully below as are related ethical considerations. These additional sources have also been compared and contrasted with the interview data to provide additional triangulation. The additional contribution to triangulation by non-interviewees is, however, somewhat limited here as the data sources alternative to interview are limited. This limitation of sources occurs because the practical restrictions on access to potential interviewees discussed in earlier chapters also apply to those providing non-interview contributions. Even limited additional triangulation, however, contributes to the external validity of the research results and is therefore of value. Moreover, validation through constant comparative method and triangulation are further supported in my analysis by contextualising them within a thickly descriptive context which is also discussed more fully below. I also observed a number of training sessions on the advocacy weekend and on the applications days so that I would have a current understanding of my interviewees' experiences during training to help me to contextualise their comments. Those observations and the non-interviewees are discussed immediately below.

## **The boundaries of the case study**

### **Observation of teaching**

In observing a number of training sessions on the advocacy weekend and on the applications days my intention was to gain a better contextualised understanding of my interviewees' experiences in the specific training sessions that they were attending. Due to the number of training sessions occurring simultaneously and the limited duration of each session it was only logistically possible to observe a limited element of the training taking place in any given training room. Consequently during each training session I circulated between rooms staying about ten minutes in each to ensure that I saw as many trainers and trainees engaged in the process as possible. It was my intention to make field notes of any unusual or noteworthy circumstances. Nothing of any significant or unexpected nature occurred in those sessions during my observations. A schedule of my attendance for observation in the various rooms is set out in appendix seven.

### **Non-interviewee community participants**

In the analysis chapters below I include some discussion of anecdotal comments or reports including some limited discussion of data gathered from non-interviewee community participants. In most instances reference to anecdotal comments, reports or information forms part of the thickly descriptive contextualised understanding of the community of the bar founded in knowledge and experience that I bring as an insider researcher.

There are also four specific instances in my analysis below where I have used non-interviewees' anecdotal data, in paraphrased form, to provide moderate additional support for interviewees' views and perceptions which I had identified and also for deductions drawn from those. As non-interviewees these contributors do not appear in my list of interviewees in Table One. All of those non-interviewee contributors are community participants, members of the bar who are trainers or pupils and all but one were involved in the training sessions that I witnessed and are members of Inner Temple. I made notes of my recollection of these non-interviewees' comments shortly after hearing them. It seems to me that these additional comments can provide additional triangulation on and supplemental multiple confirmation and contextualisation of the interview comments and my analysis of them, thereby, offering some moderate additional support for the internal validity, credibility and/or transferability (Lincoln and Guba, 1985, cited in Ritchie and Lewis, 2003, p.273) of my analysis. It also seems to me that the contribution made by the one non-interviewee not involved in the training sessions that I witnessed and who is not a member of the inn also offers some moderate support for the external validity and the potential transferability to the broader pupil and bar population (LeCompte and Goetz, 1982) of the generalisations that I subsequently draw.

### **Ethical considerations**

Inclusion of non-interviewee data in my analysis gave me cause to pause and consider the ethical implications of this. On consideration it seemed to me that it was ethically appropriate to report this data as reporting it was consistent with the ethical guidance provided by UCL's Accepted Ethical Standards (2015) which apply to attitudinal human research and which state that, "[participation] *must be an active step on behalf of the participant and not due to any inducement, coercion or perceived pressure to participate*", that "*the risks involved to participants must be*

*balanced against the potential benefits to the overall community”, and that “all participants have the right for their participation to remain confidential”.* (UCL, 2015).

Having considered these guidelines it seemed apparent to me that the efforts that the non-interviewees went to in order to contribute their comments to me, clearly indicate willing participation. I came to this view because at the time when they offered those comments they were aware of my role as a researcher and of the nature of my research and seemed to me, by their behaviour, to be going out of their way to ensure that I heard their comments. Moreover, all the non-interviewees who were members of the inn had received the letter to participants, provided in appendix one, explaining the purpose of my research and the pupil not connected to the inn had discussed the purpose of my research with me. Furthermore, the forcefulness with which that pupil expressed his concerns also persuaded me that he wished to ensure that I was aware of those concerns in my role as a researcher. The pupil, non-interviewees sought to report serious concerns potentially affecting all pupils and seemed to me to be expressing views on topics which astounded them and/or on which they implicitly hoped for help from the profession in resolving. It seems to me that their chosen route to obtain that help was to report the topics through me in my research. The trainer non-interviewee reported matters of significant importance to trainers, pupils and practitioners and our understanding of the bar. The seriousness and importance of those concerns and matters also suggests to me that the benefits to the broader community of pupils and the bar are high compared to the risks to the non-interviewee participants. That risk is further reduced by the enhanced confidentiality that I have provided for non-interviewees in this analysis by not recording them in my list of interviewees in Table One.

### **Interviews and generalisations in thickly descriptive context**

In my introduction to this chapter I raised the concern that my analysis focusses on a small sub-component of society, the bar and barristers, whose professional world is relatively unknown to non-barristers and that this could make the data that I report and the generalisations that I draw less accessible to non-barrister academics than they could be. I also mentioned that I had ameliorated that concern by using a thickly descriptive approach (Geertz, 1973, cited in Ritchie, 2003, p.268) throughout my analysis to contextualise my research in relation to the community and in relation to theory.



The notion of thick description (Geertz, 1973) is very useful in this regard as it derives from anthropology where it is used as a means for researchers to contextualise research conducted within cultures and sub-cultures, which may be unfamiliar to the reader. Thick description, therefore, provides a means for the reader to have confidence in the reliability of research and generalisations in relation to contexts that s/he is personally unfamiliar with. Ritchie emphasises the importance of thickly descriptive contextualisation (Geertz, 1973, cited in Ritchie, 2003, p.268) as follows,

*“Building on these views, Lincoln and Guba argue that transferability depends on the degree of congruence between the ‘sending context’ within which research is conducted, and the ‘receiving context’ to which it is to be applied. The researcher must provide ‘thick description’, a concept first introduced by Geertz (1993) [sic]. Thick description has been translated in many ways but essentially requires the researcher to provide sufficient detail of the original observations or commentaries – and the environments in which they occurred – to allow the reader to gauge and assess the meanings attached to them.” (Ritchie and Lewis, 2003, p.268).*

Essentially Ritchie is taking a concept used in anthropology and applying it to non-anthropological interpretivist research contexts to support reliability and transferability. My thickly descriptive discursive medium will, therefore, enable the reader to assess validity in relation to similarity between the interviewees’ expressed perspectives and my reporting of those perspectives in the study (Lincoln and Guba, 1985, cited in Ritchie and Lewis, 2003, p.279). It also forms a bridge between my knowledge, conceptions and preconceptions formed as an insider researcher and the readers’ non-bar experience and knowledge. I have, therefore, sought to report the full spread of interviewees’ views to support inferential value (Ritchie and Lewis, 2003, p.269) and validate the representational and theoretical generalisations made.

In seeking to report the full spread of interviewees’ views I have made use of my knowledge as an insider researcher to maintain protection for their anonymity. My position as an insider researcher enables me to see ethical concerns that might not be immediately apparent to others. One interviewee, Malcolm, has a high ranking role in the bar and talked about specific communities and roles within the wider bar of which he had experience. His areas of experience are so specific as to make him identifiable within a small community of trainers. Consequently, to ensure his anonymity I have differentiated the communities that he discussed as ‘Community A’ ‘Community B’ etc. I have also differentiated the senior roles that he discussed as

'Role 1', 'Role 2' etc. Neither the sequence of numbering nor the lettering selected indicates relative ranking. That is to say Role 1 is not designated as Role 1 to indicate seniority over Role 2 nor is Community 'A' designated as such to indicate any superiority in ranking to Community 'C'. This approach also preserves the anonymity of the specific nested communities (Brannan, 2007; Jewson, 2007; James, 2007) that he discussed.

One other interviewee, 'Arthur', requested additional protection for his identity which I gave him. Arthur is a senior trainer and a very senior practitioner. In interview he spoke extensively on a wide range of topics but part way through the interview expressed a concern about confidentiality lest he be identifiable from his comments. He then indicated that this issue would be resolved if I did not quote him directly. For this reason I have paraphrased and summarised his words while striving to remain true to their original sense.

I have also used a thickly descriptive approach to form a bridge between my insider knowledge and the readers' non-bar experience by providing contextualising information to assist the readers' understanding. I have done this in that in the quotations and paraphrased quotations in my analysis chapters I have used text in square brackets [like this] to provide contextualising information when interviewees used terms or discussed issues little known outside the bar. Some similarly bracketed contextualising information appears in my discursive text but most contextualising information external to the quotations is explicitly identified as such as a normal part of my discursive text.

Thick description, however, requires careful examination not only of the analytical procedures in a sub-cultural context but also of deviations from the subcultural or procedural norms. As I mentioned above one particular interview group was considerably larger than any other group interviewed which could have impacted on interviewees relative contribution levels and deprioritised or suppressed some interviewees' views. In discussing that deviation, therefore I have begun by examining the norm in relative contribution levels of interviewees across the sample population and then used deviant case analysis in relation to the deviant group of interviewees to support internal validation. Factors specific to the deviant group, generating their deviance, are explicitly addressed in the deviant case analysis section below as are the factors which ameliorate the impact of that deviance.

### **Contribution levels in multi-party and individual interviews**

In general, in multi-party-interview groups, my contemporaneous perception was that contribution levels for individual interviewees were broadly equivalent. Indeed there often seemed to be an observable tendency for pupil interviewees in a number of group interviews to take it in turn to contribute responses to each question. Pupil interviewees would then add additional comments, during or immediately after another interviewee's contributions, whenever those other interviewees discussed issues that they themselves had not directly covered in their initial contribution. Indeed this sequential addition of comments tended to develop into fully fledged conversations between interviewees. In these conversations agreement, confirmation, attachment to or disagreement with and non-attachment to particular views raised by other interviewees was expressed. It seemed to me while conducting the interviews that agreement between interviewees was more prevalent than disagreement but this perception may of course be driven by my own innate perceptions and views or by interviewees' desire to conform to a group norm in interview. Factors potentially driving interviewees' desire to conform or their unintentional conformity to the group are dealt with in more detail below in relation to Goffman's (1959) notions of presentation of and by the self and the '*veneer of consensus*'. I also formed the view while conducting the individual interviews that individually interviewed participants contributed slightly more or somewhat more, in terms of time, than multiparty interviewees.

To confirm or reject these perceptions I examined the duration recorded for the transcribed interviews in relation to the number of interviewees per interview. I did this to gain a rough assessment of the distribution of time in relation to duration of interviewees' contributions.

### **Distribution of time between interviewees**

On analysis of the duration of transcribed interviews I discovered that individual pupil interviews varied in duration from 27 minutes to 50 minutes but these particular numbers represent two outliers with all other individual pupil interviews being in the time period range 33 to 46 minutes. Two of these interviews, shorter than the longest, had an additional post interview contribution of 1 minute 35 seconds and 1 minute 53 seconds. This would seem to indicate a rough time equivalence of contribution opportunity for individual pupil interviews but with some variation in individual contribution levels.

In general multi-party pupil interviews with between two and three interviewees varied in duration between 28 minutes and one hour 10 minutes. Dividing the interview duration by the number of interviewees we find that the estimated interview time per interviewee varied from 14 minutes to 39 minutes but these numbers, once again, represent two outliers. The more common interview time per interviewee, for all other multi-party pupil interviews, save one, was in the range 19 to 20 minutes. One multi-party pupil interview, for which the interview time per interviewee was more difficult to ascertain, is dealt with in more detail in the deviant case analysis section of this chapter, below.

Trainer interviews in general varied in duration between 19 minutes to 47 minutes but once again these specific numbers also represent two outliers with almost all other trainer interviews being in the range 23 to 37 minutes. One of these mid-length interviews, the shortest, had an additional post interview contribution of 4 minutes 10 seconds placing it in the 27 minute range overall. One trainer interview, however, lasted 60 minutes and 45 seconds and was, therefore, quite a significant outlier. The particular interviewee, Arthur, was quite a central participant in the barrister community and had, therefore, extensive experiences to share. Arthur also generously contributed perceptions of the impact of a career at the bar on individuals' personal lives, relating this in part to personal knowledge of the position of other (unidentified) members of the bar. It was, therefore, the particular willingness of this individual to contribute extensive experience and personal perceptions which generated the longer interview time period.

The estimations above would, therefore, seem to indicate, with one possible exception, a rough time equivalence of contribution opportunity for individuals in the multi-party pupil interviews and a higher level of contribution for those interviewed individually. The discussion above also seems to indicate a rough time equivalence of contribution opportunity for individual trainer interviews with an opportunity for extensive additional input time for interviewees if they wished to have that time.

This analysis is also consistent with my contemporaneous perception that interviewees' contributions were broadly consistent for pupil interviews, with some additional contribution by those choosing to be interviewed individually and that the same seemed to me to be true for most but not all trainer interviews.

As was mentioned above, in a number of interviews of pupils and trainers the interviewee, after conclusion of the interview, began to discuss related topics not directly addressed in the interview in response to the concluding invitation for any other comments. Some of these additional comments, after the end of the interview,

were precipitated by interviewees having my overall open approach to interviewees' views and also the communities of practice theoretical framework explained to them. In general when asked if they would wish to have these additional comments recorded and to form part of the study most interviewees agreed. Where these later contributions have been used as the basis of analysis in subsequent chapters they have been specifically identified as later contributions.

It seems, therefore, that the time available for a contribution to be made by the pupil interviewees was broadly in range of 20-46 minutes with a preponderance of these in the 20-30 minute range and for trainers the preponderance of interviews was in the 24-37 minute range. Combining this observation with the equality of contribution within groups, which I observed in the multi-party interviews, substantiates the rough equivalence of contribution by all interviewees whether interviewed individually or in multi-party interviews but with a tendency for additional contributions from individual interviews and supports the internal validity of this study.

### **Constant comparative method in context of consistency of contribution**

In my discussion of internal reliability above I explained in detail that constant comparative method (Silverman, 2000b, cited in Ritchie and Lewis, 2003, p.275) is an appropriate methodology for a case analysis study. I explained there that constant comparative method is an appropriate method for conducting my analysis because it provides an analytical structure suitable for examining multiple experiences reported by a number of interviewees, drawn from a population with some degree of individual diversity and with some variety of perspectives. The time distribution analysis conducted immediately above also seems to suggest that any such diversity between those individuals and their perspectives had roughly equivalent opportunities for expression. Indeed as we shall see in the analysis chapters there was some degree of consistency in views expressed, particularly in the multi-party interviews. It is important to remember, however, that in relation to congruency and agreement between interviewees' views as expressed in multi-party interviews, we need to be cognisant of the potential effect of shared prior experiences. As I mentioned above there does appear to be some degree of social, educational and experiential homogeneity amongst the individual interviewees in some of the multi-party interviews and this alone has the potential to generate a level of correspondence of views and perceptions. This homogeneity, however, is not absolute as interviewees were from a range of gender, ethnic, cultural, age group, external experience and prior employment experience groups. Social class

was not formally or explicitly assessed, questioned on or self-identified within this study, although at least one interviewee did mention class as a potential disadvantage for others and expressed personal concern about this. That interviewee did not, however, expressly identify personal class location or experiences. No deductions can, therefore, properly be made as to the role of social class origin or current social class location in forming interviewees' attachments to views and perceptions.

Correspondence of views may also be partially explained by the social constraints of group membership, as multi-party group interviewees had usually, at the time of interview, just completed a day long training session together. Congruency may also be impacted upon by the prior participation in the community of practice and broader nested communities including prior educational experiences at bar school and whilst studying for a law degree at university. In some cases, although by no means all, congruency of views could be further enhanced by time spent at similar types of school. In other words it may be that perceived similarities in interviewee responses are themselves a manifestation of the process of transition from peripheral participant to more central participant within the inn community and the wider, student, pupil and barrister communities.

In a limited number of multi-party interviews some individuals participated more or less than others in the early stages of given interviews but this disparity appeared to even itself out as the relevant interview progressed. One possible explanation for this observed behaviour of less contribution earlier and more contribution later in some multi-party interviews is interviewees' desire to 'test the water', a concern to get an indication of the other interviewees' views before contributing fully. This approach is consistent with Goffman's (1959) notion of 'vener of consensus' where community participants' true perceptions are self-suppressed in order to maintain the co-presented consensus of the group. Clearly this desire may have a constraining effect on the accuracy of reported views and perceptions. There were, however, a number of disagreements openly expressed by interviewees in group interviews which leads to the inference that any such constraining effect, if it was there at all, may have been limited from the start and/or been ameliorated as the interview progressed.

It seems, therefore, that although a number of the factors addressed above would presuppose interviewees to consistency of view and constrain non-consistent contributions, that interviewees also felt that they were able to express divergent and additional views in the individual and in the multi-party interviews. It is of course

possible that this expression of dissent was not true dissent but merely an example of compliance, a negotiated 'vener of consensus' (Goffman, 1959) within the group around the notion that barristers are argumentative and independently minded, as that notion was itself a characteristic of barristers which was expressly identified by interviewees and is discussed in chapter five. That possibility, however, is ameliorated somewhat by the events described in the deviant case analysis immediately below and the potential hypothesis that we can putatively draw from those events that the views expressed in interview were true views or perceived to be true views by those providing them.

### **Deviant case analysis in relation to contribution levels**

Deviant case analysis can be used to identify: similarities with the population 'norm' underlying any perceived deviance of specific population subgroups; factors specific to those sub-groups generating their deviance; and also, to support hypothesis reformulation (Clayman and Maynard, 1994, cited in Ritchie and Lewis, 2003, p.275).

Moreover, as I mentioned immediately above any apparent congruency or dissent in interviewees' expressed views may represent a mutually negotiated 'vener of consensus' in which community participants' true views are self-suppressed (Goffman, 1959) . My concern is that the construction of any such consensus may make views expressed in multi-party interviews less accurate representations of interviewees' perceptions and this may impact upon any implicit hypotheses which I might derive through my inferences drawn from and applied to interviewees' perceptions (Layder, 1993, Lofland and Lofland, 1995 and Hughes and Sharrock, 1997, cited in Ritchie, Lewis, McNaughton Nicholls, Ormston, 2014, p.332). Incorporation of any such views, perceptions and/or hypotheses into my study would impact on the validity of any constant comparative analysis conducted incorporating that data and in turn would restrict the credibility of any subsequent generalisations drawn.

One particular group interview, however, which was at first glance quite different from the others, lends support to the view that interviewees in group interviews were reporting their views accurately and were going to some lengths personally to ensure that they had the opportunity to do so. In reporting their perceptions these interviewees also exhibited similarities with the population 'norm' in spite of any initially perceived deviance within that specific population sub-group and the factors specific to that sub-group appearing to generate their deviance.

The particular group interview which forms the basis of this deviant case analysis was also initially a notable exception to the general equality of contribution levels in multi-party interviews and was the only six person interview conducted. This interview was one of the first group interviews conducted and it helped me to reformulate my views on appropriate group size and to confirm in my mind the need for smaller group sizes at interviews. In that interview a small number of interviewees initially dominated the conversation, and coverage of topics was limited. As this limited coverage was because of extensive contributions on the earlier interview questions it was not in itself problematic as it may have presaged extensive contributions on all topics. It might also have resulted from prioritisation of some topics in interviewees' perceptions or facilitated contributions on novel concepts not previously identified by me which would clearly have been a positive effect. One pupil who had contributed significantly at this early stage of the interview, however, then left the interview before the other questions were dealt with at all, due to personal time constraints. Other interviewees who had not contributed particularly much to the discussion subsequently left due to personal time constraints and their contribution at that stage was, therefore, significantly constrained.

At this point, however, the interview group became a three person group. At that point relative contribution levels for the remaining interviewees then reverted to what subsequently came to be the norm for multi-party interviews with relatively equivalent participation between the parties, as perceived contemporaneously by me. Some of those who had left early had specifically requested to be interviewed again at another time. When contacted most of these interviewees returned for individual interviews and manifested levels of input akin to that of other individual interviewees. The interviewees in this group were, therefore, initially interviewed in a group of six, then some of them were interviewed in a group of three and some others were interviewed individually.

The expressed desire of all the early leavers to return and, more particularly, the subsequent willingness of all save one to do so, suggests that interviewees were going to some lengths personally to ensure that they had the opportunity to report their views. The willingness of those who remained at the original interview to stay much longer than they had originally planned to do or been told that they would need to also supports the suggestion that they willingly contributed their views. The subsequent reversion to the norm for these remaining three members of this group, in relation contribution levels, supports the view that interviewees in all groups did have an equivalent opportunity to present their views as the contribution levels were



similar. The reversion to the norm in contribution levels for individual interviews for those members of this group subsequently interviewed individually also supports the suggestion that contribution levels were roughly equivalent across all interviewees.

There were also several similarities of views expressed in this group with the views expressed by interviewees in interviews which had the population norm contribution level. This similarity, in spite of any initially perceived deviance of the group within that specific population sub-group, goes some way towards potentially weakening any suggestion that views expressed in interviews generally were not accurate views but merely an example of compliance, a negotiated 'veneer of consensus' (Goffman, 1959).

It seems clear, therefore, that this six party interview is a deviant case which supports the rough equivalence of contribution levels by most interviewees and to some degree supports the perspective that the views expressed in interview were true views or perceived to be true views by those providing them.

### **How I have generalised from the data**

My position as an insider researcher has assisted me in generalising from the interviews as I have a deep understanding of the interlinked contexts within which the interviewees are located. I needed to remain aware throughout the analysis, however, of limitations and constraints imposed by my own preconceptions and make allowances for this in my interpretations of interviewees' understandings. Any perceived connection with the inn or notions of the relative centrality of my own participation in practice or inn training could have a potential impact on the interviewees' responses. Any agreement or disagreement with interviewees' views which appeared to be expressed by me could also be expected to have had an impact on the interviewees' responses. My preconceptions and the research questions that I have framed during my preparation for interview may also have structured my perceptions of responses. These factors may also have constrained my subjectivity in generalising from the interviews.

In order to ameliorate the impact of my preconceptions on the data I have attempted to recognise my own preconceptions and to be continually self-critical with regard to these. I have also attempted to set my preconceptions aside and to adopt an informed but open-minded approach on a continuing basis throughout the preparation, interview and analysis stages of my research. At interview I adopted a

carefully thought out set of questions to reduce the impact of my preconceptions and I always allowed interviewees to answer freely and go 'off-topic' to issues which they wished to address. I adopted this approach to compensate for the fact that these so called 'off-topic' issues may in fact be more central to the interviewee's perception of their experience than those identified by me. One example of such an issue was when a trainer identified his perception of barriers to career progression for very central participants in the community, which I had previously been entirely unaware of and which enabled me to develop the theoretical concepts of learning terrains and participation topographies discussed in chapter seven.

In chapter one I also identified the concern that interviewees' perceptions of my position relative to them with regard to insider or outsider status, centrality of participation or hierarchy may lead them to perceive me as being higher or being lower in the hierarchy and/or a more or less central participant than themselves and/or other participants in the community. I dealt with this issue by adopting an ethical approach to these potential issues by informing interviewees of my role and the purpose of the interviews, in the manner set out in chapter one and by conducting the preparation and interview stages professionally and by allowing interviewees to express off-topic views during interview and/or to add comments after interview as mentioned above. I ensured that I was introduced to pupils in a neutral format, simply as a researcher, by the trainer who was speaking at the normal introductory lecture of the advocacy training weekend. It was made clear to the potential interviewees in that introduction that there was no benefit or loss of benefit to them from contributing or not contributing to my study. This approach was adopted to avoid pressuring pupils or trainers to attend interview. Subsequently I was open about my connection with the inn, practice and education if asked, which I often was, and explained my role and relationship with the inn, practice and education fully. I adopted this approach to ensure that potential interviewees did not feel under pressure to participate in interviews but that once they had volunteered for interview I did not mislead them by hiding my own relationship with the community. After interview I always explained the purpose of my research and gave a brief explanation in context of the communities of practice framework. After hearing that explanation a number of interviewees made additional contributions and a number of these are reported and discussed in my analysis chapters.

I also dealt with the issues of insider researcher status and my personal perceptions, by continuing to keep the possibility of such status and preconceptions impacting on the information received, in my mind throughout the interview and analysis stage.

In training pupil barristers, teaching modalities tend to remain relatively consistent from year to year, although some change can be expected over time. If all else is equal over time then we can infer that the sample population will have some degree of consistency with the wider parent population of past and potentially with future pupils, at the same inn. The data examined here provides a useful opportunity to confirm validity as the trainer interviewees are drawn from a wide range of prior pupil cohorts. Responses by trainers, therefore, essentially act as what I will term an 'automatic stabiliser', that is to say a useful assessment tool for validating representational generalisations from the current pupil population to earlier populations. The value of this tool may reduce in relation to the responses of the most senior trainers, that is to say those who were pupils longer ago, for their perceptions of training specific matters but less so for their perceptions of contextual and structural aspects of the community. There will clearly also be some impact on old-timers' perceptions of contextual and structural matters as social, educational and other contexts will have changed since they qualified. The enculturation of new-comers inherent in the communities of practice framework would suggest that differences in perception between old-timers and new-comers could be reduced by new-comer enculturation and, possibly, by ongoing old timer re-enculturation over time. This notion of re-enculturation of old-timers is particularly consistent with notions of new-comers bringing in ideas and skills new to old-timers (Fuller and Unwin, 2004, 2005). This potential consistency between the sample population and groups beyond the sample group's parent population of the 2012-2013 year group supports the potential of this study for representational generalisation to those groups. The analysis in my study will, therefore, focus in the first instance on representational generalisation.

In my literature review, chapter two, I discussed the need for educational professionals to develop a better understanding of legitimate peripheral participation in communities of practice by examining a range of communities in real world context. This development is needed to assist in refining existing theoretical principles as suggested by Seale (1999), and potentially develop new ones as suggested by Hughes, Jewson and Unwin (2007) on which future training and social policy can be predicated (Ritchie and Lewis, 2003, p.266). Theoretical generalisation, as defined above (Ritchie and Lewis, 2003, p.264) will, therefore, also form an appropriate further focus for my study.

Inferential generalisations (Ritchie and Lewis, 2003, p.264) may also be potentially possible between the pupil sample population and pupil populations at other inns. There may be contextual differences between different inns' training programmes

but the substantive aspects of the training that pupils experience is determined by the pupillage requirements imposed by the regulator the BSB. There should, therefore, be some degree of congruence between training at various inns and a possibility for some valid inferences to be drawn. For other forms of legal apprenticeship, such as for solicitors and/or paralegals, the professional regulators' requirements will vary significantly as will training context. The potential for valid inferences to be drawn from this study to other legal professionals will likely, therefore, be lower. The other inns and other forms of legal apprenticeship are not explicitly considered in my study, although they continue to form an interesting focus for future research.

### **Generalisations in thickly descriptive context**

Ritchie and Lewis (2003, p.265) noted that representative sampling methods are not required for qualitative analysis and that such concepts are more compatible for quantitative analyses which seek to derive universal 'nomic generalisations' (Kaplan, 1964, cited in Ritchie and Lewis, 2003, p.267). This study, therefore, focuses on the differential understandings of interviewees and offers generalisations which form 'working hypotheses' rather than absolute truth (Cronbach, 1975, cited in Ritchie and Lewis, 2003, p.268) and extrapolations which are 'modest speculations' as to 'likely applicability' to somewhat similar groups and contexts (Patton, 2002, cited in Ritchie and Lewis, 2003, p.268). To support the generalisations drawn, therefore, the themes and potential generalisations which are identified are contextualised here in a medium of 'thick description' (Geertz, 1973, cited in Ritchie, 2003, p.268).

In terms of representational generalisation the non-statistically representative nature of sampling in qualitative analysis is a potential limitation on the validity of generalisation (Miles and Huberman, 1994, reported by Ritchie, Lewis, McNaughton Nicholls, Ormston, 2014), although the sample used in this study is somewhat standardised in terms of the structures through which they must pass in becoming barristers, they will be diverse, to some extent, in their origins and pre-pupillage experiences. This diversity will likely impact upon their individualised perceptions of the processes they are going through. It is, however, the range of views and perceptions of my interviewees which will be of value in generalising to a wider group (Ritchie, Lewis, McNaughton Nicholls, Ormston, 2014). Interview participant diversity, therefore, even if limited or constrained, will add additional value to any representational and theoretical generalisations uncovered here.

There are, of course, limitations to representational generalisation in a qualitative context but it is important to note that representational generalisation includes identification of the absence of factors in the sample population that are present in the parent group (Ritchie and Lewis, 2003, p.265). This study, therefore, examines some non-generalisable factors identified in the interviews and uses deviant case analysis (Clayman and Maynard, 1994, cited in Ritchie and Lewis, 2003, p.275) as appropriate to focus on the representational and theoretical generalisations made.

This study has been conducted within the context of the communities of practice framework. I will, therefore, seek to apply communities of practice theoretical constructs to the perspectives expressed in the interviews to seek, thereby, to refine our theoretical understanding of the communities of practice framework. This approach should provide an iterative, evidence based resource, to assist in further refining the boundaries and definitions of that framework. The underlying research method, in terms of design and conduct, adopted in this study, is robust and appropriate within the structural and access constraints of the sample and parent populations. I have also given above a clear exposition of the analytical processes by which my theoretical hypotheses are generated and the interpretations on which that analysis is based (Ritchie and Lewis, 2003, p.282) and I continue to do so as I proceed in the next chapters. This analytically open approach is intended to support any theoretical generalisations made.

Inferential generalisation, between barrister and non-barrister communities of legal practice is beyond the remit of this study but clearly provides an interesting subject for subsequent research.

### **Representational generalisations**

Some of the most interesting issues for me, in terms of representational generalisation (Ritchie and Lewis, 2003, p.264) are which experiences and perceptions are potentially generalisable to broader communities and to which communities and groups can they be generalised. A logical approach is to consider potential parent populations by starting with those closest to the sample population and then moving to those more distantly connected. This approach seems to me to be appropriate within the overarching theme of communities of practice (Lave and Wenger, 1991) nested communities (Brannan, 2007) and constellations (Jewson, 2007) of overlapping communities (James, 2007) and centrality of participation within, between and across these nested sub-communities, discussed above in the literature review.

Given that my sample population represents a significant proportion of the year-group of pupils, from which that sample population is derived I would suggest that the broader populations to which experiences and perceptions can be generalised are as follows: the parent year-group for the sample population; Inner Temple pupil year-groups near in time to the sample population; and, to a lesser extent, Inner Temple pupils from earlier year groups who are now barristers. There may also be some scope for generalisation to pupils at other inns and also to barristers from other inns but this is not explicitly considered here. The further in time we get from the sample population's year-group, however, the less valid the generalisation will be. The impact of distance in time will be particularly relevant in relation to the theme of methodology of training in professional legal skills, as training has changed over time. Essentially the generalisations will be less valid for individuals who were trained some time ago or who will be trained at some time in the future. Theory suggests that the impact of distance in time, however, should be less pronounced in relation to notions of what it means, within the profession, to 'be a barrister' or 'become' a barrister as we could expect group understandings of this, within a community of practice, to remain relatively consistent over time.

Although the specific representational generalisations that I have identified are discussed more fully in chapter five, two examples of these are given here to provide a flavour of the generalisations deduced. One is the prioritisation of advocacy excellence as a characteristic of what it is to be a barrister and another is the positive value accorded to service and contribution to those less central than the contributor.

### **Theoretical generalisations**

Another interesting issue for me, in terms of theoretical generalisation (Ritchie and Lewis, 2003, p.264) is the extent to which the data illuminates current perceptions of the communities of practice framework, and elucidates interviewees' perceptions of the nested communities (Brannan, 2007) and constellations (Jewson, 2007) of overlapping communities (James, 2007) within which they engage and their perceptions of differentiation of centrality of participation. In examining these issues I applied the theoretical toolkit of the communities of practice framework (Lave and Wenger, 1991). This framework provided a conceptual lens (Hughes, Jewson and Unwin, 2007) through which to deduce consistencies and inconsistencies and to refine our understanding and perceptions of the framework. The notions of self-presentation of the self (Goffman, 1959) and the specific professional socialisation

characteristics identified by Parsons (1939) provided additional focussing artefacts with which I was able to refine my generalisations from interviewees' perceptions.

This refined understanding provides a resource to augment current academic perceptions and improve our theoretical understanding (Ritchie, Lewis, McNaughton Nicholls, Ormston, 2014, pp.336-7) of the communities of practice framework in the field of professional education.

Although the specific theoretical generalisations that I have identified are discussed more fully in chapters six and seven, two examples of these theoretical developments, which I drew from my analysis, are given here to provide a flavour of the generalisations deduced. One is my novel notion of pervasive learning as a refinement of the communities of practice conceptual lens and another is my novel concept of learning terrains and associated participation topographies, which I developed from Fuller and Unwin's (2004, 2005) notion of learning territory.

### **Concluding remarks**

In this chapter I have explained the methods by which, in the next chapters, I will seek to form generalisations about what it means, within the profession, to be or to become a barrister. My method is a systematic approach to using constant comparative method, triangulation, limited deviant case analysis (Clayman and Maynard, 1994, cited in Ritchie and Lewis, 2003, p.275) where appropriate and some limited triangulation through sources (Ritchie and Lewis, 2003, p.276). My interpretations will be supported by evidence where possible, mainly in the form of quotations and where appropriate in the form of paraphrasing.

My analysis is framed within current understandings of socio-cultural and cultural-historical conceptions and theoretical understandings of learning and in particular the communities of practice framework (Lave and Wenger, 1991). I have selected this theoretical focus because understanding notions of apprenticeship seems to me, for the reasons given above and in earlier chapters, to be an appropriate conceptual lens (Hughes, Jewson and Unwin, 2007) for understanding the ways in which the bar of England and Wales legitimates individuals' participation as a barrister.

In this chapter I have set out the methods by which I intend to support interpretivist reliability in my analysis. I have also underlined the appropriateness of my use of

Ritchie and Lewis' (2003, p.268) adaptation of the notion of thick description for an analysis focussing on a small sub-component of society, the bar and barristers, whose world is relatively unknown to non-barristers.

As I mentioned in my literature review, chapter two, by developing the application of the communities of practice framework into the relatively unexplored context of barristers' professional education my analysis provides readers with a more broadly based understanding, not only of the extent and scope of barristers' training and enculturation but also of the potential weaknesses, tensions (Lave and Wenger, 1991; Wenger, 1998) and strengths of the communities of practice framework and the definitional issues relating to it (Hughes, 2007; Fuller, 2007). This case study will, therefore, enable us to improve our understanding of barristers' professional training and enculturation and also our theoretical understanding of the communities of practice framework in the field of professional education (Ritchie, Lewis, McNaughton Nicholls, Ormston, 2014, p.336-7).

In the analysis that follows I will employ my own novel approach of using conceptions of socialisation in a specifically professional context (Parsons, 1939) and perceptions of understandings of the self (Goffman, 1959) which I developed in chapter three to add value to and enhance current understandings of barrister training and notions of communities of practice. I will also consider the motivations underpinning compliance with compulsory engagement in connection to interviewees' perceptions of acceptance of sequestration Lave and Wenger (1991) and Wenger (1993).

I will also use my innovative concept of pervasive learning, as defined in chapter three, as a focussing artefact to develop understandings of the concept of permeation of the teaching curriculum by skills and knowledge learned in practice through the learning curriculum. These understandings will then underpin discussion of the limitations of Lave and Wenger's original conceptions of how less central participants develop skills and knowledge by participation in communities of practice.

In the next chapter I will seek to develop representational generalisations from the sample population and in the two chapters following that I will examine potential theoretical generalisations. Inferential generalisation, between barrister and non-barrister communities of legal practice is beyond the remit of this study but clearly provides another interesting subject for subsequent research.



My approach in using those concepts and in developing those generalisations in the chapters that follow is framed and informed by my research question and the related sub-questions which I identified in chapter two. In the following chapters I have, therefore, analysed my interviewees' responses in order to develop perceptions informed by my research question, immediately below, and by the four numbered sub-questions which follow it.

What understanding, clarification or delineation of the notion of communities of practice can be provided by examination of Inner Temple pupil training and specifically by examination of how pupil barristers and their trainers understand the:

- interactions, connections and structures within their community of practice;
- educational and relational interactions within the community;
- constructional, contextual, locational, hierarchical and authoritarian configuration;
- interpersonal and intercommunity connections; and,
- re-locational opportunities and entry, boundary and migration issues?

1. How do participants understand the relationships between the training system, their own contribution to this and becoming a member of the community?
2. How do participants understand the relationships between new-comers and old-timers, hierarchies and distribution of power in the community and the impact of class, gender and ethnicity issues?
3. How do participants understand the forces which created the community of practice and boundaries and barriers to entry, progression and exit? And,
4. What are participants' understandings of what legal professionalism is, how and where one learns the skills and knowledge underpinning it and what motivates participants to learn these?

It seems to me that my sub-questions relate in a very direct way to interviewees' perceptions, as community participants, of the community and their position within it. It also seems apparent to me that my substantive research question is strongly associated with concepts of theoretical illumination, definitions and refinements that

might be developed from interviewees' perceptions and understandings. For that reason it seems logical to me to address the sub-questions first before moving on to deal with the substantive research question. I will, therefore, focus primarily on addressing the sub-questions in chapter five and on addressing the substantive research question in chapter six. There will, however, be some element of cross-connection between these and some discussion of additional related issues in each chapter, particularly in chapter six.

In the 'analysing themes and concepts' section of this chapter, above, I reminded the reader that in my literature review in chapter two I identified three broad themes and nineteen sub-themes or topics as useful conceptual focussing artefacts which had underpinned the development of my research question. I also suggested that those broad analytical themes and sub-themes could be summarised, in the context of my sample group, by the twin themes of: what it means, within the profession, to 'be a barrister' or 'become' a barrister, that is to say what is a barrister's professional identity; and, the methodology of training in professional legal skills, that is to say, their professional socialisation. To this I subsequently added an additional theme of the factors that interviewees perceive to facilitate or hinder their progression within that community. I also suggested that those three summarising themes provide me with an underlying structure against which to apply the concepts and ideas derived from interviewees' responses and comments and to develop an enhanced understanding, clarification or delineation of the notion of communities of practice in the context of my sample group. It seems to me, therefore, that this thematic triad has resonance for analysis of responses relevant to my sub-questions and my research question.

In chapters five and six, therefore, I will structure my discussion of my interviewees' responses in relation to that thematic triad. In considering these themes in light of my interviewees' responses I will, in chapter five, develop my perception of the aspects of community participants' understandings identified in my sub-questions. In chapter six I will discuss interviewees' responses in relation to the thematic triad on a deeper level in order to develop my theoretical understandings of my main research question and seek clarification or delineation of the notion of communities of practice.

## **Chapter 5**

### **Becoming a barrister: Analysis of occupationally specific themes**

#### **Introduction**

This chapter is about how people learn to become barristers. It is structured around the triad of the three important themes of: what interviewees believe a barrister is or should be, that is to say their professional identity; the motivational factors driving their engagement with and progression within the community of barristers, that is to say, their professional socialisation; and, the factors that interviewees perceive to facilitate or hinder their progression within that community.

This thematic triad provides a structure in relation to which I discuss and interrogate my interviewees' responses to develop my perception of aspects of community participants' understandings. The primary analytical focus of this chapter is on addressing the sub-questions to my research question, that is to say, how do participants understand: the relationships between the training system, their own contribution to this and becoming a member of the community; the relationships between new-comers and old-timers, hierarchies and distribution of power in the community and the impact of class, gender and ethnicity issues; the forces which created the community of practice and boundaries and barriers to entry, progression and exit; and, what legal professionalism is, how and where one learns the skills and knowledge underpinning it and what motivates participants to learn these.

These sub-questions seem to me to be useful in illuminating interviewees' perceptions, as community participants, of the community and their locational context within it. In addressing these sub-questions below, therefore, I begin to develop an understanding of interviewees' perceptions and address issues relevant to my main research question and to begin, therefore, to deduce what understanding, clarification or delineation of the notion of communities of practice can be provided by examination of pupil training at the inn of court Inner Temple and specifically by examination of how pupil barristers and their trainers understand the: interactions, connections and structures within their community of practice; educational and relational interactions within the community; constructional,

contextual, locational, hierarchical and authoritarian configuration; interpersonal and intercommunity connections; and, re-locational opportunities and entry, boundary and migration issues.

The concepts incorporated in my research question will then be explored on a deeper level in chapter six, building on the understandings of the process by which people learn to become barristers that I have identified in this chapter. In building on those understandings I will develop my theoretical understandings of that process and, thereby, address my main research question seeking clarification or delineation of the notion of communities of practice.

In this chapter I use four of the five analytical concepts, which I identified and developed in chapters three and four, to help the reader to understand the process of becoming a barrister and what it means, within the profession, to 'be a barrister' or 'become' a barrister. The first two of those four concepts are Goffman's (1959) notion of presentation of the self and Parsons' (1939) notion of professional socialisation. I use these two concepts here to interpret interviewees' responses in relation to professional identity (Goffman, 1959; Parsons, 1939) and professional expertise (Parsons, 1939) and the motivational factors (Parsons, 1939) underlying the process of becoming, as discussed in chapters three and four and summarised below. The third and fourth of these four analytical concepts are my notion of interpretivist reliability as discussed in chapter three and my adopted concept of thick description as discussed in chapter four, both also summarised below. In this chapter and the following chapters I use interpretivist reliability to guide the manner in which I conduct my analysis and thick description to guide the way in which I write the account of my analysis. I use both of these concepts in order to support reader confidence in my analysis.

In chapter two I argued that Lave and Wenger's (1991) communities of practice framework provides a very powerful tool, a conceptual lens (Hughes, Jewson and Unwin, 2007) for developing an understanding of the process of becoming a barrister. I also further contextualised the community of the inn within Brannon's (2007) perception of 'nested' communities of practice which may be contiguous, congruent, corresponding, intersecting or which may well potentially be contemporaneous, concurrent or consecutive in time, James' (2007) conception of multiple potentially overlapping or intersecting communities and Jewson's (2007) concept of a "*constellation*" of interlinked communities of practice derived from the members' employment. I suggested, in chapter two, that the inn's pupils are located within a constellation of multiply interlinked contemporaneous communities including

the inn, their chambers, their fellow pupils in their training year, the other communities which constitute the wider community of practice at the bar and the bar as a whole. The additional contextualisation provided by these notions of nested or overlapping communities and constellations of communities seems to me to help us to understand the relationships between various elements of the wider bar community in which pupils find themselves embedded and of which the inn community is one element.

I argued in chapters three and four that in order to enhance its explanatory power the communities of practice conceptual lens needs to be supplemented by the additional focussing artefacts provided by Goffman's (1959) notion of identity and Parsons' (1939) notion of professional socialisation. Goffman's notion seems to me to provide a compelling means for understanding the notion of presentation of the self in an occupational setting and Parsons' conception of professional socialisation, in my view, provides an important tool for differentiating professionals' motivations in terms of objective gains and reputational gains. I have, therefore used these notions as focussing artefacts to add value to the understanding provided by the communities of practice conceptual lens (Hughes, Jewson and Unwin, 2007). My use of these concepts as additional focussing artefacts for that conceptual lens is my own novel approach.

Approaching my research from a constructivist perspective I argued in chapter three that I would operate within the interpretivist methodological tradition. In order to ensure that the reader can have confidence in my analysis I have, therefore, embedded two important methodological approaches in my analysis.

Firstly I have conducted my analysis so as to be compatible with the first limb of 'interpretivist reliability', a term which I defined in chapter three to describe Ritchie's (2003, p.269) two limbed explanation of reliability. Ritchie's notion of reliability is based on sound fieldwork, analysis and interpretation (limb one) and the inclusivity and symbolic representativeness of the sample group (limb two). As I discussed in chapters three and four limb two is largely satisfied in this analysis, by the relatively large and diverse nature of the pupil sample population in relation to the limited size of the available pupil parent population. This chapter, therefore, engages limb one to support reader confidence.

Secondly I have reported my analysis in a manner compatible with Ritchie's important adaptation of the Geertzian notion of thick description (Geertz, 1973, cited in Ritchie, Lewis, McNaughton Nicholls, Ormston, 2014, p.352) to provide sufficient contextualisation to enable the reader to assess validity and reliability in relation to

perspectives reported and deductions made (Lincoln and Guba, 1985, cited in Ritchie and Lewis, 2003, p.279).

In the analysis below I explore the themes of: what the barristers perceive that the professional identity of a barrister is or should be; what motivates someone to become a barrister and develop as a barrister engaging in the process of professional socialisation; and, what facilitates or impedes individuals in becoming a barrister. In exploring these issues I use Goffman's (1959) notion of identity and Parsons' (1939) notion of professional socialisation as additional focussing artefacts to refine the understanding of the bar which I can acquire using the communities of practice conceptual lens.

In the next chapter I deepen my analysis and further explore and interpret these themes to develop an understanding of the process of becoming a barrister in a theoretical context. One of the analytical concepts which I identified in chapter four, 'pervasive learning', a novel theoretical concept which provides an implied soft critique of the communities of practice framework is also discussed more fully in chapter six. As part of my discussion in chapter six I also develop a refinement of Parsons' (1939) notion of professional socialisation in the context pupil barristers' training.

In conducting my analysis, I discovered that some interviewees' responses seemed to me to raise issues in relation to which the additional focussing artefacts provided by Goffman's (1959) and Parsons' (1939) notions were less helpful in refining an understanding of those issues and these issues are dealt with separately below.

In chapter six I make linkages and connections between interviewees' perceptions and typological understandings and perceptual themes to deduce new understandings. As part of my interpretation there I identify specific theoretical strengths, weaknesses and contradictions within the communities of practice framework (Lave and Wenger, 1991, p.123) and develop definitional refinements (Hughes, 2007; Fuller, 2007) of that framework. I also discuss the usefulness of Goffman's (1959) notion of identity and Parsons' (1939) notion of professional socialisation as focussing artefacts to clarify the understandings developed through the communities of practice conceptual framework.

## **Becoming a barrister: Internal and external identity**

In the analysis below I discuss the three main themes, identified above, around which interviewees' perceptions of becoming a barrister are woven. In my analysis below interviewees' perceptions of how a barrister thinks and acts are used to shed additional light on my interviewees' more directly expressed views of what they believe that a barrister should be.

### **Professional identity: What barristers believe a barrister should be**

Goffman's (1959) concept of internally and externally self-presented notions of identity implies that each trainee member of the barrister community is playing a part and also learning how to present that performance in a manner convincing to others and potentially to himself or herself (Goffman, 1959). The trainee may well be playing a role which s/he perceives as compatible with one or more of several commonly accepted typologies for being a barrister. In doing so the pupil may be suppressing their true view in order to support the co-presented consensus of the group as to how things are or should be, consistent with Goffman's (1959, p.21) notion of '*the veneer of consensus*'. It is important to note, however, that the notion of a veneer of consensus includes not only co-presented consensus founded on suppression of participants' true views but also genuine consensual agreement based on participants' true perceptions. When I say this I mean that the consensual veneer may sometimes be founded on submission to the views of others and sometimes on freely given agreement, it may be motivated by compliance or consent or any mixture or blend of these based on internal justifications. Goffman's conceptualisation also implies that once a perception of what a barrister is or should be or how s/he should behave becomes established in the community it becomes entrenched (Goffman, 1959, p.22). Entrenched, typological perceptions may be maintained by a given individual for personal reasons or by an internal desire to satisfy peers' and superiors' apparent attachment to that perception (Goffman, 1959, p.31). I would suggest that Goffman's concept has relevance for the internal contradictions within the communities of practice model relating to new-comer and old-timer tensions centred on notions of continuity of the community and displacement of current practitioners by new-comers (Lave and Wenger, 1991, p.114). Goffman's notion of a veneer of consensus is also compatible with Parsons' conception of '*institutionally approved*' means of achieving goals (Parsons, 1939, p.464) which is also discussed in more detail in relation to professional socialisation below.

It is apparent from the interviews and analysis below that a number of interviewees consider that characteristics associated with the bar and with barristers are, the importance of advocacy in the profession and the difficulty in learning to perform advocacy really well, excellence in advocacy, being the best at advocacy and having powerful personalities as a prerequisite to facilitate that excellence. The potential for interpersonal conflict was identified by one interviewee as a corollary of barristers having powerful personalities. Some interviewees also hold the view that the bar is a unique and challenging profession and that pupils need to mould themselves to the culture of the profession while some trainers are specifically aware of the role they play in inculcating pupils into the ethos of the bar. Interviewees also report self-doubt and modesty about their professional skills and an ongoing evaluation of those skills coupled with the self-confidence to proceed even in the face of self-doubt.

In reporting his perception of what it is to be a barrister Jack, a pupil who was interviewed together with Charlotte and Hannah said,

*Jack: "...you almost get two views don't you? Advocacy as a specialist skill tends to be a typically bar focused, although not specifically bar focused view, you also get a group of people who say no it's just another one of those things that lawyers have to do. I always thought I always was the bar focused view, I'm much more the bar focused view now because I've had to do it and I think that's the key. Advocacy can look like it's one of those things oh you learn it as you go along, it's only when you actually learn how to do it well that you understand quite how much there is to learn in it, so that was one of the most interesting things."*

Later he said,

*Jack: "....having big personalities is what makes barristers good at what they do, I think you need to have that but the problem is when you put them...you've got a lot of people with big characters all into one place, yeah, there is a lot of fighting to find your hole in there I think."*



Jack then went on to say,

Jack: *“I think one of the things that inspired me, I’ve only ever come across one person who I know personally who has had cause to instruct a barrister in their life, ..... the solicitor had said to them ‘oh don’t worry we don’t need to instruct a barrister in that one there, I’ll do the hearing, it’ll be fine’ and this person said to the solicitor quite straight up no I want counsel [i.e. a barrister] to do it, I want the best.”*

Charlotte then said,

Charlotte: *“Definitely there’s the challenge, I think that there’s something about the profession that I think is quite unique in that challenge that you don’t get in other professions that really appealed.”*

She then went on to say,

Charlotte: *“It can be a bit daunting. It is more than a profession I think, it is a bit of a culture....”*

And then,

Charlotte: *“....maybe it’s just me, constantly thinking how do I present myself well, how do I fit in with the culture”,*

Then, after a brief interruption she continued to say in relation to how she should present herself,

Charlotte: *“.....that’s probably the most challenging but definitely very helpful for the advocacy because I think that’s the main crux of the profession...”*

These quotes seem to me to indicate Jack's view that, advocacy skills are a defining characteristic of a being a barrister rather than a more general lawyerly skill, that barristers have strong personalities and that they are argumentative between themselves. The quotes also indicate that barristers are perceived by clients outside the profession, and implicitly by Jack, a peripheral participant within the profession, as "*the best*" lawyers for legal hearings, that is to say court proceedings involving advocacy. Charlotte's view appears to be that being a barrister is about doing challenging work in a unique profession but that being a barrister is about more than being part of a profession it is about being part of a culture. Charlotte clearly identifies that she feels that as a pupil she must mould herself to that culture and that advocacy is the crux of that culture or profession. It is also apparent that Charlotte perceives a need to present herself in a manner compatible with what the profession expects. Jack's suggestion that big personalities are a prerequisite for excellence in advocacy tends to indicate that he also perceives that personality trait as a particular way of being associated with advocacy excellence. I would suggest that Jack's perception of a prerequisite way of being also indicates that he implicitly shares Charlotte's awareness of the need to present oneself in a specific form that is acceptable within the profession and that for him part of that form is described as having a 'big' or 'argumentative' personality. Charlotte's perception of the need to mould herself and to present herself, in the context of a unique professional culture, in a particular manner, is also compatible with a suggestion by the trainer Arthur that as a trainer he is helping pupils to understand the culture and ethos of the bar which, I would suggest, potentially facilitates the moulding process perceived by Charlotte.

I would suggest that these perceptions with regard to moulding oneself and presenting oneself are strongly compatible with and more easily understood in terms of Goffman's (1959) concept of externally and internally self-presented notions of identity and Parsons' conception of '*institutionally approved*' means of achieving goals (Parsons, 1939, p.464).

Arthur, also indicated that trainers (although old-timers) may be concerned about the quality of their own demonstration performances in advocacy training sessions. This is consistent with an unrecorded comment made to me in a conversation outside interview by another trainer and reported anecdotally here. That trainer suggested that when he went to court as a judge he often felt concerned that his legal knowledge was insufficient. This was not the first time that I had heard similar comments. Since that trainer was a senior barrister before becoming a judge it seems logical to suggest that his lack of confidence was unfounded. From the

existence of this unfounded lack of confidence I would suggest that I can deduce that self-doubt and self-criticism by otherwise highly capable individuals is a characteristic exhibited by some barristers. I would also putatively suggest that the trainer's, most likely unfounded, suggestion of lack of knowledge, coupled with the fact that I have heard several other such suggestions by individual barristers about their skills or knowledge, implies that modesty is another aspect of a barrister's professional identity. When I say this I mean that the comment implies that presentation of the self to the self and to others (Goffman, 1959) as being modest about one's skills and knowledge, may be part of the identity of being a barrister and a way of being which is viewed as acceptable within the profession (Parsons, 1939). The fact that this barrister's self-doubt did not prevent him from going to court as a judge suggests to me that another characteristic exhibited by some barristers is the self-confidence to go ahead and do the task in hand even in the face of self-doubt.

### **Professional socialisation: Barristers' motivational drivers**

In repudiating the perception that professions are altruistic in nature Parsons draws attention to the perception that individual professionals such as lawyers seek to achieve two bicameral goals, objective success and personal reputation (Parsons, 1939, pp.463-4) thereby, providing one potential understanding of the motivational drivers behind barristers' workplace socialisation. Parsons, however, suggests that unless individuals reach these goals and combine them in a manner that is acceptable within the profession, to use his term, '*institutionally approved*', then their reputational standing will be lost (Parsons, 1939. p.464).

It seems logical to suggest that Parsons' concept has relevance for understanding the motivations underlying pupils' willingness to undergo training and trainers' willingness to be involved in training. His notion also seems to me to assist us in understanding the internal contradictions within the communities of practice model relating to new-comer and old-timer tensions (Lave and Wenger, 1991, p.114). Parsons' concept, therefore, arguably adds significant further analytical clarity and value to the gloss on the communities of practice conceptual lens which was provided by Goffman's notion of presentation of the self. This added value and clarity derives from the fact that Parsons suggests a means by which participants might determine which version of the self to present within their specific professional community.

In examining the interview responses it seems apparent, therefore, that the light in which interviewees present themselves when exemplifying certain characteristics

(Goffman, 1959) also has potential implications in relation to Parsons' (1939) notion of the bicameral goals of objective and reputational success. This bicameral nature of potential success is compatible with the dualistic nature of pupils' experiences (Hughes, 2007; Lave and Wenger, 1991; Wenger, 1993) due to the highly personalised nature of interviewees' experiences at the bar.

As I mentioned in chapter three objective successes for a barrister might include but not be limited to financial reward and/or success in the court room. Reputational success for a barrister might include but not be limited to, standing within the community of barristers and/or within the nested (Brannan, 2007; James, 2007; Jewson, 2007) communities of practice. During the process of progression within the community of the bar, therefore, at various stages in a barrister's training and career, such success may perhaps also be exemplified by but is not limited to pupillage in or membership of a chambers with a good reputation, attainment of roles on committees, specific occupational roles or ranks such as Recorder [part time judge] or Queen's Counsel [a senior barrister].

In examining the interview responses already discussed it is apparent that a number of the characteristics of barristers identified above relate to objective success, a number relate to reputational success and a number relate to both. I would suggest that such characteristics as advocacy excellence, which clearly impacts on reputational success could also have an impact on objective success in that barristers perceived as being excellent advocates could be expected to obtain more work. Characteristics such as having a strong personality, being argumentative, being perceived as "*the best*" or among the best and doing challenging work in a unique profession would seem to have strong reputational implications but could also have a positive impact on the opportunity to obtain objective gains. In other words, as Parsons (1939) suggests, objective and reputational success support each other. This is because professional expertise must be applied in a manner acceptable within the profession if professional reputation is to be maintained. Loss of reputation will tend to lead to loss of opportunity for objective gains while advances in reputation will support further objective gains as, simply put, no-one wants to hire a barrister with a bad professional reputation. This preference and awareness of it can be deduced from the desire of Jack's friend, reported above, to engage a barrister saying, "*I want counsel to do it, I want the best.*" Essentially, in making this comment Jack's friend was making it clear in practical objective terms that based on his external perception of the legal professions he wanted a barrister rather than a solicitor advocate. The impact of this perception on Jack, in choosing to become a barrister can be seen in his assertion that this comment was, "...one of

*the things that inspired me [to come to the bar].*” I would suggest that the inspirational impact of that comment on Jack indicates that the preference to be one of *‘the best’*, essentially a preference for reputational success, had a motivating impact for Jack prior to becoming a member of the bar.

It is therefore, interesting to consider whether reputational gains, objective gains or both motivate the community’s members and whether they motivate my pupil barrister interviewees in particular.

My interviewees’ comments seem to suggest that reputational gains are important for a number of interviewees. The comments below also explicitly indicate a desire to receive respect from others and to acquire status and an understanding of the bar as a vocation or a calling. Neve, who was interviewed initially in a group and then alone, implicitly identifies status as a motivational factor in that she is explicit in expressing her desire to move up the hierarchy of the bar. In her second interview while alone Neve said,

Neve: *“I, personally, would like to move up the hierarchy.”*

Other interviewees also indicated the importance of respect and status.

Lucy, who was interviewed with Yvonne, when speaking about how the bar is perceived externally in relation to other potential professions said,

Lucy: *“Well, it’s a respected, it’s a very respected profession, isn’t it?”*

Evelyn, who was interviewed alone, said,

Evelyn: *“Why I chose to be a barrister? I think... I have to say, and this isn’t something I’d admit to in pupillage interview, but if I had to actually be honest about my number one motivation it would be prestige. I think it’s a really prestigious career. I think there’s no career as prestigious as being a barrister, with the exception of perhaps being a judge, but obviously you have to be a barrister before you can be a judge. So, that well might be my number one reason.”*

Henry, a trainer, indicates that he is,

Henry: *"...very fond as you can probably tell, of being part of something that I think has a very nice place in society."*

The desire for respect and status and to be part of something well regarded in society is, I would suggest, akin to a vocation. Indeed Arthur, a trainer, specifically suggested that the profession of barrister is a vocation or a way of life rather than a job. The comments above, therefore, seem to me to indicate a strong attachment by barristers and pupils to reputational gains.

It is, however, also important to consider barristers' attachment to objective gains. A clear indication of objective success in any profession is financial success. Parsons (1939) has helped us to understand that objective rewards such as financial success must be achieved in a manner that is acceptable to the professional community that an individual is part of. It seems, therefore, interesting to consider how interviewees address the issue of financial reward and the extent to which that reward is sought by members of the community.

The issue of financial reward was raised by a number of interviewees but it is notable that there were no responses directly indicating a desire for excessive financial reward. The issues raised were the affordability of continuing at the bar, particularly the criminal bar, in the absence of adequate income. It seems to me that in raising adequacy of income as an access issue interviewees were, in addition to raising motivational issues, also implicitly or explicitly discussing the barrier to entry that income inadequacy represents for would be participants from modest backgrounds. Impediments to entry and progression are discussed more fully in the relevant section below. In relation to the current discussion, however, I would suggest that the importance to interviewees of at least some moderate degree of material reward as a motivational issue can be inferred from some of these responses.

Evelyn, interviewed alone, indicated that money is not a primary motivational driver for her saying,

Evelyn: *"Yeah, well what I mean is you have to get... you can't go into crime, criminal bar, if you're motivated by money, because the money is*

*appallingly bad. And the reason I got over money is, or got over that as a motivation, is I suppose when I started studying it, I studied all the different types of law and when I did mini-pupillage and initially I was verging towards something like a more commercial-type thing [an area of civil, i.e. non-criminal legal practice] and then it did suddenly dawn on me well really if I'm honest with myself, the only reason I'm doing this is because it's better paid. If I forget about money and think about what I want to do, there's no question, it's crime. And what's more, I'd go so far as to say I think everyone would give that answer if they put money aside. They'd probably deny that's the case, but I don't believe them. I think there's no reason if you've chosen to be a barrister the only reason you'd choose to do something other than crime is because you want more money. I think there's no question that crime's more interesting than commercial law."*

This perspective strongly suggests to me that money is not a primary motivation for Evelyn although its absence is an impediment to her and, as she perceives matters, possibly an absolute impediment to others not in a position to "*forget about money*". The fact that money is not a primary motivation is reinforced by the fact that in spite of her perception that a career at the criminal bar would not be financially rewarding she still chose that career path. Evelyn's comments also indicate that she perceives a financial hierarchy within the profession and an opposing perceived hierarchy based on how interesting work is with commercial law better placed within the first hierarchy and criminal law better placed within the second hierarchy.

It is useful to consider Evelyn's comments in conjunction with Jack's and Charlotte's perceptions of the primacy of advocacy as part of what it is to be a barrister. Contextualising these comments it is helpful to the reader to know that criminal barristers tend to spend more time 'on their feet', i.e. performing live advocacy in court, than barristers in the civil branches of the profession. These additional perceptions once contextualised suggest that the fact that advocacy based work is preferred by Evelyn to income indicates both the esteem with which excellence in advocacy is viewed by some peripheral participants and the extent to which a number of them downplay the importance of financial reward. This prioritisation of advocacy over financial reward and the criminal bar over other branches of the profession was also reported by Neve, when interviewed alone, when she said,

*Neve: I'm not particularly in it for the money. I mean, I was fully aware when I came to the bar and chose criminal law, that it wasn't going to pay me very well, but I chose it because I was interested in it. So that's something I often say to people. But yes, they all keep trying to scare me with "oh, the criminal bar is not going to last" [because of lack of state funding], and all these things. Yes, I do worry about it, but not hugely. I*

*don't mind if I don't get paid anything, as long as you do what... (Phone buzzing). I'm sorry. As long as you do something that you enjoy, that's the main thing, for me."*

Neve's comments suggest that as with Evelyn reputational gains are more important to her than objective gains as she has chosen something that she is interested in rather than something that potentially pays well. A possible alternative view, however, is provided when Evelyn's and Neve's comments are viewed through the perceptual refinement of the communities of practice model provided by my innovative use of Parsons' (1939) notions of the acceptable application of expertise and Goffman's (1959) notion of presentation of the self as additional focusing artefacts. That alternative view is constructed as follows. The area of practice that Evelyn and Neve report as finding interesting is the criminal bar. The criminal bar is perceived by a number of interviewees as a focus of advocacy excellence. Advocacy excellence is viewed by a number of interviewees as a locus for excellence in barristers' skills. Evelyn and Neve are separately implicitly saying, therefore, that they choose professional excellence over money. Essentially in Parsons' terms, in expressly prioritising reputational gains over objective gains Evelyn and Neve may be complying with notions of the acceptable application of expertise (Parsons, 1939). In terms of Goffman's (1959) notion of presentation of the self, Evelyn and Neve may be suppressing their true views to create a presentation of the self which has been tailored to fit their perception of the consensual veneer of the community's preconceptions.

A number of factors, however, suggest that the views expressed are sincerely held, that is to say they are based on the interviewees' true perceptions rather than being views that they think they should present themselves as having. That is because both Evelyn and Neve were interviewed alone when they made their comments prioritising reputational gains over immediate objective gains so there can be no suggestion that they seeking to respond to or accord with co-interviewees' consensually developed views. An additional interesting issue, therefore, is whether their preference is presented for the interviewer and the reader or whether it is actually internalised by Evelyn and Neve themselves, that is to say, whether that preference is sincerely held.

I would suggest Neve's earlier comments provide some helpful guidance on the issue of sincerity. Linking Neve's implicitly expressed preference for professional excellence and reputational gains over objective gains with her clearly expressed hierarchical ambitions it is possible to infer that Neve may well be willing to state a



preference for immediate objective gains if that was her self-perception of her true preference. I would suggest, therefore that the views expressed are Neve's genuinely held views or that they are self-perceived as such by Neve. These views, favouring reputational gains over objective gains, may be endogenous to Neve's perception of the world or they may potentially be the views of the community internalised by her. In other words they may be views sincerely held within the new-comer subsection of the inn and wider bar community as part of a veneer of consensus (Goffman, 1959) based on genuine consensual agreement and then entrenched (Goffman, 1959). When I say this I am suggesting that Neve's comments provide some support for the notion that in her part of the community, that is amongst pupils, Neve's views may be perceived as part of the appropriate way of thinking about the acceptable application of professional expertise (Parsons, 1939) in being a barrister as part of a veneer of consensus based of the participants' true perceptions.

I would, however, further suggest that even if that consensual veneer is based on submission to or compliance with a perceived entrenched community view, then in so presenting themselves new-comers not only present a version of themselves likely to attract reputational gains within their understanding of the community but also facilitate generation of further potential entrenchment (Goffman, 1959) of those views within the community. It seems logical to suggest that entrenchment of views supporting the prioritisation of reputational gains over objective gains will result in some positive outcomes for the clients of the bar, particularly when reputation is based on professional excellence.

Status and respect and the desire for seniority seem to be important motivational drivers in the process of becoming a barrister as is a desire to be part of something that is well regarded. Reputational gains also appear to be prioritised over objective gains at the bar and the role of a barrister is explicitly described by some as a vocation. It is, therefore, important to understand how those motivations relate to the process of actually becoming a barrister. In other words we need to consider how those motivations, which may drive pupils to engage in reconfiguring themselves into the thing that they believe a barrister to be might be facilitated or impeded in helping pupils to achieve that process of transformation.

## **Factors that barristers believe facilitate or hinder progression within the bar community**

An important issue which has been recognised by Lave and Wenger (1991) and also by Parsons (1939) is that community participants must gain membership of the community in a manner which is acceptable to the community. It seems relevant to me that these writers are focussing their analyses on quite different career and workplace contexts in that Lave and Wenger's analysis is founded on the position of peripheral participants in a range of career contexts including non-professional career contexts and Parsons (1939) specifically focusses on professions such as medicine and the law. That breadth of contextualisation makes the confluence of their analyses all the more compelling in my view. Parsons' (1939) notion of professional socialisation, in suggesting that professionals must achieve in a manner that is acceptable within the profession, is implying that a professional community will have specific routes to progression through which new-comers must pass, which may facilitate progression, and specific barriers or impediments to progression which they must traverse. Parsons' (1939) analysis, suggests to me that the routes that participants must traverse may in some professions be quite constrained due to the requirement to fit in with what is acceptable in the profession. Goffman's (1959) notion of presentation of the self seems to me to suggest that these facilitating routes and impeding barriers may include ways of being that must be adopted or which new-comers must present themselves as having adopted and which they must eventually present even to themselves. It is, in my view, this additional explanatory power, which helps us to understand how community participants come to fit themselves or appear to fit themselves to the acceptability requirements (Parsons, 1939) of the community, that makes Goffman's (1959) notion of presentation of, by and to the self so important as an additional focussing artefact for the communities of practice conceptual lens (Hughes, Jewson and Unwin, 2007).

In the analysis below I have used Goffman's notions to help me to understand that process of fitting the self (Goffman, 1959) to what is an institutionally acceptable (Parsons, 1939) way of being within the community in relation to a number of potentially facilitating or impeding factors.

I would suggest that the comments which follow immediately below indicate that new-comers are impressed by and wish to adopt the characteristics of service and support to others that they identify in old-timers, specifically service by more central community members to less central community members.

Zachary, who was interviewed with George and Liam, expressed pleasure and gratitude that high status and highly experienced individuals were giving their time to train him at the inn's training, saying,

Zachary: *"Hopefully it doesn't sound like I'm fawning too much but it is a privilege to have these practitioners giving you feedback and their time, it's actually quite impressive that they give up their own free time."*

He also stated his view that,

Zachary: *"...we'll also make that kind of commitment in the future and try to feedback into it as well."*

This view is consistent with the trainer Henry's view, in relation to the role of training in maintaining the continuity of the community, that by training new-comers, old-timers make the continuing relationship between seniors and junior members of the profession *"self-perpetuating"* and encourage trainees to subsequently become trainers.

Benjamin, who was interviewed together with Victoria indicated that (as was expected by him) those who trained him at the inn were much higher status and more experienced than the barristers he generally met in his everyday work.

Rowan, who was interviewed alone said,

Rowan: *"I think the trainers have all been fantastic. They're obviously giving up their time and therefore you know that they're there because they've chosen to be there and really care about it which is, in a certain way, really nice to know; as opposed to going on a course where you've got trainers who are professional trainers and you know they're getting paid. To actually know that you're giving up your weekend and they are equally giving up their weekend, and they're there because they want you to improve and they really care about that is really helpful."*

Hannah, who was interviewed with Jack and Charlotte, also said,

Hannah: *“...the term lawyer it is very much an umbrella term and within that you have people who just lead totally disparate lives that really aren't comparable and I think within that quite vilified term lawyer, that doesn't bring about any of these connotations of very, very senior men from the bar giving up their weekends for free to train the junior members, people don't know about that at all. I think if that were more widely known, and I don't know how it could be, but if it were that that would probably go some way to improving peoples' perception of the legal profession.”*

In my perception the view's expressed above indicate a high level of approval for central participants who assist more peripheral participants to advance themselves. Hannah's comments also seem to me to evidence an assumption by Hannah that such service would be respected by non-barristers and that dissemination of knowledge of this supportive behaviour would add to the external standing of the profession. I would argue that the fact that Hannah made this comment also implies that old-timers' activities and behaviours in this are respected by Hannah. I would suggest that the comments above indicate that, based on their experience of the inn's trainers that they have encountered, a number of pupils have a high regard for aspects of their trainers' behaviour which they perceive as helping them to progress in the profession and a corresponding respect for those trainers themselves.

I would also seek to argue that the comments discussed above, when coupled with Zachary's and Henry's earlier comments also suggest that the high regard that current trainers are held in underpins and drives the desire by pupils to make their own contribution at a later stage in their careers. It seems logical to me to suggest therefore that facilitation of progression for current new-comers potentially creates facilitation in progression for future new-comers. I say this because it seems to me that once an individual in the community has identified this contribution by old-timers to the progression of new-comers as an activity or behaviour with potential reputational gains (Parsons, 1939) then the prioritisation of reputational gains within the community identified earlier in this chapter will lead to their prioritisation of that activity. In terms of Goffman's (1959) and Parsons' (1939) notions this means that a set of activities or behaviours involving support for new-comers by old-timers and facilitating their learning and progression will likely, it seems to me, become entrenched as an acceptable reputation enhancing behaviour (Parsons, 1939) within

the community. I would posit that my suggestion of entrenched facilitation is supported by Zachary's comments about future contributions he would like to make and Henry's perception of a, "*self-perpetuating*" relationship between new-comers and old-timers reported above. I would also putatively suggest that from these comments and inferences I can deduce the view that the pupils implicitly expect their inn and its trainers to assist them in progressing in the profession.

In addition to addressing the facilitating factors discussed above interviewees also discussed a number of issues of conflict and potential impediments to new-comers' entry to and progression within the community. Some interviewees expressed a number of concerns that the workload at the bar impacted negatively on pupils' and barristers' personal lives and on relationships outside the community of practice. In discussing these issues I am going to suggest that the comments below indicate that the need to maintain relationships within the nested communities of practice (Brannan, 2007; James, 2007; Jewson, 2007) to submit to the very heavy workload required to facilitate this and to maintain a veneer of consensus (Goffman, 1959) in relation to willingness to take on a heavy workload, have the potential to impact on interviewees' relationships outside the community and have impacted on some community members. In chapter six I will develop these issues further in relation to theory to show how these impediments have allowed for potential sequestration, seeded potential conflict between new-comers and old-timers and suggest that they have, in my view, the potential to impact disastrously on the continuity of the community.

Victoria, who was interviewed along with Benjamin, said,

Victoria: *"So yeah, I think I'll find that hard, and work/life balance, try and fit in ... create some kind of family life, that sort of thing."*

Henry, a trainer said,

Henry: *"I think challenges, the main challenge at the bar for most people is keeping, trying to be successful and putting enough time in to be successful but also making sure you're keeping it in perspective, that it is just a job and you've got a family and all the rest of life that needs time and attention. Or else, you'll become a sort of one dimensional person. So that's the real challenge, I think, is having a sort of life outside the bar because it would be very easy to spend too much time doing it. That's probably the main challenge."*

Eli, when he was interviewed alone indicated similar concerns.

Stephen: *“What do you most look forward to about practising as a barrister and what do you feel will challenge you most?”*

Eli: *“I think I’ll start with the challenge, because challenges are sort of quite looming at the moment. I think it is going to be maintaining a level of productivity that allows me to function as a human being and a barrister at the same time and allows me to commit to my own home life and also develop a good practice as a barrister and do things to my high standards. That’s going to be a tremendous challenge.”*

He then subsequently said,

Eli: *“.....So my...whereas my career is extremely important to me I recognise that I have other responsibilities as well and you know, those aside it isn’t possible to work all the time. And if you are needing to work every hour God sends just to maintain the level of confidence of competence or a level of decent practice then that isn’t sustainable. So finding that balance and finding that level of productivity is the biggest challenge I think.”*

These comments tend to indicate to me difficulties perceived in managing a work-life balance.

Arthur a trainer also confirms the negative impact of the bar on personal life suggesting that barristers need to work long hours as the profession is a vocation or a way of life rather than a job. He also suggests that a lot of preparation for court is done in the evening and late at night when barristers are at home with their partners and that there are early morning starts. He reports, that barristers have their off duty time between 2.00pm [when they have finished their court work or the case for that day] and the delivery of their next brief [case papers] later in the day [which may be for trial in court the next day or requiring other urgent action]. Arthur suggests that the vocational nature of the bar as a profession causes havoc for relationships and reports his view that the statistics for marriage breakup support this perception.

Henry and Arthur's comments seem to me to provide additional triangulation in that they tend to indicate that the difficulties in managing a work-life balance perceived by Eli, and Victoria do not always resolve at the end of pupillage and have disastrous personal life consequences for a number of barristers.

As I discussed earlier in this chapter, in raising the issue of funding in relation to the barriers to be traversed in becoming a barrister, the financial concerns raised by Evelyn and Neve above also appear to be potential impediments to entry to the profession.

It seems apparent to me from the discussions above that the personal life, workload and finance issues identified above are likely to have profound implications on entry into the profession and essentially impose a range of barriers to new-comers seeking to engage in peripheral participation within the community. I would suggest that these barriers will be likely to exhibit varying degrees of porosity and penetrability which are likely to be specific to the individual new-comer and I would further suggest that these barriers are likely to depend on the individuals' personal access to financial and other support resources and their individual resilience to pressure and potentially their social skills in the context of the nested communities. This variability tends to imply consistency with the dualistic nature of pupils' experiences inside and outside the community (Lave and Wenger, 1991; Wenger, 1993).

In seeking to understand the contextual experiences of interviewees their perceptions of boundary issues relating to migration out of the profession are also instructive. Of particular interest in relation to boundaries and migration is the value that interviewees attach to their experience as barristers or pupils in the context of the world of work outside the bar. In general several interviewees, whether pupils or trainers expressed no awareness of and/or were unable to identify for themselves any use for the skills learned at the bar in other careers. This lack of awareness tended to manifest itself as being unable to make any comment on the issue in interview.

The interviewees who did see the value of the skills learned, however, shared in the main, one specific characteristic. They almost all had professional, legal or employment experience prior to pupillage. From the existence of this characteristic in those with that view, I believe that I can deduce that other career experience external to the bar may facilitate an appreciation of the transferable value of bar skills and that lack of such experience may limit this knowledge.

Pupils Lucy and Yvonne, in the same two-person interview and pupils Cornelius and Caleb, in a another two-person interview all explicitly stated that the skills learned during pupillage and dealt with at the inn's pupillage training had value for careers outside the bar and vice versa. Indeed these pupils were able to list specific skills they thought useful in this way and/or examples of where these skills might be useful outside the bar.

Lucy: *"...communication skills are paramount."*

Yvonne: *"...being analytical and managing your workload."*

When discussing transferability Cornelius suggested that,

Cornelius: *"Yes, the transferable skills are fantastic. The main attribute for barristers, well I've talked about advocacy and that's why we're here. I think it's analysis, I think analysis and presentation, your work ethics, they're all tools that we wouldn't survive without and, of course, that can apply to any professional.....I think the bar is a great way to learn and a way to further whatever profession it may be, so I would recommend it to any one for that place."*

Whilst Caleb said,

Caleb: *"I think that the training that's happened at the bar so far would stand us in good stead in other careers."..... "I think in terms of the critical thinking that you have to engage in for presentational skills and so on then they're clearly universal skills."*

These comments specifically indicated that these pupils were aware of the usefulness of these skills elsewhere. The comments also indicated, however, that some of these interviewees had no desire to change to another career path outside the bar. Lucy indicated this by saying,



Lucy: *"I think we can both agree we've come the other way around hoping we can bring transferable skills to the bar."*

Yvonne, also indicated this quite strongly, by saying,

Yvonne: *"I'm hoping I don't change career again."*

And then

Yvonne: *"No, I wouldn't want to change careers again. I think I'd be quite devastated if that happened, but I'm sure it is good training for a whole load of jobs generally."*

And then,

Yvonne: *"I just haven't in my head gone there because I'm, touch wood, hoping it won't [change of career out of the bar] happen."*

From these comments it seems logical to me to infer that for new-comers and old-timers alike an overarching category of perception may be knowledge or experience and/or lack of that knowledge or experience of occupations external to the bar. It seems to me that such knowledge and experience or in contrary cases the lack of these, seems to have an impact on interviewees' perceptions of the bar. That impact seems to me to be characterised by a higher regard for the cogency and transferability of bar related knowledge and skills in those with professional, legal or employment experience prior to pupillage. In terms of my additional focussing artefacts this differential regard may be understood in light of the suggestion that some new-comers with external experience may be able to present themselves (Goffman, 1959) to old-timers as being experienced in ways compatible with notions of what it is to be a barrister. When I say this I mean that their prior experience may assist them in appearing to have barristerial characteristics prior to pupillage. In addition or by way of alternative to this, their prior experience may enable them to present themselves (Goffman, 1959) as having experience, skills or knowledge

likely to: facilitate of their progression within the nested communities of the bar; and/or, bring objective or reputational benefits (Parsons, 1939) to those new-comers or to old-timers associated with those new-comers, in a manner acceptable within the profession (Parsons, 1939).

It seems sensible to take my discussion of the value of prior experience beyond the remit of my specific focussing artefacts as this approach enables me to contextualise my artefacts further within that framework. It also seems logical to suggest that responses obtained on this topic are to some degree structured by the respondent's past external occupational experience rather than by his/her experience and position of centrality within the community. These responses and my suggestion of the potential value of prior experience, therefore, are supportive of Fuller and Unwin's (2004) conception of a differential 'learning base' between new-comers, in which less central participants may possess knowledge that more central participants do not. As I mentioned in my literature review chapter, this differential learning base may impact upon the 'terms of trade' for individuals within the community of practice and might be expected for communities of practice embedded within a rapidly changing society. That is to say those pupils with professional, legal or employment experience prior to pupillage may have value to their seniors which facilitates their progression in the community or may not and the existence or otherwise of that additional value will depend on the specific nature of their prior experience.

The additional responses of those 'externally knowledgeable' pupil participants such as Lucy and Yvonne who confirmed strong attachment to the bar, suggest to me that the differential learning base identified here was of a type and format that added to the value of pupillage for these particular participants by enhancing the '*exchange value*' they received (Lave and Wenger, 1991, p.112). I would suggest that for these specific pupils the enhanced exchange value to the pupil seems to have been obtained without an equivalent reduction in '*use value*' to the old-timers. I say this because these pupils clearly obtained pupillage which indicates to me that the relevant old-timers were satisfied with the use value they received from these pupils. I would infer from this dual-directional benefit flow the possibility that the value added by some pupils' prior external experience is likely to be sufficient in scope to provide benefit to both parties. This view is supportive of Eraut's (1991, p.6) notions of variable inputs and outputs which pupils supply or receive and with notions of the dualistic nature of their experiences (Lave and Wenger, 1991; Wenger, 1993) and I would further suggest consistent with the dualistic nature of the context of those experiences. Based on the above I would hypothesise that external occupational

experience may ameliorate tensions between learning opportunities and possible sequestration of labour (Lave and Wenger, 1991) and may improve transparency at the professional boundaries for some pupils, depending on the experience that they bring. In other words, some experience that pupils have had prior to pupillage may be valuable to their seniors in the community and some may not. Of those with experience that is valuable to the seniors some pupils may obtain fair exchange value for the use to which seniors put their experience and some may not.

### **Responses falling outside the scope of my additional focusing artefacts**

On occasion, during the course of my analysis, interviewees' responses raised issues which were outside or peripheral to the scope of Goffman's (1959) notion of presentation of the self and Parsons' (1939) notion of professional socialisation. Consequently it was not easy to use that framework to refine an understanding of those issues obtained through the communities of practice conceptual lens. An important example of this type of issue was provided by aspects of Eli's responses. Eli's comments, quoted above, tend to indicate difficulties perceived in managing a work-life balance at the bar. In comments supplemental to his interview, however, he also said,

*Eli: "So the other thing I probably should put on tape actually is it does relate to, it's just a feeling of what I was talking about earlier about the balance of family life and the balance of personal life and professional life, although the bar is undoubtedly hard work, you are at least working for yourself and you are at least working hard to build your own practice as opposed to working for a large law firm, i.e. you don't have any control over the workload and you're working for the partners of that firm rather than for yourself. So that is another reason obviously that attracted me to the bar, although actually probably it's fair to say that repelled me away from being a solicitor rather than it attracted me to the bar, but being in the situation where I am now, I am really satisfied with my choice and I feel better for that."*

These comments seem to me, not only to address the difficulties that Eli perceived in managing a work-life balance but also to contextualise those difficulties within the broader legal profession. I say this because Eli is indicating that the difficulties he perceives at the bar are not viewed by him as being as extreme as they are in other locations within the broader legal profession and specifically, in his view, not as

extreme as for some trainee and newly qualified solicitors. In addressing this issue Eli seems to me to be comparing the relative differences, in terms of barriers and impediments to entry and progression that he perceives between the two branches of the legal profession and coming to a view on the relative benefits to him of participating in either branch. In discussing this comparison and evaluation Eli is stepping outside the context of the inter-related nested (Brannan, 2007) communities of the bar, while still dealing with issues related to those communities. It seems to me that Parsons' (1939) notion of professional socialisation and Goffman's (1959) notion of presentation of the self in an occupational setting are not directly relevant to a choice as to the potential location for participation prior to the commencement of professional socialisation and occupational engagement in a particular profession.

### **Concluding thoughts and generalisations**

I began this chapter about how people learn to become barristers by setting out a triad of three important themes around which that learning and becoming is structured. Firstly, how interviewees perceive that a barrister acts and thinks, that is to say what they believe a barrister's professional identity to be. Secondly, the motivational factors driving interviewees' engagement with and their progression within the community of barristers and which impel them to undergo professional socialisation into the community. Thirdly, the factors that interviewees perceive as facilitating and those they view as impeding their progression within the community of the bar. These three important themes of professional identity, professional socialisation and factors facilitating or impeding the process of becoming a barrister formed the framework for my analysis in this chapter and gave a structure to my investigation of the sub-questions to my research question, that is to say how do participants understand: the relationships between the training system, their own contribution to this and becoming a member of the community; the relationships between new-comers and old-timers, hierarchies and distribution of power in the community and the impact of class, gender and ethnicity issues; the forces which created the community of practice and boundaries and barriers to entry, progression and exit; and, what legal professionalism is, how and where one learns the skills and knowledge underpinning it and what motivates participants to learn these. It seems to me that my interviewees addressed a number of these sub-questions, either directly or in passing. The main gaps in sub-question issues not addressed relate to

class, gender and ethnicity issues, the forces which created the community of practice and barriers to exit. Representations drawn in relation to the sub-questions which were addressed or alluded to in this chapter are discussed immediately below.

It is clear that for interviewees the professional identity of a being a barrister includes the barristerial characteristics of excellence in advocacy and being better at advocacy than other lawyers. Barristers are also perceived as having powerful personalities and this is seen as a prerequisite to advocacy excellence. It is also acknowledged that those personality traits may create interpersonal conflict within the community. These excellent professionals, in performing their professional role perceive that they should, however, be modest with regard to their skills and that modesty may manifest in individuals as a professed self-doubt about their skills. Barristers are also expected to engage in ongoing evaluation of their skills and work towards self-improvement but should also have the self-confidence to proceed even in the face of self-doubt.

The bar itself is seen as a unique profession with a distinct culture to which new-comers need to mould themselves in order to become barristers. Old-timers are expected by new-comers to facilitate new-comers in moulding themselves to the profession and its unique culture and some trainers are explicitly aware of the role that they play in helping pupils to understand the culture and ethos of the bar, a role which I have suggested potentially facilitates the moulding process. In particular it seems to be part of the ethos of the profession that old-timers should assist new-comers and less central participants in their career progression. Essentially this ethos represents an underlying notion of service.

It is immediately apparent that the community of the bar's perception of itself, as expressed in the interviews, fits neatly within the notions of less central participants learning through participation described by the communities of practice framework (Lave and Wenger, 1991). It is also clear that interviewees' reported perceptions of what it is to become a barrister are compatible with Goffman's (1959) notions of presentation of the self in an occupational setting and entrenchment of presentational typographies (Goffman, 1959, p.22) as a veneer of consensus.

In undergoing professional socialisation a number of factors motivate barristers to join the profession and to progress within the bar. It is clear that a number of the interviewees perceive the bar to be a vocation or calling or way of life. These vocational motivational factors seem to operate prior to joining the community as a motivation for joining it and continue to operate after individuals become new-comer

members of the community and when they become more senior. Other important motivational factors for some interviewees are the desire for respect, status and prestige and for a number of interviewees reputational gains are clearly presented as being prioritised over objective gains. This prioritisation is in itself compatible with notions of the bar as a vocation or calling and with notions of service. Adoption of these motivators and the apparent prioritisation of reputational gains, by community participants, in addition to being compatible with Goffman's (1959, p.22) notion of entrenchment of views and values is also consistent with Parsons' (1939) notions of professional socialisation and the need to achieve success in a format that is acceptable within the individual's particular professional community.

In terms of factors that facilitate or that impede progression in becoming a barrister and within the profession (Lave and Wenger, 1991; Wenger, 1993) it seems that pupils implicitly expect their inn and explicitly expect its trainers to help them progress and have high regard for aspects of trainers' behaviour which help them progress in the profession.

There are also perceived to be financial, personal and perceptual barriers to entering the profession and to onward progression at all levels within the community and to migration out of the profession. Having experience external to the bar seems to support interviewees' evaluation of the benefits of their training at the bar in potentially migrating from the profession.

In reporting my interviewees' perceptions of the professional practice community of the bar, previously relatively unexamined in the professional education literature. I have used my novel approach of applying the analytical concepts of presentation of the self (Goffman, 1959) and professional socialisation (Parsons, 1939) as additional focussing artefacts to add value to the understandings provided by the communities of practice conceptual lens (Lave and Wenger, 1991; Hughes, Jewson and Unwin, 2007). In my next chapter I deepen my analysis and further explore and interpret my three important themes and address my main research question and some elements of my sub-questions using the conceptual lens and focussing artefacts provided by those concepts. In exploring those three themes there I discuss and develop a theoretical understanding of the actual processes through which this learning and becoming occurs and explore the theoretical issues deriving from the interviewees' perceptions more fully. I also develop theoretical reconfigurations and refinements to add value to the broader literature on professional education and formation.

## **Chapter 6**

### **The process of learning to become a barrister**

#### **Introduction**

In this chapter I continue to use the structure of the important thematic triad of professional identity, professional socialisation and factors facilitating or impeding the process of becoming a barrister which I identified in chapter two and used to configure chapter five. In this chapter, however, I deepen my analysis and further explore, interpret and interrogate my interviewees' responses to develop my understanding in a theoretical context. Whereas in chapter five I focussed on the sub-questions to my research question I have adjusted and developed my primary focus in this chapter to address my research question more directly. This refinement of focus of means that in this chapter I am principally seeking to discover, what understanding, clarification or delineation of the notion of communities of practice can be provided by examination of Inner Temple pupil training and specifically by examination of how pupil barristers and their trainers understand the: interactions, connections and structures within their community of practice; educational and relational interactions within the community; constructional, contextual, locational, hierarchical and authoritarian configuration; interpersonal and intercommunity connections; and, re-locational opportunities and entry, boundary and migration issues.

In addressing my research question in this chapter I develop my perception of aspects of community participants' understandings that I gained in chapter five and expand upon my earlier analysis by focussing on the methodology of training and perceptions of what it is to be a barrister during that training period. In conducting my analysis I specifically examine the processes by which pupils become barristers and participants become more central in their participation. In examining those processes I also continue to use the four analytical tools that I defined in chapters three and four and which I used in chapter five. As in chapter five I briefly describe these tools below to refresh the reader's memory. In this chapter, however, in addition to those four analytical tools I make use my own novel notion of pervasive learning, which I also defined in chapter three, in order to help me to conceptualise the learning process. I use my five analytical tools to add value to my theoretical

analysis in this chapter and to help me to comprehend how my interviewees understand the processes by which they are becoming or became this thing that they know as a barrister and/or how they came to experience the state of being a barrister.

As in chapter five, therefore, I make use of Goffman's (1959) notion of presentation of the self and Parsons' (1939) notion of professional socialisation to interpret interviewees' responses in relation to professional identity (Goffman, 1959; Parsons, 1939) and professional expertise (Parsons, 1939). Goffman's notions seem useful to me because they help me to uncover how community participants present themselves, to themselves and others, as members of the community. Parsons' (1939) notions seem to me to be useful in that they help me to trace the motivational factors underlying the process of becoming a barrister. I continue, therefore, to use these notions here, in the novel manner which I have developed in earlier chapters, to provide additional focussing artefacts to supplement and refine my use of the communities of practice (Lave and Wenger, 1991) conceptual lens (Hughes, Jewson and Unwin, 2007). These artefacts enable me, therefore, to add value to my interrogation of the interview responses in order to develop an understanding of what pupil barristers and trainers perceive it means to become and to be a barrister and to better understand their phenomenological experiences of training for the bar.

I also continue here with the approach that I adopted in chapter five in using the notion of interpretivist reliability, as described by me in chapter three, to guide the manner in which I conduct my analysis and my adopted concept of thick description, as described by me in chapter four, to guide the way in which I write the account of my analysis. I use this approach throughout in order to support reader confidence in and the credibility of my analysis.

As I mentioned above I also make use of my fifth analytical tool for the first time in this chapter. That tool is my own novel and previously unrecognised concept of pervasive learning which I defined in chapter three. Pervasive learning summarises the notion that the teaching curriculum can be permeated by skills and knowledge deriving from practice and more usually associated with the learning curriculum. Pervasive learning, therefore, potentially enables expertise and skills, which are normally developed in practice within the community of practice, to be taught in a suitably contextualised learning scenario. My notion of pervasive learning also suggests an implied critique illuminating the limitations of Lave and Wenger's (1991) original conceptions of how less central participants develop skills and increase the centrality of their participation in communities of practice.



In chapter five I used my interviewees' hermeneutical responses, framed by their cultural and contextual perceptions, to develop representational generalisations of what it means within the profession to be a barrister and to become a barrister and the factors which facilitate and impede that becoming and I developed an understanding of interviewees' perceptions of that being and becoming. In this chapter I discuss a number of those representations in conjunction with other data and concepts as part of the process of developing a theoretical understanding of the actual mechanisms through which the processes of learning and becoming occur and to help me to explore the theoretical issues deriving from my interviewees' perceptions more fully.

In examining my interviewees' learning processes in this chapter I also consider more explicitly any strengths and/or weaknesses (Lave and Wenger, 1991) or definitional refinements (Fuller, 2007) of the communities of practice framework which are identifiable or deducible in light of my interviewees' responses. I also consider these strengths, weaknesses and refinements in light of the contextually embedded communities within which enculturation (Hughes, Jewson and Unwin, 2007) and situational learning occurs. When I discuss contextually embedded communities here I am utilising the additional contextualising conceptions provided by notions of nested (Brannan, 2007) and/or overlapping (James, 2007) communities and/or constellations (Jewson, 2007) of such communities which I discussed in chapters two and five. I do this because these additional notions of nested and interrelated communities seem to me to shed light on and contextualise the relationships between various elements of the wider bar community in which pupils are situated.

At the end of this chapter I also discuss some further refinements to my additional focusing artefacts which I developed in the course of my analysis here. In my next chapter I will discuss further reflections on learning to become a barrister and on progressing to more central participation in the community and the processes involved in this. I will also seek, in that chapter, to link multiple identified perceptions, themes aspects and typologies within the community and seek to deduce and illuminate connections between them.

## **The methodology of training in professional legal skills for the bar**

In this section I contextualise the methodology of training in professional skills which pupil barristers experience within the framework provided by the notions of learning by participation, discussed in chapter two, and my additional focussing artefacts developed from Goffman (1959) Parsons (1939) and pervasive learning, discussed in chapter three and summarised above. I then analyse interview comments in light of a number of the important aspects of pupils' and trainers' understandings and perceptions identified prior to interview. I also identify six important aspects of the bar and being a barrister that I had not expected to see prior to interview and an additional gloss on an aspect uncovered in chapter five.

### **Professional identity: What barristers believe a pupil barrister should be**

In chapter five I identified interviewees' understandings of what a barrister is or should be, that is to say, what pupil barristers are seeking to become. I also identified some perceived characteristics of the bar itself as a profession with a unique culture. In this chapter I look more specifically at what community members believe that a barrister should be during the main transformative period in becoming a barrister, that is to say what barristers and pupils believe that a pupil barrister is or should be. As a precursor to that analysis I also examine what interviewees had to say about the nature of the pupillage component of the profession. Goffman's (1959) notion of presentation of the self and Parsons' (1939) notion of professional socialisation continue to provide me with useful perceptual artefacts here in clarifying my understanding of Lavean (1991) notions of apprenticeship, continuity and displacement and of my previously identified underlying notion of community service within the context of the bar.

When interviewees expressed views on the nature of pupillage itself a number of them equated pupillage with a form of apprenticeship. It is striking that the pupils quoted below, in identifying pupillage as an apprenticeship, do so while also explicitly or implicitly addressing another issue or conveying a connected view. They also use the term in describing pupillage to outsiders or potential future peripheral participants and in speaking directly to me, an insider researcher. This incorporation of the notion of apprenticeship as part of their identification, clarification or explanation of other factors and their adoption of it in discussion with individuals who have very varied levels of knowledge of the bar, suggests to me that the interviewees' characterisation of pupillage as an apprenticeship is a quite deeply embedded perception. The importance of this perception can, I would suggest, be

seen in the fact that apprenticeship is the first word which comes to their minds in explaining what pupillage is.

Evelyn, when interviewed individually said of pupillage.

Evelyn: “...it's like an apprenticeship in a way. ”

Amelia, who was interviewed in a group of two with Joshua, said,

Amelia: “...the other day, I mean I go to schools and give talks about becoming a barrister and I delivered a talk the other day and the amount of terms that you have to translate, I had to explain what a pupillage was which I translated as an apprenticeship...”

It is interesting that in giving this example Amelia also seems to me to be demonstrating her service and contribution to others and also a contribution to the future continuity of the community by assisting potential future barristers. I would suggest that her comments also implicitly raise the issue of tensions between continuity and displacement (Lave and Wenger, 1991) as those that she is assisting now may one day constitute a displacement risk for her. As we saw in chapter five the concept of service to those less central in the community than one's self is a theme identified in relation to what it means to be a barrister. I would suggest the possibility that Amelia is applying that ethos to those potential barristers who are not yet members of the community and who may one day be less central members than she will then be. This approach by Amelia seems to me to imply, therefore, that an additional gloss on the notion of service is that Amelia's actions may putatively indicate that the notion of service that is internalised by barristers includes service to non-community members generally and by further inference, potentially, to clients and the general public. This notion of service is compatible with Fenwick and Nerland's (2014, p.2) conception of professionals as members of groups dedicated to public service.

The perception of pupillage as an apprenticeship discussed above is helpful in developing an understanding of the interactions, connections and structures within the community of practice of the bar that new-comers perceive that they must mould themselves to. In this apprenticeship context I would suggest that it is important for

pupils, as peripheral participants in the nested communities (Brannan, 2007), to adopt behavioural patterns and to present themselves as having attitudes or beliefs which are acceptable for a pupil to have within the profession (Parsons, 1939). When I say this I mean that new-comers will need to present themselves to old-timers as possessing characteristics, knowledge and skills which are acceptable (Parsons, 1939) for new-comers to possess within the entrenched consensual veneer (Goffman, 1959) of the profession at a given time. I would further suggest that new-comers will also need to ensure that they acquire and develop these presented characteristics and their knowledge and skills in a manner that is also institutionally acceptable (Parsons, 1939) for new-comers within the profession. It seems logical to deduce that these presentational characteristics and those knowledge and skill sets will include behaviours towards and presented attitudes or beliefs relating to old-timers. I say this because I would suggest that it is logical to infer that new-comers will seek to present themselves (Goffman, 1959) to old-timers as having understandings and abilities and behaviours which are of value to those old-timers. I believe that logic and theory suggest that inference because new-comers presenting themselves in this way may enable themselves to add to the perceived value that old-timers attach to them. Presenting themselves in such a way is, in my view, a behaviour compatible with and logically inferable from the notion of the differential values of distinct new-comers' prior knowledge to old-timers, as posited by Fuller and Unwin's (2004, 2005) concept of learning territories. Having or presenting oneself as having (Goffman, 1959) additional value for old-timers would, therefore, within Fuller and Unwin's conception, tend to assist new-comers to progress in their careers and thereby, potentially facilitate them in making current and future objective and reputational gains (Parsons, 1939).

Logic also suggests to me that some of the characteristics which pupils present, during this transitional stage of their professional development, may be different from or additional to the barristerial characteristics which I uncovered in chapter five which they will wish to present later in their careers. I say this because it seems sensible to deduce that there may be pupil-specific characteristics that are perceived within the profession as part of how pupils should be and which may include notions of the nature and structure of their relationships with old-timers. Such pupil-specific characteristics and relational forms would logically need to be institutionally acceptable within the profession (Parsons, 1939) and/or specifically institutionally acceptable within distinct sub-components of the nested communities of the bar (Brannan, 2007) such as chambers or the inn. It seems likely to me, therefore, that pupils will, logically, seek to associate themselves with those

characteristics, behaviours and forms of relationship, perceived as acceptable for pupils within each specific nested component of the community which they must engage with at the pupillage stage of their careers. I would argue that my suggestions here are borne out by the interviewees' comments reported below.

I say that my suggestions are borne out by the comments below because I would posit that the pupils and trainers quoted below, in addition to implicitly indicating a shared perception that pupillage is a form of apprenticeship, also allude expressly and/or implicitly to a range of other concepts and relationships. These concepts and relationships seem to me to highlight the validity of the communities of practice conceptual lens (Hughes, Jewson and Unwin, 2007) as a means of understanding participants' perceptions of pupillage as an apprenticeship and to underline the theoretical and explanatory value of the conceptual lens. I would also propose, however, that it is my approach of adopting the additional focussing artefacts provided by Goffman's (1959) notion of presentation of the self and Parsons' (1939) notion of professional socialisation that enables me to uncover and exemplify that value.

The concepts and relationships that I have identified in interviewees' comments below specifically address, in my view, an awareness of the informal nature of pupil training within the bar and implicitly recognise the situated nature of learning for the bar in pupillage. They also seem to me to make explicit and implicit acknowledgement of very serious tensions between new-comers and old-timers and to recognise very specific tensions and contradictions between old-timers and new-comers (Lave and Wenger, 1991) within the structure of pupillage. I would further posit that from these comments it is possible to propose an inference that these pupillage centred tensions seem to reside specifically, or at least mainly, in the chambers component of the nested communities (Brannan, 2007) of the bar. In addition to the suggestions above it seems to me that my interviewees' comments below reveal that a number of my interviewees have an intuitive or an express perception that relationships and established hierarchies within the structure of pupillage, in the chambers element of the nested communities of the bar, may impede peripheral participants in: developing professional excellence; and, crossing the boundary into tenancy. My interviewees' comments also indicate to me their awareness of the potential for sequestration of new-comers work and for depriving them of learning opportunities within the pupillage system which, I would suggest, fits well with the concerns raised by Lave and Wenger (1991) Eraut (1991) and Wenger (1993).

Hannah, who was interviewed in a group of three along with Jack and Charlotte, said,

*Hannah "...there's this inherent contradiction I think within pupillage, whether that's at the self-employed bar or the employed bar where it is a learning process and it's often described as an apprenticeship and you're there to learn but, at the same time, you really can't afford to do anything wrong so it's not a learning process where you can, you know, you're not in a classroom where if you answer the question incorrectly it doesn't matter, if you answer the question incorrectly in an opinion that opinion is going to a silk and he's going to probably not vote for you at the end of the year and yeah you'll learn from that and you won't make that mistake the next time but in a way the mistake's too late, it's already been done."*

In contextualising the terms used by Hannah for the non-barrister reader it is helpful to understand that the term 'silk' is common usage within the bar for Queens Counsel, that is to say a senior barrister who deals with more complicated legal cases. The 'opinion' that she refers to is a formal legal document containing a reasoned advice to a client on how to proceed with his/her case. The implication of Hannah's statement, therefore, is that the pupil wrote a legal advice which was to be delivered to the client by the senior counsel, possibly after some amendment but possibly unaltered and as definitive advice to the client. The allusion to the senior counsel (not) voting for the pupil is a reference to the process by which all the barristers in a given chambers will vote to decide if a pupil obtains tenancy at the end of pupillage and becomes a member of chambers. A pupil who does not receive sufficient votes to get tenancy faces a stark choice between taking a third six pupillage, if available and remaining a pupil for longer, obtaining tenancy at another chambers, if available or much more likely, leaving the bar altogether.

I would argue that Hannah's comments above, while they do not explicitly criticise the community structure and the forms of relationships in which she finds herself as a pupil, do make strong implicit criticisms of that community structure. I say this because I believe that the way in which she describes the structure of relationship between new-comer pupils and old-timer seniors in chambers cannot be read logically as praising that structure and those forms of relationships. It also seems sensible to me to infer that Hannah's comments imply a sense of perceived unfairness. I would suggest, therefore that it is logical to infer that her comments cannot then be read as anything other than an implied criticism that she should be

subjected to the risk of such perceived unfairness by the form of new-comer/old-timer relationships adopted by her seniors in chambers.

Hannah's comments also enable me to trace an indication that she perceives a requirement for new-comers to serve old-timers during pupillage by performing work for them, essentially providing them with objective reward (Parsons, 1939) and also a requirement to present an image of the self that the old-timers will find acceptable (Goffman, 1959) in order to keep their support when tenancy decisions are made. I would suggest that these requirements are also supported by Rowan's comments below. Rowan was interviewed alone and said:

Rowan: *"It's like a year-long job interview and all of the pupils that I've spoken to (which is a little bit comforting in a certain way), everyone has this feeling of constant paranoia about what they're doing, how they're doing, what they're saying, whether their supervisor likes them or doesn't like them, what other people...because when you start a new job, yes, you have a little bit of time and then you settle in, but with this it's just such a long period of time and then they decide whether to keep you or not."*

I am going to suggest here that Rowan's comments imply that she also feels impelled to keep old-timers' support and a connected sense of unfairness at having to do this. I say this because I believe that her use of the word paranoia to describe pupils' feelings about their situation in pupillage cannot logically be read as describing a situation which she feels is fair.

In order to understand how perceptions of the need to serve old-timers, keep their support and a sense of unfairness may impact on new-comers' perceptions of what it is to be a barrister it is helpful to contrast these perceptions with the notion of what pupils perceive a barrister to be, which I uncovered in chapter five, and to discuss that contrast in light of my additional focussing artefacts which I developed from Goffman (1959) and Parsons (1939).

It seems logical to me to infer that these interviewees' comments are implicitly telling us that pupils feel compelled to present themselves (Goffman, 1959) in a manner that complies with entrenched perceptions (Goffman, 1959) of the institutionally acceptable (Parsons, 1939) relations between old-timer members of chambers and new-comer pupils in their chambers. It also seems to me that they feel compelled to do so even when the nature of that relationship appears to be detrimental to the pupils' own interests. I say this because these comments appear to me to suggest

that Hannah and Rowan are describing a situation where they must present themselves (Goffman, 1959) as having a particular level of competence and must do so in a way that is acceptable (Parsons, 1939) to more central participants in chambers. Although the notion of presenting oneself as competent is not of itself necessarily problematic, the way in which they suggest that they must do so includes, in my view, other pupil-specific characteristics that my interviewees arguably seem to feel compelled to present themselves as having. Some of these other characteristics are, I would argue, inconsistent with the notions of being a barrister and characteristics founding professional excellence which were uncovered in chapter five. That inconsistency leads me to deduce that the consensual veneer (Goffman, 1959) of what a pupil barrister is, which exists in some chambers is, from the pupils' perspective, based on a co-presented consensus founded on suppression of participants' true views rather than on genuine consensual agreement based on participants' true perceptions.

In chapter five I uncovered a view within the profession that barristers have strong personalities and that this characteristic underpins their advocacy excellence and their professional excellence. It seems to me, however, that the pupils commenting above feel compelled to present themselves as having weak and compliant personalities. The context within which this information is located in my interviewees' comments suggests to me that this pupil specific, compliant way of being a barrister, is associated more strongly with one aspect of the nested communities (Brannan, 2007) of the profession. That specific locational aspect is within their chambers rather than in one of the other locations within the nested communities, such as their inn. I would argue that the way in which these interviewees indicate that they must present themselves as pupils in chambers, is at odds with the way in which my other interviewees' comments suggest that the profession as a whole perceives that professionally excellent barristers present themselves. I would posit that a logical inference that I might draw from this dichotomy is that if new-comers feel compelled to present themselves as being compliant in chambers' consensual veneer (Goffman, 1959) when having a strong personality and being argumentative is perceived in the wider community as a foundation for advocacy excellence, then this compulsion risks undermining the pupil's learning and development of advocacy skill and professional excellence. At the very least, it seems to me that factors causing individual new-comers to feel compelled to present these compliant traits risk undermining their ability to later present themselves (Goffman, 1959) to the community as being a barrister in a



manner that is institutionally acceptable (Parsons, 1939) in the professional community.

I am also going to further suggest that my interviewees' comments allow me to trace the notion that within the chambers sub-component of the nested communities (Brannan, 2007) old-timers also behave differently towards pupils than the ways of being a barrister that I identified in chapter five would lead us to expect. The representational generalisations deduced in chapter five, based on pupils' experiences with trainers at their inn, led me to posit that old-timer barristers make reputational gains (Parsons, 1939) by supporting the learning and professional progression of new-comers. That generalisation seems to be at odds with Hannah's and Rowan's experience in chambers in which service seems to be expected to flow not from old-timers to new-comers but from new-comers to old-timers.

It seems to me that factors impacting on new-comers' perceptions of the directional flow of the notion of service may potentially undermine those new-comers' desire to contribute to their own juniors at a later stage in their careers. I say this because I believe that the notion of receiving service as a new-comer would not be such an important part of those new-comers' experience of what it means to be a barrister. This altered perception and its consequent reduction of later contribution would, in logic, potentially undermine the future continuity of the profession in its current form. In terms of my additional focussing artefacts these seniors, by adopting behaviours and relational forms inconsistent with what is acceptable in the broader profession (Parsons, 1939) risk generating ways of being for pupils to present and self-present (Goffman, 1959) and perceive what is acceptable within the profession (Parsons, 1939) which may then become entrenched (Goffman, 1959) for these and for subsequent pupils. As these pupils move on to become more senior members of chambers and more central participants within the professional community then these new perceptions may become entrenched for the bar as a whole as part of a new veneer of consensus (Goffman, 1959). This entrenchment may, therefore, change the communities' perception of what it is to be a barrister, in future cohorts of the profession by undermining the profession's current notion of service.

When the impact of this changed perception is coupled with the gloss derived from Amelia's comments above, suggesting that notions of service at the bar extend to service to clients then further deductions can, in my view, be made. It seems logical to me to suggest that by failing to promulgate the ethos of service to new-comers, old-timers may impel entrenchment (Goffman, 1959) of a lower regard for service to

clients as well. I would suggest that any such undermining would be a negative not only for the bar but for wider society too.

I would argue, therefore, that my additional focussing artefacts have enabled me to trace two linked dichotomies in the professional presentation (Goffman, 1939) of ways of being a barrister of some members of some chambers. One of these dichotomies centres on the differences between how old-timer barristers behave towards new-comers within the inn and how some seem to behave towards new-comers in chambers. The other dichotomy centres around the tension between how pupils must present themselves in their chambers and how the barristers that they hope to become are perceived as presenting themselves in professional practice.

I would argue that Hannah's and Rowan's comments also seem to suggest that pupils are aware of a number of educational and relational interactions within the community. Hannah's comments above enabled me to deduce disproportionate power relations and an unbalanced attribution of loss and benefit flowing from a pupil's contribution and notional learning opportunity in chambers. Essentially the situation embodied in her comments represents an imbalance between the '*use value*' (Lave and Wenger, 1991, p.112) that the pupils receive from pupillage and the utility value that old-timers receive from having pupils in chambers. It seems to me these imbalances appear to flow from the different levels of centrality and associated power differentials of the members of the community. I have suggested above that the factors underlying these imbalances seem to reside specifically in the chambers component of the nested sub-communities (Brannan, 2007; Jewson, 2007; James, 2007). It seems logical to further suggest that pupils' positive perceptions of inn trainers and their expectations of help from their inn, reported in chapter five, confirm the locational specificity of these perceived imbalances.

To my mind the existence of the dichotomies which I have identified from Hannah's and Rowan's comments also shed light on and add validity to aspects of Lave and Wenger's (1991) framework of communities of practice already identified in the literature. I say this because although the interviewees reported above seem to perceive pupillage as an apprenticeship, it is important to remember that Lave and Wenger (1991) suggest that apprenticeships can fail to provide new-comers with the opportunity to develop skills. Hannah's and Rowan's comments above enable me to infer that although pupils are associating pupillage with the notion of apprenticeship it is not necessarily true that in that apprenticeship that they feel that they will have a full opportunity to develop the skills and knowledge that they will need to become a barrister. In the discussion above I have developed those notions of apprenticeship

further to map out the manner in which my additional focussing artefacts help me to understand the ways in which apprenticeship type relations at the bar may structure- in specific problematic notions of how to be a new-comer and the nature of relationships between those new-comers and old-timers. I have been able to deduce the potential negative consequences for the bar that may flow from such notions in terms of Lave and Wenger's (1991) conceptions of continuity and replacement. I have also traced potential negative consequences, for the population in general, in terms of altered notions of service through potential entrenchment (Goffman, 1959) of these inconsistent relations and behaviours into a new veneer of consensus (Goffman, 1959). The value of my additional focussing artefacts in making my deductions and uncovering these dichotomies tends to suggest to me that those artefacts are useful conceptual refinements to the communities of practice framework.

### **Professional socialisation: The factors underpinning barristers' motivational drivers**

The communities of practice analytical framework (Lave and Wenger, 1991) as it is understood within current theoretical perceptions suggests that learning through legitimate peripheral participation in a community of practice is a form of socially embedded learning (Lave and Wenger, 1991). This notion fractures the placement of the individual at the focus of analysis in relation to acquisition of knowledge. Such socially participatory notions of learning in context also de-commoditise and re-socialise learning as a product of participation (Hughes, 2007, p.31). The community of practice analytical framework is also an approach to understanding education which is at variance with the so called standard educational paradigm and with the teacher-learner dyad (Hughes, Jewson and Unwin, 2007).

My notion of pervasive learning, however, gives me a different way of looking at the notion of socially embedded participatory learning by indicating that taught skills and knowledge may also be permeated by and incorporate practice derived skills and knowledge. This notion is a novel concept helping me to refine and redefine the communities of practice conceptual lens. As I mentioned briefly above and discussed more fully in chapter three, pervasive learning summarises the idea that the teaching curriculum can be permeated by skills and knowledge deriving from practice which are more usually associated with academic discussions of the learning curriculum. Pervasive learning is used as an analytical artefact in this chapter because it is a concept which I would suggest is particularly compatible with

simulated practice sessions, such as the inn's advocacy training exercises, where pupil barristers perform simulated practice activities such as the advocacy tasks of examining or cross-examining a witness. I would also suggest that my concept of pervasive learning provides a particularly useful analytical approach which is previously unrecognised in the discussions surrounding the communities of practice framework. Pervasive learning, therefore, gives me a different way of looking through the communities of practice conceptual lens which has not previously been used in academic discussions. This different perspective through the lens provides me with a means of drawing out potential weakness in that framework and delineating and defining the 'practice' and the 'participation' elements of the notions of communities of practice and legitimate participation. I would also posit that, as I mentioned in chapter three, my notion of pervasive learning provides a subtle implied critique of Lave and Wenger's (1991) original conceptions of how less central participants develop skills and increase the centrality of their participation in communities of practice.

Pupils' contributions to interviews also indicated other potential benefits and detriments flowing from the centrality of trainers at the inn's training and impacting on the learning process. These reported factors impacted directly on the process of becoming and specifically related to the inn component of the nested sub-communities and provided evidence of my notion of pervasive learning in action.

Neve was interviewed in a group of six with Eli, Theo, Ryan, Chloe and Isabella and was then subsequently interviewed separately. In her individual interview she indicated that trainers' practical experience was a factor that she was aware of and something which she values and indeed views as essential to their credibility and possibly to their effectiveness as trainers. It also seems to me that her comments indicate that she believes that this experience can have positive or detrimental effects on pupil learning.

Neve: *"Obviously the trainers are very experienced members of the Bar, who have been practicing for many years."*

I would suggest that Neve's specific identification of the practice experience of the trainers as an issue for discussion indicates that she attaches a value to that experience. Neve's perception of attached value is, in my view, consistent with my

conception of pervasive learning in which practice skills and experience are brought to the class room to inform teaching.

Neve, however, goes on to identify a potential detrimental impact of trainers' practice experience which, in my view, enables me to modify and develop my concept of pervasive learning further. The evidence which Neve provides to support this further theoretical development is that she raises a concern that highly experienced practitioners might pitch their training at too high a level for the pupils, saying,

Neve: *“One thing that I was worried about, certainly on that advocacy weekend was that, when they were giving feedback... that they would completely overlook [the pupil's limited experience] and just give you advice from their perspective, how they'd expect an advocate of their experience, their level, to perform. And that was one thing I was concerned about. And some of the trainers did, but others were very useful and very aware that, actually, we were sort of just beginning, and they needed to focus on the lower end of the scale....”*

This comment, in addition to raising a concern as to the level at which training was pitched, also suggests to me that some trainers, and as I believe we shall see in the quote below, most of them, trained in a way appropriate to the pupil's needs but that some did not. Neve's concern was, therefore, somewhat ameliorated and the importance to her of trainers' practice experience was further highlighted when she said,

Neve: *“But no, I do like working with the trainers because it is nice to actually talk to someone who knows what they're doing, and if you were talking to someone who hadn't practiced law and they hadn't practiced as a barrister and they were trying to tell you how to be a barrister, it just wouldn't work. So it is good to have someone of experience giving...as long as it's pitched at the right level for us, I think; that would be the only thing. But, most of the time, it was [i.e. pitched at the right level].”*

Neve's perception suggests to me that most training was at the right level for pupils but that some was pitched too high. I say that some was pitched too high because pitching the training too high is more compatible with the concerns Neve raised than pitching it too low. It seems likely to me therefore that the reciprocal of her comment, *“most of the time, it was”* [i.e. pitched at the right level] is that some was

pitched too high. I would argue, therefore, that Neve's comments tend to support the notion that pervasive learning, founded on practitioners' practice experience is an important ingredient in effective advocacy training sessions. I would further suggest that Neve's comments also imply that the quality enhancement derived from this practice experience needs to be mediated by the trainer's teaching skill in selecting the correct level to pitch the feedback and comments for learning. It would seem to be important, therefore, that the trainer has sufficient teaching skill to select the best examples of his or her practical experience on which to found the teaching. Pitching the training at too high a standard appears to be perceived in Neve's understanding as an error which potentially deprives pupils of the advantages that would otherwise flow from their trainer's experience of practice and would, thereby, in my view, risk undermining the positive impact pervasive learning based on this flow of experience.

The importance to pupils of learning, rather than being taught, is also supported, in my view by Evelyn's comments when she says,

*Evelyn: "...pupil masters, for example, I think their role is basically they're continuing a very old tradition of education in a fairly sort of informal way by modern standards, so it's like an apprenticeship in a way. So they're just someone you have to learn from."*

Interestingly Evelyn's, quote describes pupil masters (now properly called pupil supervisors) as, "*someone you have to learn from,*" having just identified that they continue the tradition of education, "*in a fairly sort of informal way by modern standards.*" These elements of her comments suggest to me an explicit recognition that learning is occurring in a non-didactic manner and suggest to me that I can sensibly deduce the possibility that Evelyn implicitly recognises the situated nature of learning for the bar in pupillage. It seems to me that in terms of the interactions, connections and constructions within the community of the bar that Evelyn values the connection with the pupil supervisor and the opportunity to learn from him/her. She also seems to value the informal and old-fashioned structure in which this learning process occurs. Essentially, it seems to me, Evelyn is implicitly telling us that she values learning that is contextually embedded (Hughes, Jewson and Unwin, 2007). This implicit information when taken together with Neve's appreciation for the value of the professional practice experience of her trainers at the inn tends to indicate that pupils find value in learning from the practice experience of old-timers.

In other words they find value in the approach to learning that I have termed pervasive learning.

The importance that pupils attached to trainers' practice experience as a means of facilitating and supporting their learning in class was also explicitly stated Evelyn and by Lucy, who was interviewed with Yvonne.

Evelyn: *"I think it's, yeah, it's really good. They're all, at the inns they're all very experienced people. No, I think I've just got, I've really got quite a lot to learn from them, I think, and I notice there's a big gulf, I think, between pupils and the trainers and that just comes from the experience. They've got just so many years of experience under their belt. So, I think you can never stop learning from people like that really, I think its good experience"*

Evelyn's mention of the trainers, "many years", of practice experience and her comment that she has, "really got quite a lot to learn from them," highlights for me the variety of levels of differential repertoire of experience and the breadth and depth of learning opportunities that this practical experience can add. The potential for a variable range of learning opportunities illuminates for me the additional perceptual value that the notion of pervasive learning can add to understandings of the communities of practice framework.

This added value is reinforced for me by Lucy's comments that,

Lucy: *"I think that the person in [sic] point is you are being assessed by current practitioners and I think that is very, very apparent. It's not just an exercise that's trotted out every time, it's something that's current and if current law practitioners can advise on, you really feel as if you're not doing an exercise per se; it actually feels as if you could be doing something properly in court."*

All of the training discussed by Neve, Lucy and Evelyn was provided by the inn during the advocacy training exercises by conducting advocacy (mock practice) exercises in a classroom. I contrast this with the on-the-job training experienced in chambers described by Hannah above. In both locations learning is underpinned, to some extent, by the practice experience of experienced practitioners. In chambers the learning occurs entirely by peripheral participation as formal teaching is rare. Where such formal teaching does occur in chambers it does not constitute the main

part of the pupils learning experience and mimics, to a greater or lesser extent, the system used by the inn. At the inn's training the learning occurs in a classroom context where central participants use their practical day-to-day experience from hands-on professional practice to support and facilitate their classroom teaching. In that classroom experience the main teaching and learning method is for the pupils to perform advocacy based on a set of case papers which mimic a real case or may in fact be based on a real case. The less central participants reported here arguably feel strongly that they acquire additional learning opportunities from this practical experience. These perceptions by pupils tend to suggest that the notion of pervasive learning, in which the teaching curriculum is permeated by skills and knowledge deriving from practice, is a valid and useful conceptual refinement of the communities of practice framework.

I would also argue that some interviewees' comments enable me to develop my notion of pervasive learning further in that they seem to suggest that the learning process in advocacy sessions appears to exhibit a potential two way flow of learning. Henry, a trainer of several years' experience and considerable practice experience says,

*Henry: "I know I'm not the only trainer to think this but it has its own nerve wrecking elements, which is good and I think the other thing that I say to trainees when they say 'Why do you do it?' Or whatever, when we're just talking generally, it's you learn a lot. You learn a lot about advocacy by breaking it down to its constituent parts and having to explain why it works and why something doesn't work. The deconstruction helps you with your own advocacy and you also see things that you think, 'Ooh, actually that's a bit of a mirror to the way I do things and I don't think that looked very good.' And it's part of a self-improvement programme, I think, as well."*

What Henry is describing here can be characterised, in my view, as a reversal in learning flow in relation to the notion of pervasive learning. In addition to taking practice experience into the classroom to inform his teaching and in addition to needing to select, in line with Neve's view, the most appropriate aspects of this to inform his teaching for his specific students, Henry is doing something else. He is taking his experience of his feedback to his students and his identification of their errors and their excellent work, into his practice to inform and enhance his own advocacy in a practice setting. This reversal of flow was an unexpected discovery in the data but on reflection it is not surprising. The notion of 'reverse flow pervasive learning' has implications for the notion of peer-to-peer learning within the



communities of practice framework and seems to support Fuller and Unwin's (2004, 2005) ideas of the value of the differential components of new-comers' learning territories to old-timers. Although there is no additional detriment or benefit to the pupil in the scenario that Henry describes, it is apparent that not only the pupil's prior knowledge and skills but also their learned skills, their errors and their excellence, exhibited in sessions with the trainer, may be sequestered by the trainer.

Henry's description can also be examined in the context of the anecdotal report in chapter five that senior barristers feel concern about their lack of knowledge. In chapter five I reported the anecdotal comments of a senior barrister that when he went to court as a judge he often felt concerned that his legal knowledge was insufficient and I drew from this and the comments of pupils the notion that an unfounded lack of confidence was potentially a characteristic of a number of barristers. Setting this discussion of barristers' knowledge bases in terms of the theoretical understandings of social theories of learning, Henry's comments about taking what he learns from pupils back into his professional practice indicate to me that he values the knowledge and skills that he receives from pupils. It seems logical to deduce from this that he identified a need to appraise and improve on his skills as has the unidentified provider of the anecdotal report in chapter five. This self-identification of needed improvement, is supportive of my hypothesis, raised in chapter two, that not only may trainers or central participants not know what they know (Eraut, 1994, p.15) but also, in my view, they may not know what they think they know. Reverse flow pervasive learning, therefore, seems to enable old-timers, in engaging with new-comers, to clarify and refine what they know and what they think they know and to fill any knowledge gaps thus revealed to improve their own excellence in practice.

Within the communities of practice framework there are of course a number of components to the participation of peripheral members of the community and the socialisation process described by Parsons (1939) in which individuals reach these goals and combine them in a manner that is acceptable within the profession and '*institutionally approved*' (Parsons, 1939, p.464). The differential nature of these components also featured in interviewees' responses.

Arthur, a trainer, explicitly recognises that the inn's training has two components, advocacy training and inculcation into the society of the Inn. He feels that the inn's training cuts down the trial and error learning period that would otherwise exist and enables rapid improvement. He suggests that the inculcation works for about half of the inn's pupils but may be intimidating to others. This perception contains the

implicit suggestion that the inn fails to socialise half of its pupils effectively. Arthur also recognised the need to ameliorate this failing and explicitly mentioned the importance of pupils to the inn and the importance of building connections between pupils and seniors and indicated that he believes that advocacy training facilitates this as do the inn's social meetings. Arthur feels that experienced members of the bar have a responsibility to help juniors to develop and to understand the bar's expectations of them.

It seems logical to me to suggest that what Arthur is highlighting here is the importance of social meetings as part of the way in which individuals become known, accepted and identified as capable of work at a higher level within the professional community. Arthur's views on the importance of social meetings seem to me to offer support for the appropriateness of the communities of practice framework (Lave and Wenger, 1991) as a suitable conceptual lens (Hughes, Jewson and Unwin, 2007) for analysis of the bar. I say this because he is clearly aware of the socialisation component of the inn's training and its importance to the pupils and also the importance of pupils and their connections with seniors to the inn's continuity and future. I would also posit that in suggesting that this process does not work for all pupils Arthur finds and substantiates a further deduction that any such failure by the inn to effectively socialise greater numbers of new pupils may impact negatively on the continuity of the community (Lave and Wenger, 1991; Wenger, 1993). It seems logical to infer that such failure may compound the failures and dichotomies identified above in relation to the chambers component of the nested communities and the negative impact of this on notions service and continuity of the professional community as a whole. This compound effect tends, in my view, to highlight the potential importance of the inn's role in maintaining the continuity of the community and of notions of service.

Arthur also specifically mentions that he is aware that he is also training the pupils into the ethos of what it is to be a barrister and that he himself, therefore, needs to reflect upon what that ethos is and what it is to be a barrister. He feels that he is learning himself by being a trainer and that he is helping pupils to understand the culture and ethos of the bar. It seems to me that this is another example of reverse flow pervasive learning but that rather than being in relation to the skills and expertise of the bar it is in relation to understandings of what it is to be a barrister and what we understand the bar to be, which were discussed more fully in chapter five and above. I would suggest that Arthur's awareness also incorporates an implicit understanding of Parsons' (1939) conception that professionals' achievements must lie within the acceptable landscape of the profession for those

achievements and Goffman's (1959) suggestion of presentation of the self within a consensual veneer appropriate to the particular (professional) community. I say this because it seems logical to me to suggest that in realising that a professional ethos may change over time and that his teaching must be adjusted to incorporate those changes, Arthur is implicitly recognising that new-comers and other barristers must make personal objective gains (Parsons, 1939) in a manner acceptable to the wider professional community (Parsons, 1939) at any given time, as a requirement for maintaining their personal reputation and making reputational gains (Parsons, 1939) and that what is acceptable within the community may change over time.

The role of training in supporting the continuity of the community was also explicitly identified by Henry, a trainer and senior practitioner, who spoke in support of the role of the inn's social functions, such as dining at the inn, in relation to training in supporting the continuity of the community, when he said,

*Henry: "the idea of having to have a sort of social continuity through the bar, I think it's a great thing and training is a big part of it."*

Malcolm, another senior trainer and senior practitioner said of the pupils that he has taught,

*Malcolm: "I see them improving immeasurably throughout the time that – very little time we have with them, and that as I say is very satisfying and rewarding to see that."*

I would argue that the trainers' comments discussed here also imply a desire by those trainers to contribute to the community and a high regard for those who do so. The existence of this desire and that regard at other levels of centrality within the community is, I would suggest, supported by Amelia's mention of her service to her juniors and Hannah's and Rowan's implicit criticism of the potential for unfairness by their seniors who do not offer such service.

The desire by trainers to contribute to the learning of new-comers and/or to contribute to the continuity of the community as expressed here is a theme that I had not expressly considered prior to interview. The notion of service to those less senior was identified in chapter five but the willingness of seniors to evidence their

service to juniors and contribution to continuity is another theme that I had not previously considered. As we saw in chapter five contributions by old-timers are highly valued by new-comers and form part of the perception of some interviewees of what it is to be a barrister. Evidencing this service would enable old-timers to access the respect accorded to those who serve and is a behaviour consistent with the prioritisation of reputational gains over objective gains (Parsons, 1939), identified in chapter five as an important barristerial characteristic. This evidencing of service behaviour is also consistent with Parsons' (1939, p.464) notion of acquiring gains in a manner acceptable to the wider professional community as a requirement for maintaining personal reputation. It is also consistent with Goffman's (1959) notion of presentation of the self within a veneer of consensus which, I would putatively suggest in the case of these seniors, given their comments, may have become internalised as a genuine consensual agreement based on participants' true perceptions (Goffman, 1959).

#### **Factors that barristers believe facilitate or hinder learning and progression within the bar community**

In learning how to be or become a barrister it is clear from the comments and analysis above that extensive facilitation is provided through pervasive learning and the contribution of practitioners steeped in practice knowledge. There are, however, a number of issues which are perceived by interviewees as impeding entry into and participatory progression within the profession.

Hannah's comments above, in relation to the need for new-comers to serve old-timers, to keep the favour of old-timers and to present themselves in a specific manner are also implicitly addressing the issue of sequestration (Lave and Wenger, 1991). I say this is because her comments also contains the implicit perception that the pupil's work may be sequestered by other members of chambers including those more senior than the pupil supervisor, which I would suggest is a form of multiple sequestration. Interestingly Hannah's comments also suggest that she feels that the pressures that she describes apply not only at the self-employed bar, that is to say, those barristers practising in chambers but also at the employed bar, where pupils work for a company or government agency. This aspect of her comments was quite surprising to me as I would previously have assumed that employment legislation protected those at the employed bar. From the comments above by Hannah and Rowan I would suggest that I can also identify an implicit perception by pupils that they have little choice but to willingly submit to sequestration without complaint in

order to have the opportunity to learn and to progress their careers. Essentially this appearance of willing compliance or submission is, I would posit, the adoption of a pupillage-specific presentation of the self (Goffman, 1959) that will not risk the pupil's relationship with the seniors on whom they depend. The fact that Hannah and Rowen raised these issues suggests that this self-presentation, while it may be convincing, is essentially false, compelled and adopted in order to realise objective gains (Parsons, 1939) at a later stage and to avoid losing the value of prior investment in education and relationship building. If Hannah's perceptions about the employed bar are combined with this perception of the need for the appearance of willing submission it seems apparent to me that no form of legislation or regulatory protection can protect a pupil who feels constrained from accessing it because of the potentially negative impact on their career. Action by other components of the nested communities of the bar, such as the inn, may however, in my view, provide the support that pupils require.

The issue of sequestration is apparent in Hannah and Rowan's indication of the need to serve old-timers, and keep them on-side by producing high quality work for them. This notion is further supported by triangulation provided by suggestions from Eli and Isabella, who were interviewed together, that pupils' workloads in some chambers were so high, with 3.30 a.m. and 4.00 a.m. finishes, that they impinged on pupils' preparation time for inn training aimed at developing their advocacy skills. These comments, taken together with the comment below indicate to me pupils' and trainers' explicit acknowledgement of sequestration by chambers and also suggest a self-perceived need to comply with it.

Indeed trainer Malcolm also reported that in a training session he heard the following,

Malcolm: “ [a] *trainer said* [to a pupil], *‘Well what you need to do is go down to a county court for a morning and just watch and absorb,’* to which the pupil said, *‘No, no, no, my sole purpose is to get a tenancy, and my sole purpose is to do the notes that I’m required to do, I can’t even ask to take a day off to go and learn about advocacy.’* ”

The notion that pupils perceive a need to comply with sequestration is also supported by triangulation provided by two pieces of anecdotal information. In a context not related to the inn or to inn training I bumped into a pupil who had been known to me as a student. That pupil informed me that he was a currently a pupil

and that in his chambers the publicly expressed ethos was that no pupil should work after 5.30 pm. The workload to be covered in this time was, he told me, much too large to be completed by 5.30 p.m. and so pupils were reduced to taking work home to complete while pretending that this had been done within the working day. My former student felt that the fact that pupils had to do this was not necessarily a secret to other members of chambers. In fact this was not the first time that I had heard similar stories. In another non-interview scenario I overheard a pupil telling a senior member of the bar of the excessive workload for pupils in their chambers. The barrister was extremely sympathetic to the pupil's plight but advised that although the pupil could make a complaint the best thing that this pupil could do for their career was to just get through this difficult period, get it behind them and to move on to their further career.

This response by that senior barrister would suggest that the perceptions raised by Eli and Isabella, reported above, in relation to chambers workload impeding their preparation for advocacy training and related learning, and the similar perceptions underpinning the comments reported by Malcolm are in fact shared by a number of members of the bar. That is to say that for some barristers of a range of levels of centrality we can infer the perception that the pupils' best long-term interests are served by complying with a very heavy workload from chambers even though the imposition of that heavy workload on pupils is not approved of by those barristers. This non-approval is, I would suggest, consistent with the underlying notions of service to juniors identified in chapter five. The acceptance by old-timers of a workload for pupils that they do not personally agree with tends to suggest that they have already internalised a way of being in relation to pupillage that has become entrenched (Goffman, 1959, p.22) and is different to the way of being expected of qualified barristers. When I say this I mean that within the nested communities (Brannan, 2007; Jewson, 2007; James, 2007) and the roles played by participants within those communities it may already have become acceptable for pupils to present (Goffman, 1959) as willingly submitting to those workloads when they actually submit reluctantly and unwillingly. It is, in other words, possible that unwilling submission and compliance has already become a part of being a pupil even though not desirable or approved of by other members of the profession.

In fact the approach of identifying what is in an individual's best interests in difficult circumstances and making short term sacrifices for a later gain is consistent with the type of advice that barristers typically have to give to clients. It is unsurprising therefore, that the senior barrister in my anecdotal report identified this as the best way forward for the pupil in the circumstances discussed above. I would suggest,

however, that the fact that senior barristers who are trainers reported these concerns to me in interview and that one pupil and senior barrister had a conversation when they were clearly in my hearing indicates to me that several senior barristers are not content with the overloading of pupils with work and this differential approach to pupils and barristers.

It seems apposite to suggest, therefore, that sequestration is identified as occurring within the nested communities (Brannan, 2007; Jewson, 2007; James, 2007) of the bar and is more likely to occur within some nested locations than others. This differential occurrence of sequestration across the nested communities is, I would suggest, prefigured by Lave and Wenger's (1991) analysis of the impact of restructuring on pre-existing tensions and contradictions. I say this because it seems logical to suggest that Lave and Wenger's (1991) conception that restructuring a community of practice leads to reconfiguration of pre-existing tensions is logically compatible with the notion that differential sub-structures within a constellation of nested communities (James, 2007) will exhibit diverse configurations of pre-existing tensions. This topic is discussed further below in my theoretical developments section. Sequestration and the workload underlying it are disfavoured by those subject to it, and also by many more central participants. It is well reported within the academic literature that sequestration is often associated with reduced learning opportunities and narrowing of the topics learned. This reduction and narrowing of participants' learning within the bar is clearly, in my view, supported by the interview comments.

I would, however, suggest that the negative learning outcomes which are understood to potentially flow from sequestration, within notions of communities of practice and socialised theories of learning, may have an enhanced negative impact in the context of the bar. I say this because I would argue that in feeling compelled to present themselves in ways needed to serve and keep in with old-timers, in the hope of being selected for tenancy, these pupil interviewees are not ascribing to the perception of a barrister identified in chapter five as having powerful personalities. In my analysis in chapter five having a powerful personality was identified by some interviewees as a prerequisite to advocacy excellence. This identification suggests to me that actions by some old-timers, which undermine the opportunity for newcomers to develop and express powerful personalities, may potentially, therefore, undermine their development of advocacy excellence and impact on the professional excellence of the profession.

## **Further developments to the theories underpinning my focusing artefacts**

Parsons (1959) helps us to understand the choice for professionals between reputational and objective gains by positing that objective gains must be made in a way that is acceptable within the profession in order to maintain reputational standing. Essentially he implicitly casts reputation as a constraining factor in making objective gains. My interviewees, moreover, in chapters five and six, espouse a positive attachment to reputation and to hierarchical advancement. I would suggest, therefore, that for my interviewees, objective gains are sometimes perceived as a means to obtain reputational advancement and sometimes the relative position of these two types of gains is reversed. I would also suggest that although Parsons (1939) allows for reciprocity and iteration in the trade-off between objective and reputational gains my interviewees' comments suggest that the balance of that iteration at the bar is skewed or biased in favour of reputation. The presence of that bias enables me to develop a refinement of Parsons' notion as a focussing artefact. The responses discussed above suggest to me that Parsons' (1959) notion requires some modification to incorporate the notion that the iterative process of negotiating a co-dependant balance between reputational and objective gains is not blind and impartial like justice. It necessarily incorporates a skew derived from the particular profession's current notion of what is the right balance. That is to say that the process of coming to a balance between Parsons' differential gains is predisposed, in a given profession, to be pre-structured by the existing veneer of consensus (Goffman, 1959) within that professional community.

The recognition by pupils and trainers that pupils are being inculcated into a community or an ethos by situated learning is apparent from the discussion above. The positive perception that new-comers and old-timers have of the inn community as a locus for that learning is also apparent. The notion of senior members of the community contributing to the community's continuation by assisting the development and inculcation of new-comers in a situated learning context is also explicitly or implicitly identifiable in several of the comments as a positive.

There are, however, comments which indicate that at some locations for situated learning, such as in some chambers, altered perceptions of what it is to be a barrister and of the notion of service, may potentially, in my view, undermine the future continuity of the profession in its current form by generating a potential existential threat to the continuity of the nested communities (Brannan, 2007;



Jewson, 2007; James, 2007) of the bar. These altered perceptions and their consequent reduction of later contribution flow from the dichotomies identified above and could, in logic, potentially undermine the future continuity of the profession in its current form. This notion of existential threat is a novel perception based on the comments gleaned from this professional community and no such notion of threat exists within the Lave and Wenger's (1991) discussion of the tensions between newcomers and old-timers. The notion of existential threat is, in my view, much graver than the continuity and displacement tensions and inherent contradictions envisaged by Lave and Wenger (1991). I would suggest that this threat to continuity derives from the extent of the unfairness perceived by interviewees, particularly in relation to work done in chambers. I would seek to contrast that sense of unfairness with the very positive view that interviewees exhibit with regard to new-comer and old-timer relations within the inn. Some of my interviewees' comments above suggest that aspects of these threat generating changed perceptions are already entrenched within sub-components of the nested communities of the bar.

I would posit, however, that my analysis of the differential nature of relations between new-comers and more central participants which are experienced at the inn location and at the chambers' locations and the differential extent and quality of those tensions at those locations is broadly consistent with notions present in Lave and Wenger's (1991, p.115) analysis of change within communities of practice. The Lavean (1991) view that when changes occur in forms of production then tensions between learning opportunities and sequestration of work and between community continuity and displacement do not evaporate but restructure themselves to fit the new environment is well known. In expressing this view Lave and Wenger (1991) were addressing production changes which we might imagine as occurring as a result of technological advances or organisational changes. I would suggest that their perception of the impact of change on tensions in the community fits equally well to the pre-existing structural and organisational differences already in place between inns and chambers. When I say this I am suggesting that the differences between various sub-components of a set of nested communities which are contemporaneous in time (James, 2007) can mimic the non-contemporaneous changes over time in a restructuring community and generate diverse tensions in different locations.

## **Concluding thoughts**

I began this chapter about the process of learning to become a barrister by suggesting that the three important themes of professional identity, professional socialisation and factors facilitating or impeding the process of becoming a barrister, formed a structure for investigating my research question. That thematic triad has helped me to identify what understanding, clarification or delineation of the notion of communities of practice can be provided by examination of Inner Temple pupil training and specifically by examination of how pupil barristers and their trainers understand the: interactions, connections and structures within their community of practice; educational and relational interactions within the community; constructional, contextual, locational, hierarchical and authoritarian configuration; interpersonal and intercommunity connections; and, re-locational opportunities and entry, boundary and migration issues. I would suggest that my interviewees' comments and my analysis of them have provided useful perceptions which have helped me to develop my understanding of theoretical aspects of the communities of practice framework.

My interviewees' comments, reported in this and in my previous chapter and analysed here have provided much useful information on how a number of pupil barristers and trainers at Inner Temple understand the topics on which my research question focusses. On the basis of these responses and analyses I have, in this chapter, developed a number of new theoretical perspectives on the communities of practice conceptual lens and suggested a number of innovative reformulations and refinements of academic understandings of that theoretical framework. These reconfigurations and refinements, whether developed through the perceptual framework provided by the addition and refinement of my new focussing artefacts, based on Goffman's (1959) and Parsons' (1939) notions or based on my novel focussing artefact of pervasive learning, have enabled me to develop my understanding of the strengths and weaknesses (Hughes, 2007) of the communities of practice framework (Lave and Wenger, 1991). They have also helped me to formulate further definitional refinements (Fuller, 2007) of that framework in light of the additional understandings provided by responses, configured by analysis structured around the notion of the specific constellation of nested professional communities (Brannan, 2007; Jewson, 2007; James, 2007) unique to the bar, in which enculturation (Hughes, Jewson and Unwin, 2007) and situational learning into the profession occurs. In particular the notion of pervasive learning has provided me with a novel means of drawing out potential weakness in that framework and

delineating and defining the 'practice' and the 'participation' elements of the framework.

It seems apparent to me from my discussion and analysis above that my interviewees' understandings and conceptualisations of the interactions, connections and constructions within the community and the educational and relational interactions within the community indicate explicit or implicit perceptions some of which are shared. These perceptions identified above appear to include the notions that: pupillage is a form of apprenticeship; learning in pupillage is informal in comparison to modern class-room teaching; and, pupillage is a form of situated learning. Interviewees' comments also suggest to me an acknowledgement of very serious existential tensions between new-comers and old-timers and indicate an awareness of the implicit contradictions in the relationship between old-timers and new-comers which impact on my understanding of notions of continuity and displacement (Lave and Wenger, 1991).

It seems logical to infer that my interviewees' contributions also provide illumination of six important novel aspects of the community structures and relationships that I had not previously considered. The first of these unexpected novel aspects is encapsulated in the notion of reverse flow pervasive learning in relation to skills and in relation to understandings of what the bar is. The second, third and fourth novel aspects uncovered were the desire by trainers to contribute to the learning of new-comers and/or to contribute to the continuity of the community and their willingness to express and evidence that desire to me. The fifth and sixth unexpected novel aspects indicated were the perception that multiple sequestration may occur at the employed bar in addition to the independent self-employed bar and the perception, drawn from a trainer's view, that the inn fails in its efforts to socialise quite a number of its pupils into the ethos of the inn and the bar. I also felt able to add an additional gloss to the notion of service identified in chapter five to suggest that barristers' underlying notion of service includes service to non-community members generally and by inference, potentially to the general public.

It is also possible to see, I would suggest, in the interviewees' responses reported in this chapter, a permeating theme which was first identified in chapter five, that contributions by old-timers to new-comers' learning, particularly in the context of the inn's training, are viewed as a positive factor by the interviewees.

The recognition by pupils and trainers that pupils are being inculcated into a community or an ethos by situated learning is also, in my view, apparent from the discussion above. I believe that it is also possible to trace a positive perception by

new-comers and old-timers of the inn community as a locus for that learning. The notion of senior members of the community contributing to the community's continuation by assisting the development and inculcation of new-comers in a situated learning context within the inn's training is also, I would posit, explicitly or implicitly identifiable in several of the comments.

In developing the theoretical component of my analysis I have uncovered a number of novel perceptions and reformulations of the communities of practice analytical framework and made further developments of the focussing notions that I added to it. I have also developed additional focussing artefacts and analytical perspectives for understanding communities of practice and situated learning. In addition to this, I have illuminated important information about barristers' perceptions of becoming and being a barrister, becoming and being a pupil barrister and the bar itself which was previously unknown outside the profession and not much discussed publicly within it.

In my next chapter I will consider some additional topics, aspects and concepts which I have identified in my interviewees' responses and which fell some way outside the purview of current understandings of the communities of practice analytical framework. These topics and concepts were so novel that I feel that further investigation of them needs to be made in future research. I will begin to trace putative novel theoretical notions from them in my next chapter from which I suggest that such future research may make further theoretical developments. In chapter eight I will outline the further research that I believe is required and make some recommendations which seem to me to be important for supporting the future continuance of the community, based on my interviewees' comments and my analysis.

## **Chapter 7**

### **Extreme ‘thwarting’ impediments to participatory learning and to progression within the community of practice**

#### **Introduction**

In this chapter I focus on the notions of professional socialisation, professional identity and factors facilitating or impeding the process of becoming a barrister, which I identified in chapter two and which helped me to configure chapters five and six. In this chapter my primary focus continues to be on my substantive research question in that I am principally seeking to discover what understanding, clarification or delineation of the notion of communities of practice can be provided by examination of Inner Temple pupil training and specifically by examination of how pupil barristers and their trainers understand the: interactions, connections and structures within their community of practice; educational and relational interactions within the community; constructional, contextual, locational, hierarchical and authoritarian configuration; interpersonal and intercommunity connections; and, re-locational opportunities and entry, boundary and migration issues. In this chapter, however, I will consider some additional notions which I have drawn from my interviewees’ responses and my analysis of them.

These notions seem to me to have the potential to help develop further my understandings of professional learning in social context within notions of participatory learning in communities of practice (Lave and Wenger, 1991). The main shared characteristic of these additional notions for me is that they suggest impediments to participatory learning and progression within the community of practice which are, I would suggest, of an extreme nature. Elements of these notions are derived from information which I believe that many barristers below the very senior level are not generally privy to and to which, I would also suggest, non-barrister readers may never have had prior access. The strength with which some of these comments were put, the unexpected nature of the information revealed and of the perceptions uncovered leads me to suggest that the notions that I have deduced from them have significant relevance for future understandings of social professional learning.

The novel topics and notions that I have uncovered here and which seem to me to constitute extreme impediments to participatory learning and progression can be described, in my view, by the term 'Thwarted Learning'. I am going to suggest here that thwarted learning is characterised by community relations and structures which go beyond the notion of impediments to learning and progression and barriers to entry and participatory learning as these are usually understood within the communities of practice analytical framework. The term thwarted learning, as used in my discussion below, represents for me relational and structural forms which may significantly impede or even absolutely prevent learning and progression and/or entry to and participation in some aspects of the nested communities (Brannan, 2007; Jewson, 2007; James, 2007) of the bar for some individuals.

In this chapter I continue to employ my novel focussing artefacts based on Goffman's (1959) notions of presentation of the self, Parsons' (1939) notion of professional socialisation and my own innovative notion of pervasive learning to facilitate and clarify my perspective through the communities of practice (Lave and Wenger, 1991) conceptual lens (Hughes, Jewson and Unwin, 2007). The first two of these novel focussing artefacts allowed me, in chapter six, to uncover differential ways in which barristers might present themselves at the pupillage and tenancy stages of their career and professional life. In this chapter my focussing artefacts have allowed me to develop additional insights which enable me to tease out further presentational differentiations within the course of a barrister's professional life and the process of learning and development which they undergo. My focussing artefacts have also enabled me to identify new understandings of the importance of the perceptions, which other community participants may form of a barrister's presentation of the self (Goffman, 1959) for that barrister's learning and progression. I highlight the importance of the perceptions of other community participants here because I will suggest, later in this chapter, that the perceptions of other participants have a strong impact on a given participant's opportunities for accessing learning and progression within the community and may sometimes form thwarting impediments to learning and progression. When I say this I am suggesting that, in terms of my novel focussing artefacts, participants' presentations of the self, as presented by community participants at a range of levels of centrality, must be institutionally acceptable within the profession (Parsons, 1939) if further learning and progression is to be facilitated or permitted. I will also be suggesting that concepts such objective and reputational gains (Parsons, 1939) help me to understand the potential motivations underpinning participants' willingness to comply with such notions of institutional acceptability.

In the course of my analysis in this chapter these new insights have led me to posit my own additional novel theoretical notion of learning terrains and participation topographies, which I created here as a metaphorically contextualised development of Fuller and Unwin's (2004, 2005) conception of learning territories. The concept of learning terrains and participation topographies enables me to add additional perceptual value to understandings of my interviewees' comments within the communities of practice framework (Lave and Wenger, 1991) and theories of social learning. This theoretical development of mine also highlights for me the value of my notion of reverse flow pervasive learning as a focussing artefact. I say this because it seems to me that the notion of a learning terrain enables me to underline the differential value of new-comers and other learners' pre-existing learning territories to the more central community participants with whom they engage in the community of practice and to whom the benefits of reverse flow pervasive learning may be expected to be supplied. I have also been able to develop, in this chapter, new understandings of the nature and quality of peer relationships within the communities of practice framework. My focussing artefacts have also enabled me to trace and contextualise in this chapter a number of hierarchical, relational and/or impeding factors within the nested communities (Brannan, 2007; Jewson, 2007; James, 2007) of the bar which seemed to me to be quite extreme in nature.

### **Thwarted learning**

The theme of thwarted learning focusses on the notion that some impediments to learning or progression within the community may be so extreme that they act as absolute or near absolute impediments. When I say this I mean that they may constitute barriers to learning and progression which it is difficult or potentially impossible for some participants and would be participants to overcome. This thwarting may also arise due to lack of transparency or from the negative perceptions and evaluations of the would-be participant by the would-be participant's seniors. Moreover, and unusually within theoretical conceptualisations of communities of practice, those thwarting negative perceptions may also reside in the would-be participant's peers. When these perceptions exist with no objective supporting facts being offered by those seniors and/or peers for holding them, I will term these thwarting negative perceptions as 'rogue' consensual veneers, my own additional novel development of Goffman's (1959) notion of consensual veneer and discussed more fully below. In considering the notion of thwarted learning I am

going to examine comments provided by a number of new-comers who I interviewed, supported by some additional new-comers and old-timers who provided information indirectly, and comments provided by one very senior interviewed old-timer all of whose views provide, I would suggest, additional triangulation.

### **New-comers' perceptions**

In chapter five I discussed how Eli, when interviewed alone, reported his concerns about work-life balance inside and outside the nested communities of the bar. In chapter six I posited that his earlier comments, made when interviewed with Isabella and Neve, suggested that Eli and Isabella perceived that pupils' workloads in some chambers were so extensive that they impinged on their preparation time for inn training which was aimed at learning to develop their advocacy skills.

In Eli's joint interview with, Isabelle and Neve, however, he raised an additional issue which I would suggest falls within the purview of my notion of extreme or 'thwarted' learning. I say this because it seems to me that Eli is discussing a situation in which a trainer's comments and offers of action, if carried out, seem to be perceived by Eli as having the potential to damage or end the career of one particular new-comer although they were offered by the trainer for the stated purpose of helping that new-comer.

Eli: *"... a pupil mentions, our first day, "I couldn't prep this because I just didn't have time", and the person presenting [the trainer] said, 'What's the name of your pupil supervisor, I'll give them a call'. That is absurd. What worse thing could you do to a pupil than phone up their pupil supervisor and say, 'Look, I've just spoken to your pupil, you're not giving them enough time, what are you playing at?' That's the end of..."*

Eli subsequently said in relation to those trainer's comments that he had heard,

Eli: *"..... I was just sitting there like; you are absolutely bloody kidding me."*

To contextualise the incident that Eli revealed to me and his subsequent strongly worded comment indicating to me his astonishment at and his negative perception of this trainer's comments it is necessary to consider the indication that I drew from Hannah's and Rowan's comments in chapter six. Those comments in chapter six



suggested to me the need for new-comers to serve old-timers and keep them on-side by producing high quality work for them. It also seems useful to consider Eli's comments in light of my deduced suggestion, also in chapter six, that it may already have become acceptable in some elements of the nested communities (Brannan, 2007) of the bar for pupils to present themselves (Goffman, 1959) as having a pupil-specific characteristic of willingly submitting to those heavy workloads when they actually submit reluctantly and unwillingly.

In light of this contextualisation it seems logical to deduce that a telephone call from an inn trainer to a pupil-supervisor, suggesting that the pupil-supervisor should give the pupil more time to prepare for the inn's advocacy training, risks alienating the pupil-supervisor from the pupil. When I say this I mean that such a call risks creating a situation where it becomes very difficult or even impossible for the new-comer to subsequently keep the old-timer on side. Even if the call does not have such a negative effect the new-comer will likely be concerned that it may have and this may overshadow how s/he relates to and subsequently presents (Goffman, 1959) him/herself to old-timers. I say this because the trainer's telephone call implies that the pupil is unwilling to submit to the heavy workload and therefore, breaches the pupil's presentation of self (Goffman, 1959) as willingly submitting. In terms of my novel focussing artefacts the telephone call implies that the new-comer does not have the pupil-specific characteristics of compliance identified in chapter five and suggests that the new-comer is unwilling to serve old-timers in order to keep them on side to vote for him/her becoming a member of chambers at the end of pupillage. I would also suggest that it is logical to deduce that such a perception by a pupil would be consistent with the feeling of paranoia experience by pupils in some chambers and reported by Rowan in chapter six.

The trainer's actions, therefore, seem to me to be very likely to be perceived by the new-comer pupil as potentially harmful to his/her career progression and to seriously impede his/her opportunities for future participation. Given the pupil-specific characteristics that pupils are expected to present in some chambers, uncovered in chapter six, the trainer's comments may also, I would suggest, actually have that impeding effect in reality for some pupils.

It may be that the harm done to the pupil's progression, whether it is real or perceptual may be limited if it relates only to that specific chambers sub-component of the nested communities of practice (Brannan, 2007; Jewson, 2007; James, 2007) of the bar in which the pupil is currently situated, that is, his/her current chambers. Pupillages, however, are very hard to come by and that specific location is,

therefore, in logic, likely to be the pupil's best hope of a venue for progression to tenancy. I would suggest that the consequences for the pupil, of any damage to progression opportunities in his/her current chambers is, therefore, potentially very serious indeed. I would also suggest that Eli perceived this potential damage to seriously damage progression. I say this because he felt strongly enough about the potential impact of this event to ensure that he gave me this specific example in interview.

I also overheard a number of pupils discussing this incident or a similar one with each other outside interview, reported anecdotally here. Whether they did so in my hearing in the hope of their concerns being reported without being interviewed I cannot say with complete certainty. What I can say is that it seems that these pupils considered the incident to be significant enough for several pupils to be discussing it. It also seems to me unlikely that these pupils were unaware of the fact that they were doing so within my hearing. Since I had been introduced to the pupils as a researcher conducting research into pupillage and the bar prior to them discussing the incident I believe that I am justified in deducing they must also have been aware of my role when they discussed the incident in my hearing. The views that these pupils expressed were that the trainer's action was likely to be detrimental to the career chances of the pupil concerned. Indeed they seemed to me to accept that this negative impact on the pupil would follow as I formed the view that they were discussing that negative impact as if it was an established fact should the trainer telephone the pupil-supervisor as s/he had offered to.

I would suggest that my discussion above suggests that these pupils, whether interviewed or otherwise were keen to report such actions to me. The negative view that these new-comers took of this trainer's comments and offered actions suggests to me that they had perceived these actions as constituting a significant or absolute impediment to the specific new-comer's learning and progression in the important chambers component of the nested communities (Brannan, 2007; Jewson, 2007; James, 2007) of the bar.

Essentially the incident described by Eli seems to me to be a deviant case in relation to pupils' experiences with and perceptions of inn trainers. These new-comers' strong reactions to that incident support, in my view, the accuracy of my identification of the non-deviant cases where trainers support pupils. These pupils' apparent strong desire to report this incident to me also suggests to me that the deviance of this behaviour from the norm for the inn's trainers was strongly disapproved of by the pupils. I would also suggest that this reported incident

enables me to deduce a perception that strong or absolute impediments to learning through participation which thwart participants' learning opportunities may reside in something as specific as the actions of one person or the nature of one relationship.

The comments of one senior trainer, however, indicate to me the potential for thwarting actions or relational or other thwarting factors to be structural rather than individually specific or both and to apply to old-timers as well and new-comers.

### **An old-timers perception**

Goffman (1959) has helped me to understand the notion of a '*veneer of consensus*' as a co-presented consensus of views and perceptions within a community which may be founded not only on suppression of participants' true views but also on genuine consensual agreement based on participants' true perceptions. It seems logical to me to suggest that those views and perceptions, whether truly held or presented as true may in themselves be factually accurate or inaccurate. Such perceptions may also be supported by evidence or may be unsupported by evidence. Logic suggests, therefore, that in any community of practice consensual veneers may exist which are founded on inaccurate facts and/or unsupported perceptions. In the discussion that follows below I will term such unfounded or unsupported consensual veneers as 'Rogue Consensual Veneers' or 'Rogue Veneers'. I would also suggest that both my notion of rogue veneers and Goffman's notion of perceptions presented as truly held when they are not in fact truly held, have potential implications for transparency. I say this because it seems to me that a consensual veneer (Goffman, 1959) whether rogue or otherwise is founded on the shared perceptions it contains. Although these founding perceptions seem to me to have in inherent potential to be either truly held or only presented as truly held, supported by evidence or unsupported by evidence and/or based on accurate or inaccurate information, which of these situations pertains is something that can only be deduced by new-comers if transparency is sufficient to allow that deduction.

I am also going to suggest that logic implies the possibility that perceptions held by sections of the community of practice which may be unsupported, or founded on inaccuracies, that is rogue consensual veneers, may sometimes underpin thwarting impediments.

Thwarting impediments and the consequent reduction or destruction of learning, participation and progression opportunities are not, it seems to me, only relevant to new-comer barristers. One specific commentator reported perceptual barriers which

applied to community participants of a range of levels of centrality including those in senior roles. For that reason, in my subsequent discussion I will refer not only to new-comers but sometimes also to 'Would-be Participants' in discussing those community members seeking to learn, participate and progress at a range of levels of centrality. In addition I will refer not only to old-timers but sometimes also to 'Co-participants' in discussing those already situated at the locations within the community that new-comers and would-be participants seek to progress to. I adopt this approach to allow for discussion of rogue consensual veneers in the context of co-participants who are senior to or are peers of the would-be participant. Later in my discussion I will broaden the notion of co-participants to define conceptions of near-peers and close-peers and will use these terms to define and qualify the nature and quality of peer relationships.

Within the nested communities (Brannan, 2007; Jewson, 2007; James, 2007) one might expect that centrality of participation in one sub-community, such as a set of chambers, or within the court system, might be at least loosely associated with centrality in another location, such as an inn or a regulatory authority. I say this because it seems logical to expect that the experience, skills and knowledge developed in roles in one component of the nested communities would have some relevance to roles in other locations within the wider community of the bar.

One specific interviewee's views on the interpersonal and intercommunity connections within the nested communities, however, produced some very surprising information in this regard. Malcolm, a trainer who was also interviewed alone, indicated his perception that personal relationships played some role in further career progression and also the perception that some highly experienced and highly ranked practitioners are less valued by other central participants due a negative evaluation of their particular area of practice or their specific current roles within the nested communities by other senior participants.

The suggestion that relationships may play a role in facilitating or impeding progression is compatible with my deduction of the potential importance of the nature of specific relationships as in relation to Eli's comments above and is not in itself surprising within a social learning context. I say this because it seems logical to me to suggest that Goffman's (1959) notion of a veneer of consensus and Parsons' (1939) notion of institutionally acceptable means of progression must sensibly imply, in my view, a social relational component. This component would logically need to exist to underpin and enable the negotiation of a veneer of consensus (Goffman, 1959) and acceptance within the profession (Parsons, 1939)

of a given presentation of the self (Goffman, 1959) or modes of achievement (Parsons, 1939). What is surprising, I would posit, is the suggestion that some highly experienced practitioners are accorded less value than others by their co-participants in a way that, as I believe may be logically inferred from Malcolm's comments, he believes thwarts their participation, progression and learning unfairly.

To contextualise this I should say that all of the roles that Malcolm identified in his comments below seemed prestigious to me as a member of the community of the bar and would, in my view, seem prestigious to many barristers and non-barristers. To further contextualise Malcolm's comments I should say that the communities that he named are reputable communities with high status inside and outside the wider community of the bar.

Malcolm's views and perceptions seemed to me to be strongly held and the fact that he chose to report them to me in a recorded interview indicates that they have resonance and meaning for him. I believe that the fact that in recorded comments supplemental to his interview he clarified his views for me further supports the resonance that they had for him.

The academic reader will always have in mind the fact that my study reports interviewees' perceptions and presents my opinions on these in the form of interpretations of those perceptions and deductions drawn from them that seem, in my view, to be appropriate. In keeping with my thickly descriptive approach, however, and given the potentially controversial nature of a number of Malcolm's comments, it seems to me to be apposite to reaffirm that point here for the benefit of non-academic readers and members of the profession. I make no assertion here as to the accuracy or otherwise of Malcolm's comments, nor do I attempt here to determine whether the perceptions and consensual veneers (Goffman, 1959) that he identifies others as holding or which are deduced by me from his perceptions are truly held, presented as such or are actually rogue consensual veneers. I simply report them as his views and perceptions and his identification of others' perceptions. From these I then draw perceptions that, in my opinion, seem appropriate and measured. It is clear, however, that whether or not those views and perceptions are accurately perceived by Malcolm, the existence of such perceptions in the mind of such a central participant as him must give rise to concerns as to transparency and barriers and impediments to further progression within the nested communities of the bar for participants of a range of centralities including those with significant centrality of participation.

Malcolm: *“Yes, well first of all I don't personally know most of them [members of Community C]. We know a few of the [Role 3], so compared to those who have spent their careers with each other, appearing against each other, meeting each other at lunch, I feel rather, certainly unconnected with them, so I don't know these people personally and the backgrounds seem very different from mine. They certainly – [Community C] seems to have a particular picture of who they want to be a [Role 3]. [Role 4] definitely they want to be [Role 3], [Role 5] they want to be [Role 3]. I mean even some longstanding [Role 6] are not [Role 3] and that doesn't seem to be quite what [some communities] want and certainly coming from a [Role 1] background it would be - it would be a miracle. I know one [Role 1] who is a [Role 3] [elsewhere]; I know another who wasn't made a [Role 3] even after being [granted an indication of high achievement elsewhere], so I didn't expect to be made a [Role 3] and I certainly am - I'm not disappointed because I just don't know them. If you're going to socialise with them at functions it does help actually to know who they are and to be recognised and so I would feel rather isolated, which is something I've never felt at advocacy training; everybody always seems very friendly and will make a point of coming up and talking to you even if they're [senior].”*

Stephen: *“And do you have any perception of why there might be this dividing line between who is or isn't going to be [appointed to Role 3]?”*

Malcolm: *“Well it seems to differ from [community] to [community] first of all, and we mustn't slag off [other communities] but since I have the opportunity, I mean there are people who've been invited at [Community 4] .....but then stories get back, "Well these people have only been asked to be because they've got - we're after the money," and that, so I think it's just tradition. Each [community] seems to have its own tradition and it takes a long time to shift it.”*

In explaining these negative evaluations of some senior practitioners by other community members Malcolm related them to other negative evaluations that he perceived as having existed in the past between different areas of the bar saying,

Malcolm: *“I remember the concern about the employed bar for example and whether they were really proper barristers going back when I was at the bar and shortly after, and now that's accepted as part and parcel, so it may be in 20-30 years they'll see [Role 1] as a proper part of the [Role 2].”*

Stephen: *"...how does it assist [the communities] to appoint certain people? How does it assist them financially, it's something I'm not clear about?"*

Malcolm: *Well you have to pay. Yes, there are fees to be paid for being a [Role 3], and so if you appoint people then they have to pay. I think it's certainly initially and probably on an annual basis.*

Stephen: *"Do you know what range those fees are in?"*

Malcolm: *"No. I know there are arcane things like each new [Role 3] - I think in [Community 5], for example, each new [Role 3] pays for - their fees effectively pay for the wine for the other [Role 3s] at the meals and things like that, but I never got to the point of discovering the money."*

The notion of differential perceptions of value being accorded to various types of practitioner and to specific areas of practice raised here by Malcolm also seems to me to be consistent with Evelyn's comments, reported in chapter five. Evelyn indicated her perception of differential positioning in the hierarchy for criminal and commercial practice with the first being perceived by her as ranked more highly than the second in a hierarchy of reputational gains (Parsons, 1939) specifically with regard to professional advocacy excellence and the second being perceived by her as ranked higher in a hierarchy of objective gains (Parsons, 1939) specifically with regard to income.

I would suggest that Malcolm's comments indicate that for at least some wider community participants who are quite central in participation there may be barriers to even more central participation formed by the perceptions of the value of their current role and experience held by other central participants, their co-participants. I would also suggest that the nature of the barriers implied by Malcolm's comments seem to be that these barriers are such impediments to progression as to constitute thwarting barriers.

Malcolm's perceptions were unexpected but on reflection are not surprising. A nested set of communities (Brannan, 2007; Jewson, 2007; James, 2007) of practice is not inconsistent with the existence of multi-layered hierarchies in which, while some doors are perceived as open for a given individual would-be participant, others are perceived as closed to that individual. This differential access based on the

perceptions of co-participants seems to me to also be consistent with Goffman's (1959) indication of the importance of presentation of the self and Parsons' (1939) notion of institutional acceptability. When I say this I am suggesting that, viewed through my additional focussing artefacts, it is unsurprising that co-participants' perceptions of what makes a would-be participant an appropriate person for further advancement within the community would have an impact on who can advance and who cannot. Such perceptions could, therefore, be expected to constitute a barrier to some would-be participants but not to others.

The notion of these additional internal barriers at more central levels of participation indicates to me the need to reconfigure our perception of hierarchical and peer-to-peer relationships in the context of the bar to develop broader socio-material notions (Fenwick 2014) of conceptual skills artefacts such as peer inputs. Fuller and Unwin (2004, 2005) provide us, I believe, with a starting point for this reconfiguration in their concept of a learning territory. The notion of a learning territory provides us with the concept that participants' pre-existing knowledge, their learning territory, may advantage them in facilitating their participation and/or may impact upon sequestration from them by more central participants. I would suggest that the notion of learning territories is logically akin to my would-be participants' prior experience and participation history.

Sequestration may of course be tolerated by new-comers or would-be participants to facilitate their access to the community and progression within it, that is to say the opportunity for participation by the new-comer or would-be participant may be traded in return for the benefits sequestered from the new-comer's or would-be participant's learning territory by old-timers or co-participants. This trade may occur within a consensual veneer (Goffman, 1959) of acceptance of sequestration as part of an institutionally approved (Parsons, 1939) means of accessing further learning, participation and progression opportunities. Alternatively new-comers may present the appearance (Goffman, 1959) of toleration. This acceptance or apparent acceptance logically may be underpinned by the would-be participant's hope for further objective and/or reputational gains (Parsons, 1939) in return for compliance and this notion also seems to me to be compatible with Hannah's, Rowan's, Eli's and Isabella's comments in relation to willing submission or compliance discussed in chapter six.

Fuller and Unwin's (2004, 2005) notion of a learning territory uses the geographical term territory, which incorporates implications of control or ownership of an area of land as a metaphor for control or ownership of specific knowledge or experience.



Within Fuller and Unwin's metaphorical framework territory is used in the sense of an area of knowledge or expertise, which an individual community participant has ownership, control or mastery over and which others do not. I would suggest that Malcolm's perception of barriers to further progression for some old-timers enables us to broaden the notion of a learning territory to the wider geographic allegory of a learning terrain with related participation topography.

In adopting the terminology terrain and topography I am taking Fuller and Unwin's allegorical approach a stage further to suggest that the sum total of knowledge associated with the practice of a community forms a terrain constructed of multiple learning territories, portions of which may be accessible to all participants and sections of which will reside within the ownership, control or mastery of specific individuals or groups of individuals or indeed elements of the nested communities (Brannan, 2007) i.e. their specific learning territory. Within this metaphorical conception the differential locations of central and less central participants in a community of practice can be visualised as the participatory topography of the underlying terrain. That topography can be visualised as having a range of allegorical physical configurations.

A useful allegory here is to visualise the community of practice as a mountain or a hill with more central participants situated closer to the pinnacle. The learning terrain represents the physical surface of the mountain or hill and consists of all the learning territories of all of the community's participants. The individual's personal learning territory represents the precise grid reference at which that participant is currently located. On this allegorical terrain the higher slopes closer to the summit represent more central participation, the higher slopes are associated with enhanced learning opportunities and the increased knowledge gained as participants move towards further centrality. The lower level slopes equate with entry level participation and associated learning opportunities. As participants gain knowledge of new territories they are enabled to move into more central locations on the terrain and then through the terrain up the slope towards centrality.

I would suggest, however, that Malcolm's comments above indicate that this allegorical terrain, is not a smooth cone and progression from peripheral participation to centrality does not follow a smoothly sloping gradient. It seems logical to suggest that there are various differing gradients, slopes and barriers along the route to centrality, which constitute the overall participatory topography of the mountain. I would posit that the specific contours of that topography can be viewed as metaphors for the specific form of the community of practice at that

location and the knowledge and the particular skills associated with that element of the nested communities (Brannan, 2007; Jewson, 2007; James, 2007). I would further suggest that the reader can imagine that the contours of the mountain are uneven and in some locations there are features in the topography which present impassable barriers to further progression through the terrain towards centrality.

It seems to me that within the topological contours of this allegorical terrain additional facilitators and impediments may manifest based on relational connections. When I say this I mean that sometimes, participants may grant or deny co-participants access to the portion of the terrain where they themselves are already situated. It seems logical to suggest, therefore, that within the variable topography of this terrain and the pattern of granted or denied access there will likely be a range of different possible routes to centrality. A peripheral participant's specific knowledge, their learning territory, may provide them with an understanding of the local terrain and topography and the routes through or around some barriers and may ease that participant's progress by allowing him/her to build relational connections with other participants. I say this because possession of prior knowledge of the terrain, a route map through the topography provided by a participant's personal learning territory (Hughes, Jewson and Unwin, 2007) which is useful to more senior participants or co-participants, may assist progression by the new-comers or would-be participant and by associated old-timers and co-participants alike. That knowledge, that route-map, however, may not assist at all in other areas of the learning terrain which are underpinned by differential aspects of the participatory topography and require a different portion of the map. I would strongly argue that my metaphorical conceptualisation fits well with Eraut's (1991, p.6) notion of the variable inputs and outputs which law pupils may supply or receive and supports the notion, that I hypothesised in chapter two, that new-comers perceptions of these might potentially, in the context of pupillage, underpin the tensions within communities of practice identified by Lave and Wenger (1991). It seems logical to me, therefore, to deduce from Malcolm's comments and my analysis here that participants' perceptions of such variability may also underpin displacement tensions (Lave and Wenger, 1991) between co-participants located more centrally within the community of practice.

Within this allegorical terrain it seems logical to suggest that certain routes, once selected, may lead to barriers to progression beyond a certain point without significant back-tracking. Given the significant amount of time required for individual progression on a given route I would suggest that back-tracking may be impractical once a route has been followed for some time or even, in some cases, once it has

been followed at all. It seems to me that certain routes may require specific pre-existing knowledge and experience. I would also suggest that the comments reported by Eli and Malcolm above and by Hannah and Rowan in chapter six, support the inference that certain routes through the learning terrain and participatory topography, possibly all, may need to be negotiated by social connection to those already situated there. These comments, I would suggest, make further triangulation possible enabling me to posit the possibility that some of the more central barriers may not be clearly visible from the lower slopes or indeed visible at all until they are actually encountered.

The illumination provided by this metaphorical conceptualisation suggests to me that what is important for an individual would-be participant's progression through the hierarchy of participation, therefore, is not only the would-be participant's base knowledge, his/her preliminary learning territory but, in my view, three additional factors: firstly the route that they choose for progression and/or that is available to them to choose given their existing learning territory; secondly whether there are any passable routes beyond the territory that they are familiar with; and, thirdly their social connections with those already situated in the section of the terrain that they wish to enter or pass through. It seems to me that the first and second of these factors relate to the hierarchical structure of the participatory topography of the community of practice. The third factor, however, seems to me to relate strongly to the perceptions of other community participants. When I say this I mean that other participants' perceptions of the would-be more central participant's topographical positioning and prior participatory experience relative to other would-be participants may facilitate or impede future progression for that particular would-be participant. It seems logical to suggest that those perceptions, whether truly held or presented as truly held (Goffman, 1959) may represent a consensual veneer (Goffman, 1959) or fall within the remit of my notion of a rogue consensual veneer.

Within the learning terrain model, therefore, participants including quite central participants may encounter barriers to further progression, expected or unexpected, at any stage. Malcolm's perception of barriers to further progression for some old-timers suggests that social interactions, connections and perceptions are a key means of navigating the progression towards centrality. The importance of these interactions in facilitating progression underlines for me the importance of Arthur's explicit recognition that the inns play a role of socialising new-comers into the community, which I discussed in chapter six. In terms of my additional focusing artefacts, in order to progress through the terrain it is necessary to be in a position to present oneself (Goffman, 1959) as having the knowledge, skills, prior participation

experience and social connections that fit within the community's consensual veneer (Goffman, 1959) as being acceptable within that topological participation location to support subsequent objective and reputational gains (Parsons, 1939). If would-be participants are to have a fair chance of learning, participating and progressing in the community then it seems to me that two requirements must be met. The first is that the perceptions that co-participants have of them need to be founded on a true consensual perception of their personal learning terrain rather than a rogue consensus. The second requirement is that there should be a sufficient degree of transparency to enable the would-be participant to form an accurate view of what they need to present themselves as being (Goffman, 1959) in order to satisfy institutional acceptability (Parsons, 1939), in other words they need to know what they are expected to become so that they can attempt to become it. It seems logical to me to suggest that such transparency may also enhance the formation of true consensual perceptions and help to defray rogue veneers. These requirements are discussed in further detail below.

In relation to the important aspects of constructional, contextual, locational, hierarchical and authoritarian configuration which I identified in chapter two, perhaps our understanding of hierarchy could, therefore, be more accurately modelled around a theoretical understanding conceptualised as a 'learning and progression terrain'. Within this metaphor I would suggest that participants do not experience a smooth progression towards centrality once the initial entry barriers have been traversed but rather they traverse a variegated terrain, akin to a contour map of an uneven landscape in which some routes offer opportunity for progression up the slope of hierarchy and some routes lead participants to a terrain or topographical feature perceived by those participants, their peers and more central participants as an impenetrable barrier to progression requiring those participants seeking to progress to back track if this is possible. This topological approach seems to me to help to illuminate the issues surrounding the hierarchical structuring and distribution of power within communities of practice (Lave and Wenger, 1991) and to specifically clarify my interviewees' perceptions of these within the context of the nested (Brannan, 2007) constellation of interlinked (Jewson, 2007) overlapping or intersecting (James, 2007) communities of practice of the bar.

Another important theoretical understanding which I would suggest can be derived from Malcolm's comments is that the impediments to progression that he perceives seem to be understood by him as being generated to some extent by the perceptions of co-participants who are essentially his peers in the hierarchy. The concept of peers' perceptions as an impediment to community participants'

progression to further centrality appears to partially fracture the notion peer-to-peer learning which forms an important and fundamental aspect of the communities of practice (Lave and Wenger, 1991) conceptual framework. Essentially Malcolm's comments seem to me to imply that what others, including peers, perceive a participant's situated location to be in terms of experience, knowledge and skills, is more important for progression than how one perceives oneself and presents oneself (Goffman, 1959) in relation to those attributes. I would suggest that in developing an understanding of this novel conceptualisation of the effect of co-participants' perceptions on a would-be participant's learning and progression opportunities my novel focussing artefacts provide some illumination. I say this because the impact of peer's perceptions, described by Malcolm, centre on the issue of what attributes others perceive a participant to possess rather than directly upon what attributes that participant presents (Goffman, 1959) him/herself as having or what attributes s/he actually possesses. I would suggest that this understanding of Malcolm's comments allows me to uncover an impression that in the context that he describes it is important for a participant seeking progression to have achieved prior progression in a manner that is institutionally acceptable (Parsons, 1939) to other members of the professional community and to self-present (Goffman, 1959) as having done so. Logic suggests to me that in such circumstances and contexts it is vitally important for participants seeking progression to be able to deduce what the broader community expects them to self-present. It is, therefore, my novel focussing artefacts which have enabled me to develop my suggestion above that transparency is of crucial importance in facilitating situated learning and progression and to identify the two requirements which I suggested must be met if would-be participants are to have a fair chance of learning, participating and progressing in the community.

The issues raised by Malcolm, therefore, highlight for me the importance to participants of presenting the institutionally 'correct' version of oneself in order to navigate the existing power relations within communities of practice. If co-participants do not recognise the value of would-be participants seeking progression, for whatever reason, those would-be participants will not be able to receive the '*exchange value*' (Eraut, 1991) which they perceive to be appropriate for their inputs. Essentially Malcolm is telling me that senior participants are also subject to the need to negotiate the terms of trade that Lave and Wenger (1991) identified in relation to new-comers. His comments also suggest to me that this negotiation is conducted not only between would-be participants and their seniors but also between would-be participants and their peers. I say this because I would

argue that in Lave and Wenger's (1991) terms Malcolm, like Eli above, is implicitly acknowledging Eraut's (1991, p.6) perception of the variable inputs and outputs which community participants may supply or receive. Malcolm's comments, however, can be distinguished from Eli's in that they enable us to extend this concept beyond the new-comer location of the professional community to much more senior participants in more central locations. I would also suggest that he is reporting views which allow me to deduce that it is difficult for participants to make a decision based on an accurate perception of the exchange value that they could expect to receive as a senior participant (Lave and Wenger, 1991, p.112) and the 'use value' to other old-timers that they would be expected to supply to other central participants in the more central roles that he has discussed. It seems to me that this lack of transparency may inhibit quite senior participants in presenting themselves as having prior experience gained in an institutionally acceptable (Parsons, 1939) manner and this inhibition may, therefore, compound the impact of the perceptions of co-participants which may thwart would-be more senior participants in achieving their desired learning and progression.

In terms of my additional focussing artefacts it seems logical to me to suggest that if the objective and reputational value (Parsons, 1939) of what one currently has and can supply as use value (Eraut, 1991) is disregarded or perceived as less valuable by other community participants or if these gains have not been achieved in a manner deemed institutionally acceptable (Parsons, 1939) to other central participants, then prior gains have reduced value in negotiating the terms of trade between their possessor and other participants and/or those deciding on future progression opportunities. This suggestion seems to me to imply that although objective and reputational gains within a professional context may in principle be available to any qualified professional, those who would acquire them and those who can grant or impede access to them have their own perceptions and preferences about the specific routes by which prior gains should have been acquired in the past or additional gains may be acquired in future and these perceptions may not match up.

It seems, however, sensible to recall the benefits, in terms of learning that seniors receive by facilitating the learning and progression of juniors by way of reverse flow pervasive learning as described in chapter six. It seems logical to me to suggest that similar benefits may be available to those co-participants who facilitate would-be participants at more central levels. I would suggest that by impeding or thwarting would-be participants their co-participants are also self-thwarting their own opportunities to benefit from reverse flow pervasive learning. I would also suggest

that if transparency were to be sufficient that co-participants were aware of this factor then the opportunity for benefits derived from reverse flow pervasive learning may provide would-be participants with a bargaining chip in negotiating future consensual veneers which more positively evaluate their prior experience and suitability for progression.

It is also logically possible to differentiate the experiences of Malcolm from other instances of potential peer-to-peer learning by suggesting that his centrality has an impact on those relationships. In discussing centrality below, however, I will build on that logical differentiation to suggest another possibility that underlines for me similarity between the nature of Malcolm's peer relationships and those of new-comers.

A number of pupil interviewees, discussed in previous chapters, reported peer-to-peer learning and a number of them reported the impact of pervasive learning flowing from old-timers' practice and the positive contributions to new-comer learning those old-timers made. The old-timers reported in those chapters, who supported the new-comers' learning so strongly were also, on the basis of trainers' interviews, very willing to do so. Those trainers are, however, much more central-participants in the community than the pupils that they assisted. The community participants whose negative perceptions of other senior groups Malcolm identifies are, conversely, closer in centrality to him than the trainers are to the pupils.

I would putatively suggest that it is the closeness in terms of centrality in Malcolm's case and the distance in centrality between the trainers and pupils which may help to partially explain their difference in approaches. Simply put a more central participant who assists a participant significantly less central than or quite a way below him/herself in the hierarchy can make reputational gains (Parsons, 1991) and still remain very central relative to the pupil. When I say this I am suggesting that any corresponding objective loss or lost opportunity for future objective gain for the old-timer is limited in scope in relation to the reputational gain that the old-timer acquires. This must be so, I would suggest, because the pupil that the senior has assisted is not competing with the senior for objective or reputational gains and will likely not do so for some time until they have progressed significantly within the profession. In Lavean (1991) terms the displacement risk to the old-timer trainer from the new-comer s/he trains is low. On the other hand a co-participant at or around Malcolm's level of centrality or hierarchical ranking, in supplying help or support to a would-be participant seeking to advance, may generate a more immediate replacement risk for him/herself. Moreover, a co-participant at Malcolm's

level, who does not supply peer-to-peer support, may well maintain his or her own relative ranking in the participatory hierarchy at no reputational loss. It seems logical to me to suggest that in a low transparency situation it may be difficult for anyone to properly assess the correct terms of trade between these peers. I would suggest that low transparency situations, therefore, may tend to favour inaction or impediment by co-participants in relation to the progression of peers.

This tendency to inactivity or impediment would seem to me to be particularly likely to be a logical approach for other participants if the lack of support can be presented (Goffman, 1959) to the community as the would-be recipient not fitting in with the consensual veneer (Goffman, 1959) amongst co-participants of who is or is not an appropriate, that is an institutionally acceptable (Parsons, 1939) candidate for further advancement and more central participation. A more central participant hoping for further career advancement and reputational or objective gains (Parsons, 1939) must fit in with, I would suggest, a particular self-presentation which must satisfy co-participants' perceptions of who that would-be participant should be and what their prior experience should be. For me this notion is supported by Malcolm's words in relation to one specific example that he perceives, "a *particular picture of who they want to be a* [Role 3]". It seems logical for me to infer that in the circumstances reported by Malcolm some central participants' entrenched perceptions (Goffman, 1959, p.22) of what constitutes an appropriate central participant, what their pre-existing learning territory (Fuller and Unwin, 2004, 2005) and prior experience should be, that is to say, which topological routes to centrality are institutionally acceptable (Parsons, 1939) for them to have followed in the past, may impede access to further objective and reputational gains (Parsons, 1939) and learning and progression opportunities for some other participants. I would also suggest that lack of transparency may magnify the impact of such entrenched perceptions.

In terms of continuity and displacement (Lave and Wenger, 1991) then it seems to me logical to infer that displacement risks flowing from actions which support continuity of the community are low for trainers when training pupils, particularly for trainers who are relatively more central participants. The risks are higher for senior co-participants from senior would-be participants who are seeking more central access. I would suggest that peer-to-peer learning (Lave and Wenger, 1991) and peer-to-peer assistance in progress towards greater centrality in at least some of the nested (Brannan, 2007) communities of practice of the bar is more likely to be facilitated when the risks of displacement between peers are low and more likely to be impeded when those risks are higher. Those risks are likely to be lower when



the peers are not close in terms of relative centrality and the more distant the relationship between the learner and learning provider the less the risk of displacement for the provider.

Indeed my suggestion on the impact of relative centrality is supported, in my view, by the fact that while some pupils' comments indicate that the inn's training provides a venue for learning from other pupils, some indicate that relationships in chambers are competitive which, I suggest, would tend to impede peer-to-peer learning in that location.

Rowan: *"I'm in a chambers where we...and the individuals are such that we get along really well and we share what we're going through with each other. I know in other chambers that's not the case 'cause there's a more competitive feeling."*

Given the differential impact of displacement risk by peers discussed above it seems to me to be helpful in understanding displacement through the communities of practice conceptual lens (Hughes, Jewson and Unwin, 2007) to distinguish the notion of peers into what I will term 'Close-Peers' and 'Near-Peers'. My term close-peer describes the usual form of peer relationships envisaged in the communities of practice framework (Lave and Wenger, 1991). The notion of close-peers, therefore, describes the relationship between community participants who will typically be newcomers of similar levels of centrality and for whom the tensions centred on displacement risk and continuity are focused on their relationships with old-timers. The notion of near-peers describes the relationship between participants of equivalent or near equivalent centrality within the community for whom displacement risk centres in their near-peers rather than on those more central or in addition to those more central. I would suggest that either term can also potentially be used to describe those whom I have described here as co-participants depending on the specific nature of their relationship. I would putatively suggest that the comments of Malcolm and Rowan reported above also suggest that near-peer relationships may in fact exist for participants at any level of centrality. The pupils in chambers described by Rowan where, *"there's a more competitive feeling,"* seem to me to fit my conceptualisation of near-peers and those in her own chambers who she records as not being in conflict seem to me to fit my conceptualisation of close-peers.

The state of being in a near-peer relationship, therefore, can be conceptualised as being characterised by qualities such as inter-peer rivalry motivated by displacement risk or the struggle to obtain restricted sets of objective and/or reputational gains (Parsons, 1959). The state of being in a close-peer relationship can be conceptualised as being characterised by qualities such as by a community bond and/or the chance of mutual gains derived from the peer relationship. I would putatively suggest that the concept of close-peers provides social entities such as the various nested communities (Brannan, 1991) of the bar a potential opportunity to seek possibilities to fracture, reduce or evade the conflicts in pupils' relationships in chambers centred on near-peer relationships by providing a locus for close-peer relations. The notion of close-peers and near-peers gives us, I would suggest, an additional perceptual window through which to understand Lave and Wenger's (1991) analysis of participatory learning and progression in communities of practice. That notion also gives me an additional perceptual tool through which to enhance my understanding of the impact of community restructuring on the reconfiguration of pre-existing tensions and contradictions in such communities discussed above because these notions widen the applicability of restructuring events to multiple locations within any participatory community. When I say this I mean that reconfiguration can be understood not only in terms of its impact across differential sub-structures within a constellation of nested communities (James, 2007) as I suggested in chapter six, not only across a range of hierarchical layers within such nested communities but also in terms the specific nature and quality of interpersonal relationships within hierarchical layers.

In addition to the theoretical developments and generalisations that I have posited above, I believe that I can also draw a number of additional representational generalisations from Malcolm's comments and those pupils' comments that I have discussed above. I would also suggest, therefore, that Malcolm's concern at the existence of these barriers and his wish to report his concern to me indicates the possibility that he would wish to contribute to the community at an even more central level if possible. This potential indication enables me to draw the further inference that career ambition and further advancement in the hierarchy is still a motivating factor for the central participant typology. When this is considered alongside Neve's indication in chapter five that she, a pupil, wishes to move up the hierarchy it is possible to draw the inference that for a range of typologies of centrality within the profession career ambition has importance. Indeed given Malcolm's position as a central participant with high prestige in one sub-component community of the nested communities (Brannan, 2007; Jewson, 2007; James, 2007) of the bar, I would posit

that his desire to progress to greater centrality in another nested community indicates that the ambition to succeed manifests itself in relation to a range of typologies of locational sub-communities within the wider bar community. Malcolm's comments, when considered alongside Malcolm's desire to report his perceptions to me, also lead me to suggest that as for Hannah's and Neve's comments in chapter six, I can infer from Malcolm's perceptions a sense of unfairness in relation to the thwarting of his opportunities to progress.

Although Malcolm does not expressly state it, his comments seem to me to enable me to trace a suggestion that he is aware of the existence of multiple levels of hierarchy within the community including a significant number of inter-related levels and independent and co-dependent barriers to progression within central locations in the nested communities. It seems apparent to me from Malcolm's responses that some of the key elements that can logically be distilled from them are the importance to participants not just of status and respect, as identified in chapter five but also the individual's relative location within a hierarchy or multiple hierarchies and barriers and boundaries relating to those relative levels at multiple levels and the importance of the risk of displacement by peers in impeding the furtherance of continuity of the community (Lave and Wenger, 1991).

It also seems to me that it is possible to deduce from Malcolm's comments about the possible fees associated with transition to new areas of centrality and his lack of specific knowledge about the same and about who would be viewed as an appropriate candidate for those roles an indication that there is a lack of transparency in relation to the routes to more central participation, even for very central participants. This leads me to putatively suggest the concern that non-transparency in relation to routes to career progression is potentially significant at a range of centrality locations within the profession and impacts upon re-locational opportunities and upon entry, boundary and migration issues within the nested communities of the bar for participants of a range of levels of centrality.

### **Concluding thoughts**

I began this chapter about impediments to participatory learning and progression which seemed to me to be of an extreme nature by indicating that the impediments that I intended to discuss here were based on comments which appeared to me to be strongly felt by my interviewees or to be very unexpected or which led to

unexpected deductions. In the course of my analysis in this chapter I have deduced a perception that strong or absolute impediments to learning through participation which thwart participants' learning opportunities may reside in something as specific as the actions of one person or the nature of one relationship or may be part of the structure of the community. I have also uncovered the notion that thwarting impediments may apply to old-timers as well and to new-comers and may be derived from my new concept of rogue consensual veneers (Goffman, 1959) that may be current within the community. In the course of my analysis here I developed my notion of learning terrains and participation topographies building on Fuller and Unwin's (2004, 2005) conception of learning territories. My analysis in this chapter has also enabled me to trace the idea that the issues, concerns and threats to continuity that I have identified here may be magnified in their impact by lack of transparency and that this may be so at a range of levels of centrality of participation. I have also developed new understandings of the impact of the qualitative nature of peer relationship within the communities of practice framework.

In the course of my next chapter I will briefly summarise my research, my representational and theoretical generalisations and my theoretical developments. I will then contextualise my research in relation to some of the most recent theoretical developments in professional education and formation. I will also develop a number of recommendations which, it seems to me, are important in that they may go some way towards resolving or reducing the dichotomies and thwarting impediments that I identified in this and in previous chapters and to ameliorating or removing the potential existential threat to the community of the bar that I have uncovered.

## **Chapter 8**

### **Final reflections and recommendations**

#### **Introduction**

In this chapter I will summarise the understandings that I have uncovered in my study and make a number of suggestions for further research and a number of recommendations which, it seems to me, are important for the future of the profession.

In my literature review, chapter two, I stated that my study would focus on ways of understanding participants' perceptions of practice based training sessions for pupil barristers. I explained that I would contextualise these understandings within the framework provided by theories of social learning and current theoretical understandings of what it is to be a legal professional. I noted in chapter two that the literature relating to barrister training, particularly in regard to the English and Welsh context and more particularly in relation to barristers and the sociological culture of learning, was extremely limited. Indeed what literature there is generally resides within the academic field of law rather than that of professional education. I also identified that there is an ambiguity in the available literature in defining what is meant by legal professionalism. I would argue that my study of Inner Temple pupil barrister training in England and Wales is, therefore, a very significant and novel contribution to the academic literature resource in relation to barrister training. My study has also provided extensive illumination of perspectives on and understandings of notions of legal professionalism and, therefore, gone some considerable way towards resolving aspects of the pre-existing ambiguity.

In identifying the communities of practice theoretical framework as a conceptual lens (Hughes, Jewson and Unwin, 2007) through which we might develop our understanding of the processes by which individuals become barristers, I noted the potential weaknesses and definitional issues of the communities of practice framework (Hughes, 2007; Fuller, 2007). I also noted the potential value of less central participants' antecedent experience, their pre-existing learning territory, to more central participants (Fuller and Unwin, 2004, 2005). I suggested in chapter

two that my study provides an opportunity to understand and define more fully these potential weaknesses, definitional issues and antecedent learning territory issues.

When I began my analysis I identified a gulf between the current areas of research into legal professionalism and existing educational research into other examples of workplace learning. I also stated that my purpose in conducting this research was to provide a conceptual bridge (Lave and Wenger, 1991) to enable educational links and synergies to be developed between the bar and educational academics. It seems to me that the need for such a conceptual bridge has been further supported by the interview data from pupils and trainers, new-comers and old-timers, reported by me in chapters five, six and seven. I also believe that I have, in the course of this study, provided such a conceptual bridge. In constructing that bridge I have developed a fuller understanding of what it is to be a barrister, the processes by which new-comers become barristers and by which community participants may progress to further centrality and the factors perceived to facilitate or hinder progression within that community. In pursuit of that understanding I have drawn a number of representational and theoretical generalisations from the data and I have also contextualised my understanding within the parameters of educational theory and consequently, configured it into a format accessible to barristers, educational academics and other readers.

In my discussion below I will summarise what my research has uncovered and the important, distinctive and original contribution to the field of professional education and formation literature which my study makes. I will then contextualise and locate my research in relation to a generative discussion of some of the most recent literature and theoretical developments in the field. I will also set out the further insights which my research provides into those theoretical developments and the important and novel pathways for further research into those areas which my study provides. I also intended when I began this study to make, if appropriate, some recommendations for the professional community for the future and a number of these are made below.

### **What this study has uncovered**

In chapter five I focussed on the sub-questions to my research question and in chapter six I refined my analytical focus to address my substantive research question more directly, a focus which I continued to refine and develop in chapter

seven. This approach has enabled me to develop a perception of how my interviewees understand: the relationships between the pupil training system, their own contribution to this and becoming a member of the community; the relationships between new-comers and old-timers, hierarchies and distribution of power in the community and boundaries and barriers to entry, progression and exit; and, what legal professionalism is, how and where one learns the skills and knowledge underpinning it and what motivates participants to learn these. Information was less forthcoming on the impact of class, gender and ethnicity issues and the forces which created the community of practice.

The understandings that I uncovered and the perceptions that I developed in chapter five illuminated my interviewees' perceptions, as community participants, of the community and their locational context within it. I was then able, in chapter six, to deepen my analysis to further develop my understanding in a theoretical context and to uncover, in that context, what understanding, clarification or delineation of the notion of communities of practice could be provided by examination of Inner Temple pupil training and specifically by examination of how pupil barristers and their trainers understand the: interactions, connections and structures within their community of practice; educational and relational interactions within the community; constructional, contextual, locational, hierarchical and authoritarian configuration; interpersonal and intercommunity connections; and, re-locational opportunities and entry, boundary and migration issues.

In chapter seven I examined additional notions related to extreme 'thwarting' impediments to participatory learning and progression to centrality within the community and in the course of that discussion I was able to further develop my understandings of professional learning in social context within notions of participatory learning in communities of practice (Lave and Wenger, 1991) and current theoretical understandings of what it is to be a legal professional and to posit additional theoretical refinements.

In the course of my study I have discovered that barristers are a community of practice who aspire to an identity of professional excellence, who are socialised into a profession steeped in notions of service and of doing what is right. I have also discovered that barristers are willing to suffer considerable hardship in their quest to achieve these goals and are impeded by a lack of transparency, financial barriers and near-peer conflicts'. I have also uncovered failings in and structural conflicts between the approaches taken to new-comers by old-timers in different locations within the nested communities of the bar. As a counterpoint I have uncovered

evidence supporting the notion that new-comers are facilitated in progression by excellent service from volunteer old-timer trainers and the training opportunities provided by their inn.

In the course of my analysis I have uncovered notions of professional identity, professional socialisation and factors facilitating or impeding learning and progression within the bar community as perceived by my interviewees. In chapters five and six I uncovered a number of perceptions which suggest that there are significant factors supporting learning and progression for new-comers within the nested (Brannan, 2007; Jewson, 2007; James, 2007) communities of practice of the bar and specifically in the context of the inn and the inn's pupillage training. I also suggested in chapter five that there seemed to be an underlying notion of service at the bar in which old-timers serve and assist new-comers by facilitating their learning and progression. I also suggested that this notion of service was perceived as a highly regarded characteristic by a number of my interviewees. In chapter six I traced the perception that this notion of service extended to future barristers and potentially to clients and the general public.

My novel focussing artefacts based on Goffman's (1959) notions of presentation of the self, Parsons' (1939) notion of professional socialisation and my own innovative notion of pervasive learning, the concept of permeation of the teaching curriculum by practice skills and knowledge usually associated with the learning curriculum, have facilitated this uncovering and identification. In the course of my analysis I have also developed my own additional novel notion of reverse flow pervasive learning which has helped me to uncover factors in the process of training new-comers which support learning by old-timers. I also posited the metaphorical notion of learning topographies and learning terrains in chapter seven which I created as a development of Fuller and Unwin's (2004, 2005) conception of learning territories. That metaphorical notion provides a means to add additional perceptual value and clarity to understandings of my interviewees' comments when viewed through the communities of practice (Lave and Wenger, 1991) conceptual lens (Hughes, Jewson and Unwin, 2007). These focussing artefacts, in addition to uncovering perceptions of professional identity and professional learning and factors perceived as facilitating or impeding learning and progression also enabled me to trace the existence of a number of hierarchical, relational and/or impeding factors at some locations within the nested communities of the bar which seemed to me to be quite extreme in nature.



In my analysis in the preceding three chapters I uncovered the perception that some of the hierarchical relational and/or impeding factors traced from interviewees' comments were configured around two contradictions. The first of these contradictions was a dichotomy between the perception of what is an acceptable (Parsons, 1959) presentation of the self (Goffman, 1959) for a barrister in practice and what is an acceptable (Parsons, 1959) presentation of the self (Goffman, 1959) for pupils in chambers. The second of these contradictions was a dichotomy between the way in which old-timers behave towards new-comers during inn training and how some old-timers behave towards new-comers in some chambers.

I suggested in chapter six that those dichotomies constituted a potential threat to the continued existence of the notion of service, potentially including service to the client and public, as this notion is currently perceived at the bar. It seemed to me that this threat arose as a result of potential changes in the way in which future barristers may perceive and understand themselves and the bar and present (Goffman, 1959) themselves as members of the community. I also suggested that these perceptual and presentational changes might undermine the future continuity of the profession as participants currently understand it, generating a potential existential threat to the continuity of the nested communities (Brannan, 2007; Jewson, 2007; James, 2007) in their current form.

I additionally reported in chapter six the view of a senior trainer that the inn failed in its efforts to socialise quite a number of pupils into the current ethos of the bar. I would further suggest here, that this ethos very likely includes my uncovered underlying notion of service. I would also posit here that the reported failure by the inn to effectively socialise more pupils into the profession may compound the concerns identified above. I say this because it seems to me that any such failure by the inn might logically be expected to magnify the negative impact of those changes to notions of service and consequently augment their effect on the continuity of the professional community of the bar as a whole or at least generate lower levels of effectiveness in limiting the negative impact of these.

In chapter seven I uncovered the perception that some thwarting impediments are created for some community participants by relationships and/or the perceptions of other participants. I also traced a perception that social interactions and connections are a key means of navigating participants' progression towards centrality within my notion of a 'learning and progression terrain', my novel development of Hughes and Unwin's (2007) notion of learning territories.

The dichotomies and thwarting impediments discussed immediately above are however, at a fundamental level, founded on or derived from social relations. I would, therefore, suggest that just as the issues that I have traced in earlier chapters can be uncovered by understandings derived from and structured within the communities of practice perceptual framework and theories of social learning, so too might potential solutions be revealed through the same perceptual framework. When I say this what I mean is that quite a number of these issues are relational matters and fall within the purview of social structures and connections. For me the situating of these issues within that purview implies that they could, in my view, be addressed and moved towards resolution or at least ameliorated by social entities within the nested communities (Brannan, 2007; Jewson, 2007; James, 2007) of the bar which are experienced in delivering learning in a social context. The inns are, in my view, such entities and my recommendations as to what steps they might take, if they choose to do so, are discussed in greater detail below.

It seems to me that the desire for such ameliorating action to be taken is strong. I say this because I have suggested in chapter six that a number of comments indicated a perception of unfairness by my interviewees, particularly in relation to their heavy workload and treatment in chambers and the nature of relationships within the chambers component of the nested communities (Brannan, 2007; Jewson, 2007; James, 2007) of the bar. I would argue here that Hannah's and Rowan's comments in that chapter also seem to my mind to constitute an attempt to protest against potential unfairness and a request to ameliorate it. I say this because these comments were made to me in the knowledge that they may be reported in an academic paper. I believe that I can infer from that knowledge that these interviewees' comments can be understood as an implicit request for fairness and appropriate assistance addressed to the wider nested communities of the bar and to the academic community. In other words these pupils wanted the wider bar and academic community to know what they were experiencing and to take steps to remedy this situation for pupils generally.

I have also indicated in chapters six and seven my perception that a number of new-comer participants and senior old-timer participants in the professional community of the bar opposed the impediments, unfairness and thwarting and lack of transparency that they reported. I would further suggest that the fact that they went to some effort to ensure that they reported these matters to me or essentially ensured that I overheard them discussing these issues also seems to me to enable me to imply that, as with Hannah and Rowan, these community participants are

making an implicit request for fairness and appropriate assistance addressed to the wider nested communities of the bar and the academic community.

Many of these community members of all levels of centrality appear to me to be making that implicit request for the benefit of others or for others alongside themselves. I say this as logic suggests to me that almost all of these interviewees and other contributors are making those requests in circumstances where they can likely deduce that it will be subsequent community participants who will benefit from any change rather than themselves. I say that they can likely deduce this because their level of centrality may well have altered or their membership of the bar may even have ended by the time that any change can realistically be made. Indeed some of these participants are requesting assistance for participants at levels of centrality considerably below their own.

This selfless request for assistance for others seems to me to be in keeping with the notion of service to others less central which was uncovered by me as a characteristic of the bar and barristers in chapter five and six.

I believe that these requests need to be understood in the context of the very positive views of the inn and its trainers that several pupils and trainers reported in chapters five and six. This positive perception, when taken together with the implicit request for assistance identified above, suggests that these pupils may hope for their inn to defend them from the unfairness described and that some of their trainers concur. I would also suggest that it is logical to deduce that the new-comers and some of the old-timers reported in chapter seven would hope for their inn to defend them from thwarting.

### **Contextualising my study in the generative milieu of current research**

In addition to the perceptions and the theoretical developments and generalisations that I have uncovered I would argue strongly that my study provides further insights into the field of professional education and formation when contextualised generatively within the premises of some of the most recent research literature.

Recent literature delves into notions of the relations between propositional and practical knowledge (Young and Muller, 2014). Guile (2014a) posits the comingling of these knowledge forms in professional practice and the notion of re-contextualisation as a way of understanding the processes by which that

commingling occurs. Guile (2014a, p.81) uses the term 'comingling' to describe the process by which a professional combines theoretical understanding and practical experience to make professional judgements. He proposes re-contextualisation as a continuous iterative process by which professionals may refine their comingled theoretical understanding and practical experience to form professional judgements. He also suggests that the concept of workplace re-contextualisation provides scholars with a useful focus for investigating whether new-comers are properly supported in understanding the relationship between theoretical knowledge and professional practice, in a given profession (Guile 2014a, p.90). Guile (2014b, p.138) however, goes further to suggest that notions of re-contextualisation can be used to enhance extant educational and professional formation programmes.

It seems to me that Guile's suggestions have resonance for the perceptions of the bar that I have uncovered. I say this because some of my interviewees' perceptions of the relationships between new-comers and old-timers in the chambers (workplace) component of the nested communities of practice (Brannan, 2007) report instances where support was lacking and record their own desire for change. For me this evidence supports the value of Guile's (2014a) focussing suggestion but my research into thwarting impediments goes beyond his focus on new-comers by broadening it to would-be participants at a variety of levels of seniority. In chapter seven I discussed contexts where co-participants perceptions of colleagues' prior experience and an apparent lack of transparency could form thwarting impediments to professional progression. It seems to me, therefore, that my interviewees' comments suggest that old-timers seeking progression may also be less well supported than they could be in understanding how best to comingle extant and ongoing theoretical understanding and practical experience in a manner that is institutionally acceptable (Parsons, 1939) to other members of the professional community and to self-present (Goffman, 1959) as having done so. I would, therefore, suggest that Guile's (2014a) notion of workplace re-contextualisation can be adopted to enhance extant learning (Guile, 2014b) and progression opportunities not only for new-comers but also for old-timers and very senior old-timers.

In another recent analysis, relating to the support available for new-comer learning, Fuller and Unwin (2014) advocate the potential benefits of systems of apprenticeship for professions in facilitating the creation of strong socio-material support for professional development and suggest that future research into organisational and support issues may be facilitated by the apprenticeship 'lens'.

I would suggest that the identification of pupillage as an apprenticeship by a number of my interviewees frames my research within an apprenticeship lens and shows that the bar already has, in the form of pupillage, a robust apprenticeship system which resides at a range of work-place and quasi-workplace locations such as chambers and the inns. My research has also uncovered strengths and weaknesses within the pupillage system including organisational and support issues. I would also posit, however, that my current research has gone further than merely applying Fuller and Unwin's apprenticeship lens to new-comers. My discussion in chapter seven has broadened the apprenticeship lens focussing suggestion to potentially apply to would-be participants at a variety of levels of seniority. I suggest this because it seems to me that those seniors are in a quasi-apprentice relationship with their seniors and co-participants. When I say this I mean that the issues of transparency, potential sequestration and access to participation opportunities that new-comer apprentices may experience may also be experienced by some of these seniors.

The synergy of my research with Guile's (2014a, 2014b) and Fuller and Unwin's (2014) notions strongly suggests to me that as the bar faces potential educational changes and engages with the newly authorised business structures and potential future multi-professional structures over the next few years, that my novel theoretical focussing artefacts will provide a valuable means for scholars to understand those changes and the motivational and relational facilitators and impediments that barristers perceive.

I would also posit that the value added by my focussing artefacts derived from Goffman's (1959) and Parsons' (1939) notions and the understandings derived from them in this and in any future study must necessarily have significant impact for developing understandings of other professions too. I say this because it seems to me that my novel focussing artefacts, which help me to understand the ways in which consensual veneers are formed (Goffman, 1959) and the motivations underpinning these processes of formation (Parsons, 1939) within the professional community of practice, can help scholars to understand re-contextualisation not only in the bar but in other professional communities too. I suggest this because my focussing artefacts can help scholars to understand, the ways in which professionals understand and accept new consensuses and accede to incremental re-contextualisation and how they become persuaded to support novel commingled relations between propositional and practical knowledge within a professional apprenticeship format.

I would also strongly suggest that my notion of pervasive learning, the notion of permeation of the teaching curriculum by practice skills and knowledge more usually associated with the learning curriculum, and my concept of learning terrains and associated participation topographies, which I developed from Fuller and Unwin's (2004, 2005) notion of learning territory, are innovative perceptual tools through which notions of pedagogic re-contextualisation might be understood better and developed further. I say this because, for me, pervasive learning is practice based re-contextualisation and enhancement which may indeed be planned but which may also be inspirational and of the moment. The trainer brings to the learning context his/her personally specific commingled mix of propositional and practical knowledge, brought from practice, which commingles with and re-contextualises pupils' current perceptions. The trainer subsequently takes away from that context a re-contextualised version of that personal knowledge base, now including aspects derived from the pupils' revealed perceptions and performed practice simulation. Within this context my notion of learning terrains implicitly underpins the specific individually commingled mix of theoretical and practical knowledge that a new-comer, would-be participant or indeed trainer brings to the new-comer/old-timer relationship.

It seems to me, therefore, that my theoretical and analytical developments and refinements re-frame the theoretical approaches and analytical insights of recent writers such as Guile (2014) and Fuller and Unwin (2014). That re-framing enables me to develop those writers' arguments to create novel, more broadly contextualised, socio-material pathways (Fenwick and Nerland, 2014, p.7) for further research, incorporating new notions of conceptual skills artefacts such as peer and co-participant input.

### **Important recommendations for the professional community**

The dichotomies and thwarting impediments that I have uncovered are relational matters which I suggest may be moved towards resolution or amelioration by social entities within the nested communities (Brannan, 2007; Jewson, 2007; James, 2007). In my view, therefore, these are matters which any or all the four inns may be able to help resolve or ameliorate. In doing so the inns could play a significant role in maintaining the bars' important ethos of service and in ensuring the continuity of the community of the bar as a whole. I would suggest that the views expressed by my interviewees and my deductions made from these indicate that many

barristers would positively support and willingly assist any inns' initiative to maintain the bars' ethos of service and, thereby, to protect the continuity of the community.

The inns should urgently seek to explicitly promulgate in the community the notion of service to and support for new-comers which I have identified in my analysis, along with an understanding of participatory learning in a community of practice and the notion of the threats to the continuity of the community that I have also identified. This dissemination will, I believe, enable members of the bar to understand the ways in which barristers learn and progress as professionals, the factors which facilitate and impede this and the threat to the community if such learning and progression is impeded. Promulgation could take the form of talks by academics and senior members of the inns and specific continuing professional development training.

The inns should also urgently engage with chambers and other community entities to seek to encourage two sets of actions. The first of these is that based on my present research chambers should take stock of the workload assigned to pupils and the nature of the relationships between new-comers and old-timers in chambers. Chambers should also be asked to take action to facilitate further research to enable the educational academic research community to assist the inns to refine, re-contextualise and enhance the commingling of propositional and practical knowledge (Young and Muller 2014; Guile 2014a) in the professional apprenticeship (Fuller and Unwin 2014) setting of pupillage.

Further research should also be carried out as soon as possible into the perceptions of a broad range of community participants of a variety of levels of centrality and from a wide set of locations within the nested communities of the bar. The focus of this research should include but move beyond the relationships, processes of becoming and motivational and presentational factors that I have uncovered in this study. Specific additional factors for research should be perceptions and impact of the tensions and contradictions, dichotomies and existential threats that I have uncovered in my research and consideration of the opportunities for re-contextualisation for enhancement (Guile 2014b) in the professional education and formation processes of the bar to ameliorate or resolve these. I envisage that research going beyond Fuller and Unwin's conceptualisations and using my current research to actively develop enhancements (Guile 2014b) to the current system of professional formation and advancement and subsequent deeper theoretical understandings. These understandings can then be generalised to derive deeper theoretical explanations of apprenticeships (Fuller and Unwin 2014) in professional learning and formation within and beyond the bar.

This new research will, in my view, further strengthen the conceptual bridge that I have created in my research by providing additional academic resources. Those resources will likely support the profession in re-contextualising (Guile, 2014a) and enhancing (Guile, 2014b) the pupillage relationships of new-comers and the quasi-apprenticeship relations of more senior co-participants into a structure more compatible with expert-apprentice relations rather than master-servant relations (Fuller and Unwin, 2014). This further research will also provide a broader theoretical resource for developing similar re-contextualisation in other fields of professional practice.

In conducting this future research my novel focussing artefacts and innovative perceptual tools described above, will provide essential instruments to help to understand the ways in which consensual veneers are formed (Goffman, 1959) and the motivations underpinning these processes of formation (Parsons, 1939) within the existing learning terrains underpinning re-contextualisation (Guile 2014a) for enhancement (Guile 2014b) and the process of pervasive learning through which learning based on that re-contextualisation may be enabled.

Moreover, Fenwick (2014, pp.141-162) suggests, based on analysis of a number of studies, that small perturbations in complex systems can impel the emergence of new perceptions and perspectives which themselves drive significant change in professional context and in understandings of professional education. I would posit that the conceptual bridge provided by my study, the dichotomies that I have uncovered and the new theoretical understandings of being and becoming within the nested (Brannan, 2007) communities of practice (Lave and Wenger, 1991) of the bar that have emerged from my analysis have the potential to constitute such a perturbation.

As the community of the bar moves forward and faces the challenges of the early twenty-first century we can also expect that existing tensions and contradictions in the community will reconfigure to fit into new structures and relations. Lave and Wenger's (1991) conception that restructuring a community of practice leads to reconfiguration of pre-existing tensions suggests to me that this will be so. In chapter six I discussed my perception that Lave and Wenger's (1991) conception of such reconfiguration is logically compatible with the notion that differential sub-structures within a constellation of nested communities (James, 2007) will exhibit diverse configurations of pre-existing tensions. This perception suggested to me that the reconfigurations that may be experienced in a complex set of nested communities of practice such as the bar could be complicated in the extreme and



difficult to predict or react to. If the structure and relationships within the bar do change over the next several years then it seems to me that this will be an excellent opportunity for my research and the urgent actions and additional research that I suggested above to assist the community to observe and guide the process of reconfiguration of pre-existing tensions into forms in line with the underlying ethos of the bar. I believe that by guiding the process of reconfiguration, aided by the research and promulgation that I have suggested, the inns may protect an ethos of the bar that includes the underlying notion of service and maintain, thereby, the continuity of the community of the bar.

I would suggest, therefore that my research gives the inns a golden opportunity to attempt to ensure that the bar and barristers will be in future what they believe themselves to be, that is, a community of excellent professionals dedicated to the notion of mutual and public service. I believe that taking advantage of this opportunity will also enable the inns to achieve their true potential and have a greater impact in driving the enculturation process for barristers. That enhanced impact in creating professionals who will not only strive for excellence but will also exhibit a duty of service to those that they are responsible to, will, in my view, help to ensure future excellence in barristers and the continued existence of the community of barristers.

### **Concluding thoughts**

My research has provided an important, distinctive and original contribution to the field of study of professional education and formation in the context of theories of social learning and theoretical understandings of what it is to be a legal professional. I have uncovered this information prior to the potential implementation, to any significant extent, of recent changes to the types of business relationships that barristers are permitted to engage in and the potential changes to pre-pupillage and professional education. My research has provided an invaluable resource of perceptions at the bar prior to a potential cusp point within the profession which may impact on internal perceptions of professional identity.

In the course of my analysis I have highlighted the lack of available data in relation to many aspects of the notion of communities of practice and have provided a significant amount of new information in relation to lawyers and more particularly in relation to trainee barristers. My analysis of the information provided by those pupils

and their trainers in the Inner Temple community of practice and related broader communities of practice of the bar has unearthed and elucidated an area of communal practice which until now had gone relatively unnoticed in the educational literature. In conducting my research I have provided an insight into barristers' specific community of practice and contributed significantly to the continuing academic debate centred on the definitional parameters of the conceptual frameworks of communities of practice and legitimate peripheral participation. I suggested in chapter one that the importance of conducting this research at this particular time is underscored by the recent changes to the types of business relationships that barristers are permitted to engage in and the potential changes to pre-pupillage and professional education currently under discussion within the profession. My research has provided an invaluable resource of perceptions at the bar prior to such changes being widely implemented or implemented at all.

My novel focussing artefacts have enabled me to enhance the clarity of perception provided by the communities of practice conceptual lens (Hughes, Jewson, and Unwin, 2007). My adaptation of Goffman's (1959) notions for this purpose has led me to uncover new perceptions and develop new understandings of different ways of presenting oneself at differential stages of the participatory learning process and at different stages of professional development. My application of Parsons' (1939) conceptions of professional socialisation and objective and reputational gains has enabled me to better understand the underlying motivations of some professionals in wishing to exhibit these differential presentations of self and in wishing to satisfy others' perceptions. My novel focussing artefacts have also enabled me, in chapter seven, to develop new understandings of the importance of the perceptions of seniors and near-peers in facilitating or impeding this learning and development. These uncovered perceptions and developed understandings have allowed me to construct my new conception of learning terrains and participation topographies as a development of Fuller and Unwin's (2004, 2005) conception of learning territories. My novel focussing artefacts have, therefore, enabled me to develop an enhanced understanding, clarification and delineation of the notion of communities of practice in the context of Inner Temple pupil training. In doing so I have provided a conceptual bridge (Lave and Wenger, 1991) enabling educational links and synergies to be developed between the bar and educational academics. I have also, in this chapter, contextualised my research in a generative discussion of some of the most recent theoretical developments in professional education and formation, detailed further insights which my research provides into those theoretical

developments and suggested important new research routes into those areas which my study provides

As I discussed above my study has revealed a community of practice dedicated to excellence and driven as individuals by a notion of service to those less central than themselves in the community and to their clients. Individual barristers are, however, constrained by financial, structural and relational impediments and issues of transparency in progressing towards that excellence and in, therefore, being best placed to provide that service. I would suggest that if this is what barristers are then the public would be better served by having more of them rather than less. I would, therefore, suggest that the community should act to ameliorate these impediments to excellence by taking the actions that I describe above and that the inns have a crucial role to play in that task.



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## Appendix One

**This invitation letter was distributed to potential pupil interviewees prior to their agreeing to be interviewees.**

Dear Pupil Barrister,

I am conducting research into the Pupil Training Programme and into the Pupils' and Trainers' views of the relationships between: the various types of training used and of the relationships between the Pupils, the Inns, the Trainers and the other organisations and entities of which they may be members. The research is for my doctoral thesis at the Institute of Education, University of London.

I would be very grateful if you would be willing to participate in the research as clearly, your views, perceptions and input on these matters are extremely important.

I will be interviewing a number of pupils in the near future either in a focus group format or individually and would like to invite you to attend an interview, which will take about an hour.

All information gathered from you will be held and used in an anonymous format and no information, which can be used to identify you, will be used in reporting the research. All participants will be specifically requested to respect the privacy and confidentiality of other Pupil and/or Trainer Participants in this research.

If you would be willing to participate in this research please contact me at, **[my email address is redacted in this appendix to preserve my privacy but was made available here to potential interviewees]**.

If you participate, you have the right to withdraw at any stage and no data collected from you will be used.

Your involvement in this research will make a valuable contribution to our understanding of Pupil Barrister Training

Yours Sincerely

Stephen Halsall





## Appendix Two

**This invitation letter was distributed to potential trainer interviewees prior to their agreeing to be interviewees.**

Dear Trainer,

I am conducting research into the Pupil Training Programme and into the Pupils' and Trainers' views of the relationships between: the various types of training used and of the relationships between the Pupils, the Inns, the Trainers and the other organisations and entities of which they may be members. The research is for my doctoral thesis at the Institute of Education, University of London.

I would be very grateful if you would be willing to participate in the research as clearly, your views, perceptions and input on these matters are extremely important.

I will be interviewing a number of Trainers individually in the near future and will also be interviewing pupils separately either in a focus group format or individually.

I would like to invite you to attend an interview, at a date subsequent to the training weekend.

There will be no additional time allocation impact on you, during the advocacy weekend, but you will be invited to attend an individual interview at a later date, which will take about an hour.

All information gathered from you will be held and used in an anonymous format and no information, which can be used to identify you, will be used in reporting the research. All participants will be specifically requested to respect the privacy and confidentiality of other Pupil and/or Trainer Participants in this research.

If you would be willing to participate in this research please contact me at, **[my email address is redacted in this appendix to preserve my privacy but was made available here to potential interviewees]**.

If you participate, you have the right to withdraw at any stage and no data collected from you will be used.

Your involvement in this research will make a valuable contribution to our understanding of Pupil Barrister Training.

Yours Sincerely

Stephen Halsall



## Appendix Three

**This consent form, containing a confidentiality agreement was distributed to pupil and trainer interviewees at the beginning of their interview and signed by them prior to the start of the interview. The consent form, when distributed to my interviewees was produced on a single sheet of paper so that interviewees could be confident that the document that they were signing could not be amended later.**

### **Consent Form**

In relation to the research conducted by Stephen Halsall into the Pupil Training Programme and into the Pupils' and Trainers' views of the relationships between: the various types of training used and of the relationships between the Pupils, the Inns, the Trainers and the other organisations and entities of which they may be members.

I agree to the following:

The recording of information collected from me and in relation to me, for academic and/or research purposes.

The transcription of information collected from me and in relation to me, into an anonymous form, for academic and/or research purposes.

The retention of information collected from me and in relation to me, in an anonymous form, in paper or electronic form, for academic and/or research purposes.

The use of information collected from me and in relation to me, in an anonymous form, for academic and/or research purposes.

The publication of information collected from me and in relation to me, in an anonymous form, for academic and/or research purposes.

The dissemination of information collected from me and in relation to me, in an anonymous form, for academic and/or research purposes.

The copyright for any recordings made during the information collection and/or research process will belong to Stephen James Halsall.

I also agree to respect the privacy and confidentiality of all other Pupil and/or Trainer Participants in this research.

I am aware that I can withdraw from the research at any stage.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

## Appendix Four

**These are the questions which I asked my pupil interviewees. If supplemental questions to these were asked and the interviewees' response to these appears in my analysis then the supplemental question appears along with that response in the text of the relevant chapter to ensure clarity for the reader.**

### **Begin with introduction.**

This conversation today is essentially a discussion between you and me. It's not a cross-examination and it's not a list of questions that you need to answer in a particular way. You can answer any question in any way that you wish. The conversation is intended to be an opportunity for me to explore what you are thinking and learn how you feel about the training and experiences that you are undergoing. It is also an opportunity for me to learn about any changes or new experiences you feel that you are going through as a pupil either on this course or anywhere else.

### **First question**

Can you tell me first, why have you chosen to become a barrister, why you have decided to put yourself through this training and these experiences?

How do you feel you are progressing in becoming a barrister – are there any parts of the process that you have found easier to deal with or more difficult to take on board?

Can you tell me how you feel about the role of the Inn's training in your journey towards becoming a barrister?

What about learning to be a barrister, has been particularly interesting for you and what has been challenging?

In relation to the training and learning that you have had or will have what do you feel about working together with the other pupils?

In relation to the training and learning that you have had or will have what do you feel about working together with the trainers?

How do you feel the training you have undergone and the process of becoming a barrister relates to the world outside the bar?

*Possible supplemental(s) may be needed for this question to be adjusted and added to as required.*

When we talk about the Bar we might talk about people called pupils, barristers, masters, or things called, chambers, Inns, the Bar Standards Board and the Bar Council. What are these people or things to you and how do you relate to them?

*Possible supplemental(s) for this question to be adjusted and added to as required*

What do you most look forward to about practising as a barrister and/or what do you feel will challenge you most?

To what extent do you feel that the training you have experienced or will have, with the Inn or elsewhere, is preparing you for these things that you look forward to or will be challenged by?

Have any stories or anecdotes that you have heard from barristers influenced you in deciding to become a barrister and/or in the process of becoming a barrister?

## Appendix Five

These are the questions which I asked my trainer interviewees. If supplemental questions to these were asked and the interviewees' response to these appears in my analysis then the supplemental question appears along with that response in the text of the relevant chapter to ensure clarity for the reader.

### Begin with introduction.

This conversation today is essentially a discussion between you and me. It's not a cross-examination and it's not a list of questions that you need to answer in a particular way. You can answer any question in any way that you wish. The conversation is intended to be an opportunity for me to explore what you are thinking and learn how you feel about the training that you have been involved in or will be involved in and any experiences that you are undergoing or have undergone as a trainer and/or as a barrister. It is also an opportunity for me to learn about any changes or new experiences that you feel that the pupils that you have trained or will train are going through or that you yourself are going through as a trainer and/or as a barrister either in relation to this course or anywhere else.

### First question

Can you tell me first, why have you chosen to become a trainer, why you have decided to become involved in training pupils and in any related experiences?

Why did you yourself choose to become a barrister and why, in your view, do you feel that the pupils that you train might have chosen to become barristers and to put themselves through this training and these experiences?

How do you feel that the pupils that you have trained are progressing in becoming barristers – are there any parts of the process that they seem, to you, to find easier to deal with or more difficult to take on board?

Can you tell me how you feel about the role of the Inn's training in pupils' journeys towards becoming barristers?

Based on your own experience of becoming a barrister and the training that you have been involved in what do you feel that the pupils that you have trained will find particularly interesting about becoming a barrister and what will be challenging for them?

What about your role as a trainer and/or the process of training pupils, has been particularly interesting for you and what has been challenging?

In relation to the training and learning that you have been involved in or will be involved in what do you feel about working together with the pupils?

In relation to the training and learning that you have been involved in or will be involved in what do you feel about working together with the other trainers?

What, if anything, have you learned or gained, from being involved in training and/or working with pupil barristers.

*Possible supplemental(s) may be needed for this question to be adjusted and added to as required.*

What, if anything, have you learned or gained, from working with other trainers.

*Possible supplemental(s) may be needed for this question to be adjusted and added to as required.*

How do you feel the training and learning that you have been involved in and the processes by which a pupil becomes a barrister relates to the world outside the Bar?

*Possible supplemental(s) may be needed for this question to be adjusted and added to as required.*

How do you feel being a trainer and/or a barrister relates to the world outside the bar?

*Possible supplemental(s) may be needed for this question to be adjusted and added to as required.*

When we talk about the Bar we might talk about people called pupils, barristers, masters, QCs or things called, chambers, Inns, the Bar Standards Board and the Bar Council. What are these people or things to you and how do you relate to them?



*Possible supplemental(s) for this question to be adjusted and added to as required*

What have you most enjoyed or valued about practising as a Barrister and/or on the Bench and/or what do you feel has challenged you most.

To what extent do you feel that the training that you have been involved in or will be involved in, with the Inn or elsewhere, is preparing pupils for the things that you have enjoyed or valued or been challenged by as a barrister or on the Bench?

What have you most enjoyed or valued about being a trainer and/or what do you feel has challenged you most.

In what ways do you feel that the pupil training experiences that you have been involved in, either at the Inn or elsewhere compare or relate to any training that you received, at the Inn or elsewhere, when you were a pupil or at any other time.

Have there been any stories or anecdotes or anything else that you have found useful and/or have used in training or in talking with pupils either at the Inn or elsewhere?

Have any stories or anecdotes or anything else that you have heard from other barristers or other trainers influenced you in deciding to become involved in the pupil training course?



## Appendix Six

Table 1

An anonymised list of my interviewees and a summary of their anonymised but relevant characteristics and contextual information.

Assigned Name	Pupil or Trainer	External experience	Centrality of participation in UK barrister practice	Centrality of participation in training	Contextual information
<b>Dillon</b>	Pupil	None reported	New-comer	Pupil Trainee	Group interview with two other pupils, Tamsin and Riordan.
<b>Tamsin</b>	Pupil	None reported	New-comer	Pupil Trainee	Group interview as above.
<b>Riordan</b>	Pupil	None reported	New-comer	Pupil Trainee	Group interview as above.
<b>Eli</b>	Pupil	Professional, legal or employment experience prior to pupillage	New-comer	Pupil Trainee	Group interview with five other pupils, Isabella, Theo, Chloe, Neve, and Ryan. Left early and subsequently re-interviewed individually in full.
<b>Isabella</b>	Pupil	None reported	New-comer	Pupil Trainee	Group interview as above. Stayed until end of interview.
<b>Theo</b>	Pupil	Professional, legal or employment experience prior to pupillage	New-comer	Pupil Trainee	Group interview as above. Stayed until end of interview.

<b>Assigned Name</b>	<b>Pupil or Trainer</b>	<b>External experience</b>	<b>Centrality of participation in UK barrister practice</b>	<b>Centrality of participation in training</b>	<b>Contextual information</b>
<b>Chloe</b>	Pupil	None reported	New-comer	Pupil Trainee	Group interview as above. Stayed until end of interview.
<b>Neve</b>	Pupil	None reported	New-comer	Pupil Trainee	Group interview as above. Left early and subsequently re-interviewed individually in full.
<b>Ryan</b>	Pupil	None Reported	New-comer	Pupil Trainee	Group interview as above. Left early not re-interviewed.
<b>Nathan</b>	Pupil	None reported	New-comer	Pupil Trainee	Group interview with one other person, Abigail.
<b>Abigail</b>	Pupil	None reported	New-comer	Pupil Trainee	Group interview as above.
<b>Benjamin</b>	Pupil	None reported	New-comer	Pupil Trainee	Group Interview with one other pupil, Victoria.
<b>Victoria</b>	Pupil	None reported	New-comer	Pupil Trainee	Group interview as above.
<b>Lucy</b>	Pupil	Professional, legal or employment experience prior to pupillage	New-comer	Pupil Trainee	Group interview with one other pupil, Yvonne.
<b>Yvonne</b>	Pupil	Professional, legal or employment experience prior to pupillage	New-comer	Pupil Trainee	Group interview as above.
<b>Cornelius</b>	Pupil	None reported	New-comer	Pupil Trainee	Group interview with one other person, Caleb.
<b>Caleb</b>	Pupil	Professional, legal or employment experience prior to pupillage	New-comer	Pupil Trainee	Group interview as above.

Assigned Name	Pupil or Trainer	External experience	Centrality of participation in UK barrister practice	Centrality of participation in training	Contextual information
<b>Rowan</b>	Pupil	Professional, legal or employment experience prior to pupillage	New-comer	Pupil Trainee	Individual Interview
<b>Amelia</b>	Pupil	None reported	New-comer	Pupil Trainee	Group interview with one other pupil, Joshua.
<b>Joshua</b>	Pupil	Professional, legal or employment experience prior to pupillage	New-comer	Pupil Trainee	Group interview as above.
<b>Zachary</b>	Pupil	None reported	New-comer	Pupil Trainee	Group interview with George and Liam.
<b>George</b>	Pupil	None reported	New-comer	Pupil Trainee	Group interview as above.
<b>Liam</b>	Pupil	None reported	New-comer	Pupil Trainee	Group interview as above.
<b>Charlotte</b>	Pupil	None reported	New-comer	Pupil Trainee	Group interview with Jack and Hannah.
<b>Jack</b>	Pupil	None reported	New-comer	Pupil Trainee	Group interview as above.
<b>Hannah</b>	Pupil	None reported	New-comer	Pupil Trainee	Group interview as above.
<b>Evelyn</b>	Pupil	None reported	New-comer	Pupil Trainee	Individual interview
<b>Lucas</b>	Pupil	Professional, legal or employment experience prior to pupillage	New-comer	Pupil Trainee	Individual Interview

Assigned Name	Pupil or Trainer	External experience	Centrality of participation in UK barrister practice	Centrality of participation in training	Contextual information
<b>Alfred</b>	Trainer	Professional, legal or employment experience prior to/after becoming a barrister	Approaching one decade of experience as barrister practitioner	Approaching a quarter of a decade of experience as a pupil/advocacy trainer	Individual Interview
<b>Henry</b>	Trainer	None reported	Approaching two decades of experience as barrister practitioner. Experience as a judge	Over half a decade of experience as a pupil/advocacy trainer	Individual Interview
<b>Craig</b>	Trainer	None reported	Over a decade of experience as a barrister practitioner	Approaching a decade of experience as a pupil/advocacy trainer	Individual Interview
<b>Malcolm</b>	Trainer	Professional, legal or employment experience prior to/after becoming a barrister	Significant multi decade experience as barrister practitioner. Experience as a judge	Approximately half a decade of experience as a pupil/advocacy trainer	Individual Interview
<b>Grace</b>	Trainer	None reported	Over a decade of experience as a barrister practitioner	Approximately half a decade of experience as a pupil/advocacy trainer	Individual Interview
<b>Arthur</b>	Trainer	Professional, legal or employment experience prior to/after becoming a barrister	Over two decades of experience as a barrister practitioner	Over two decades of experience as a pupil/advocacy trainer	Individual Interview
<b>Andrew</b>	Trainer	None reported	Approaching two decades of experience as barrister practitioner	Over one decade of experience as a pupil/advocacy trainer	Individual Interview

In Table One have used the term pupil trainee for pupils in the centrality of participation in training column and new-comer in the centrality of participation in UK barrister practice column to distinguish between pupils' differing experience levels in relation to these loci of participation.

Although all pupils will be new to the inn's pupillage training programme they will have experienced some advocacy training in a university classroom at the earlier BPTC stage. These pupils will also have experienced some advocacy, other training and/or societal enculturation at the inn during the earlier BPTC and student stages. They are, therefore, not entirely new to the inn or its training but are close to being new-comers and their participation is relatively less central. These pupils are, however, new-comers to practice as a barrister so I have assigned them the label 'new-comer' to reflect the relative lack of centrality of pupils in the barristers' community of practice.

For pupils with experience in the world of work outside the bar I have used the phraseology 'professional, legal or employment experience prior to pupillage'. I have listed these three types of experience together to preserve interviewee anonymity as an individual may be identifiable to others from a more specific description of his/her prior experience. This approach is supported by the fact that the table above suggests that any external experience is relatively rare at the bar. This rarity makes my approach in not identifying the specific experience an appropriate means to protect my interviewees. For trainers with experience in the world of work outside the bar I have used the phraseology, 'professional, legal or employment experience prior to/after becoming a barrister'. This slightly different phraseology is used to preserve anonymity and ensure accuracy in my reporting consistent with a thickly descriptive approach which I discussed and explained my adoption of in chapter three and which is also discussed specifically in relation to my research in chapter four.

Although the intensity of workload at the bar implies that almost all external experience will be obtained before pupillage, the trainer interviewees have been legitimate practitioners for longer than pupils, very much longer for some interviewees and may have experience outside the bar which was gained after pupillage, perhaps when less senior.

In listing the extent of trainers' professional experience as barristers I have reported this in decades or portions of decades. I have sought to avoid giving a specific number of years of practice experience as this may compromise anonymity in a small community in which an individual's number of years of practice experience often appear on his/her chambers website. Moreover, a barrister's experience is often summarised, within the community by his/her 'call date'. A barrister's call date is the year when s/he was first called to the bar i.e. the year in which, in most cases, the barrister began pupillage. Individual barristers' call dates appear on a range of publically accessible documents and websites. I have adopted the same approach to protect anonymity in dealing with the duration of trainers' experience as trainers.



## Appendix Seven

Table 2, 3, 4 and 5

Observation and timing schedule for the Advocacy Weekend training sessions in October 2012

Table 2

	Exercise 1	Exercise 2	Exercise 3	Exercise 4	Exercise 5	Exercise 6	Exercise 7	Exercise 8	Exercise 9
	Closing Speeches Criminal	Witness Handling Examination in Chief and Cross Examination Criminal	Witness Handling Examination in Chief and Cross Examination Criminal Replay	Witness Handling Previous Inconsistent Statements Criminal	Witness Handling Examination in Chief and Cross Examination Criminal	Closing Speeches Criminal Replay	Witness Handling Examination in Chief and Cross Examination Civil	Witness Handling Examination in Chief and Cross Examination Civil	Closing Speeches Civil
	<b>Saturday 27<sup>th</sup> October 2012</b>								
Group 1 Azalea Room	9.00-10.10	11.30-12.40	14.00-14.30	14.30-15.26	15.45-16.41	9.00-9.30	9.30-10.40	10.55-12.05	12.05-12.53
Group 2 Alpine Room	9.00-10.10	11.30-12.40	14.00-14.30	14.30-15.26	15.45-16.41	9.00-9.30	9.30-10.40	10.55-12.05	12.05-12.53

	Exercise 1	Exercise 2	Exercise 3	Exercise 4	Exercise 5	Exercise 6	Exercise 7	Exercise 8	Exercise 9
	Closing Speeches Criminal	Witness Handling Examination in Chief and Cross Examination Criminal	Witness Handling Examination in Chief and Cross Examination Criminal Replay	Witness Handling Previous Inconsistent Statements Criminal	Witness Handling Examination in Chief and Cross Examination Criminal	Closing Speeches Criminal Replay	Witness Handling Examination in Chief and Cross Examination CIVIL	Witness Handling Examination in Chief and Cross Examination CIVIL	Closing Speeches CIVIL
	<b>Saturday 27<sup>th</sup> October 2012</b>								
Group 3 Bluebell Room	9.00-10.10	11.30-12.40	14.00-14.30	14.30-15.26	15.45-16.41	9.00-9.30	9.30-10.40	10.55-12.05	12.05-12.53
Group 4 Cyclamen Room	9.00-10.10	11.30-12.40	14.00-14.30	14.30-15.26	15.45-16.41	9.00-9.30	9.30-10.40	10.55-12.05	12.05-12.53
Group 5 Fern Room	9.00-10.10	11.30-12.40	14.00-14.30	14.30-15.26	15.45-16.41	9.00-9.30	9.30-10.40	10.55-12.05	12.05-12.53
Group 6 Wotton Room	9.00-10.10	11.30-12.40	14.00-14.30	14.30-15.26	15.45-16.41	9.00-9.30	9.30-10.40	10.55-12.05	12.05-12.53
Group 7 Rose Room	9.00-10.10 No observation	11.30-12.40 No observation	14.00-14.30 No observation	14.30-15.26 No observation	15.45-16.41 No observation	9.00-9.30 No observation	9.30-10.40 No observation	10.55-12.05 No observation	12.05-12.53 No observation
Group 8 Wisteria Room	9.00-10.10	11.30-12.40	14.00-14.30	14.30-15.26	15.45-16.41	9.00-9.30	9.30-10.40	10.55-12.05	12.05-12.53

Observation and timing schedule for the Applications Day training sessions in November 2012

Table 3

	Exercise 1 Summary Judgement Application Civil	Exercise 2 Summary Judgement Application Civil	Exercise 3 Injunction Application Civil	Exercise 1 Summary Judgement Application Civil	Exercise 2 Summary Judgement Application Civil	Exercise 3 Injunction Application Civil
	<b>Saturday 10<sup>th</sup> November 2012</b>					
Group 1 Drawing Room	9.50-11.10	11.35-12.55	13.40-15.00	9.50-11.10	11.35-12.55	13.40-15.00
Group 2 Parliament Chamber	9.50-11.10	11.35-12.55	13.40-15.00	9.50-11.10	11.35-12.55	13.40-15.00
Group 3 Luncheon Room	9.50-11.10	11.35-12.55	13.40-15.00	9.50-11.10	11.35-12.55	13.40-15.00
Group 4 Committee Room	9.50-11.10	11.35-12.55	13.40-15.00	9.50-11.10	11.35-12.55	13.40-15.00
	<b>Saturday 17<sup>th</sup> November 2012</b>					
				9.50-11.10	11.35-12.55	13.40-15.00
				9.50-11.10	11.35-12.55	13.40-15.00
				9.50-11.10	11.35-12.55	13.40-15.00
				9.50-11.10	11.35-12.55	13.40-15.00

Observation and timing schedule for the Advocacy Weekend training sessions in January 2013

Table 4

	Exercise 1 Closing Speeches Criminal	Exercise 2 Witness Handling Examination in Chief and Cross Examination Criminal	Exercise 3 Witness Handling Examination in Chief and Cross Examination Criminal Replay	Exercise 4 Witness Handling Previous Inconsistent Statements Criminal	Exercise 5 Witness Handling Examination in Chief and Cross Examination Criminal	Exercise 6 Closing Speeches Criminal Replay	Exercise 7 Witness Handling Examination in Chief and Cross Examination CIVIL	Exercise 8 Witness Handling Examination in Chief and Cross Examination CIVIL	Exercise 9 Closing Speeches CIVIL
	Saturday 26 <sup>th</sup> January 2013								
Group 1 Azalea Room	9.00-10.10	11.30-12.40	14.00-14.30	14.30-15.26	15.45-16.41	9.00-9.30	9.30-10.40	10.55-12.05	12.05-12.53
Group 2 Alpine Room	9.00-10.10	11.30-12.40	14.00-14.30	14.30-15.26	15.45-16.41	9.00-9.30	9.30-10.40	10.55-12.05	12.05-12.53
Group 3 Bluebell Room	9.00-10.10	11.30-12.40	14.00-14.30	14.30-15.26	15.45-16.41	9.00-9.30	9.30-10.40	10.55-12.05	12.05-12.53
Group 4 Cyclamen Room	9.00-10.10	11.30-12.40	14.00-14.30	14.30-15.26	15.45-16.41	9.00-9.30	9.30-10.40	10.55-12.05	12.05-12.53
Group 5 Fern Room	9.00-10.10	11.30-12.40	14.00-14.30	14.30-15.26	15.45-16.41	9.00-9.30	9.30-10.40	10.55-12.05	12.05-12.53
	Sunday 27 <sup>th</sup> January 2013								
						9.00-9.30	9.30-10.40	10.55-12.05	12.05-12.53

	Exercise 1	Exercise 2	Exercise 3	Exercise 4	Exercise 5	Exercise 6	Exercise 7	Exercise 8	Exercise 9
	Closing Speeches Criminal	Witness Handling Examination in Chief and Cross Examination Criminal	Witness Handling Examination in Chief and Cross Examination Criminal Replay	Witness Handling Previous Inconsistent Statements Criminal	Witness Handling Examination in Chief and Cross Examination Criminal	Closing Speeches Criminal Replay	Witness Handling Examination in Chief and Cross Examination Civil	Witness Handling Examination in Chief and Cross Examination Civil	Closing Speeches Civil
	<b>Saturday 26<sup>th</sup> January 2013</b>								
<b>Group 6</b>	9.00-10.10	11.30-12.40	14.00-14.30	14.30-15.26	15.45-16.41	9.00-9.30	9.30-10.40	10.55-12.05	12.05-12.53
<b>Wisteria Room</b>									
<b>Group 7</b>	9.00-10.10	11.30-12.40	14.00-14.30	14.30-15.26	15.45-16.41	9.00-9.30	9.30-10.40	10.55-12.05	12.05-12.53
<b>Rose Room</b>	No observation	No observation	No observation	No observation	No observation	No observation	No observation	No observation	No observation

Observation and timing schedule for the Applications Day sessions in February 2013

Table 5

	Exercise 1 Summary Judgement Application Civil	Exercise 2 Summary Judgement Application Civil	Exercise 3 Injunction Application Civil	Exercise 1 Summary Judgement Application Civil	Exercise 2 Summary Judgement Application Civil	Exercise 3 Injunction Application Civil
	<b>Saturday 09<sup>th</sup> February 2013</b>					
Group 1 Drawing Room	9.50-11.10	11.35-12.55	13.40-15.00	9.50-11.10	11.35-12.55	13.40-15.00
Group 2 Parliament Room	9.50-11.10	11.35-12.55	13.40-15.00	9.50-11.10	11.35-12.55	13.40-15.00
Group 3 Luncheon Chamber	9.50-11.10	11.35-12.55	13.40-15.00	9.50-11.10	11.35-12.55	13.40-15.00
Group 4 Committee Room	9.50-11.10	11.35-12.55	13.40-15.00	No fourth group on this day	No fourth group on this day	No fourth group on this day
	<b>Saturday 16<sup>th</sup> February 2013</b>					
	9.50-11.10	11.35-12.55	13.40-15.00	9.50-11.10	11.35-12.55	13.40-15.00
	9.50-11.10	11.35-12.55	13.40-15.00	9.50-11.10	11.35-12.55	13.40-15.00
	9.50-11.10	11.35-12.55	13.40-15.00	No fourth group on this day	No fourth group on this day	No fourth group on this day

It was not possible to observe all groups for all exercises during the advocacy weekends due to the logistical constraints imposed by the fact that the size and/or configuration of some rooms made entering or leaving the rooms during an exercise potentially disruptive to the training. Moreover the Rose Room was too small to allow for any observation. All groups in other rooms were observed multiple times during the various exercises and typically I stayed in each room for ten minutes before moving to another room. On the applications days it was possible to observe all groups for all exercises and I did so, once again I typically stayed in each room for ten minutes before moving to another room.