

**ACCESS TO KNOWLEDGE AND THE FORMATION OF
LAWYER-IDENTITY: A BERNSTEINIAN COMPARISON
OF UNDERGRADUATE LAW DEGREES AT TWO UK
UNIVERSITIES OF DIFFERENT STATUS**

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Thesis submitted to the University of Nottingham
for the degree of Doctor of Philosophy

July 2016

Abstract

In order to investigate students' success and experience at university, this thesis compared students' access to knowledge through the curriculum, teaching and learning (pedagogy) in Law undergraduate degrees at two UK universities of different status: a higher status 'pre-1992' Russell Group University ('Global') and a lower status 'post-1992' university, which is a member of the Million + Group ('Local'). Lower-status universities recruit more students from unrepresented groups: students from ethnic minorities; those with disabilities; those who have been in local authority care; mature students; and, students from lower socio-economic groups. These students are often judged to be at a further disadvantage because their universities' positions in higher education league tables gives the impression that the universities they are attending offer a lower standard of education than the higher status universities. This research focuses upon students' experiences, at different universities, during their degree and, as such, contributes to the limited body of research about factors which affect student retention and success in higher education.

This research built on a three-year ESRC-funded research project entitled 'Pedagogic Quality and Inequality in University First Degrees' (2008-2012) which used a theoretical framework drawn from the sociologist Basil Bernstein to analyse curriculum and pedagogy in sociology-related social science disciplines in four universities in different positions in higher education league tables. This study employed the same broad conceptual framework and some of the methods of the ESRC project for a smaller-scale study exploring how access to knowledge plays out in the discipline of law in two different status universities. The research presented here was a longitudinal comparative case study of an undergraduate Law degree. At each university, curriculum documents for seven core modules were analysed to highlight the similarities and

differences in curriculum content and pedagogical processes; two tutorial sessions were observed in consecutive years and tutors (4) interviewed before and after the tutorial; six students (12 students) were recruited and interviewed during each year of their degree course (three times altogether). A biographical life grid was completed during the first year of the students' course to provide a biography of each student.

Despite the Law Society dictating a core curriculum for a qualifying law degree, the degrees were differently classified and framed. The main differences that emerged are expressed as three dichotomies (1) vocational/academic: Local offered 'practical insights' by including in the curriculum practical, work-based modules and learner centred teaching and has strong links with the legal profession. It offered a greater variety in assessment methods and more contact time (2) formal/informal relations: relationships between staff and students at Local were more informal and friendly than at Global where a clear, formal hierarchy between staff and students exists (3) independence/dependence: Global expected more independence of its students than Local where they were guided through material.

Students at Local appeared to have higher levels of confidence when contributing to taught sessions and when using their legal knowledge in a professional environment, and project a sense of belonging within their departments and with other legal scholars. Students and staff at Local projected an identity as 'future lawyers' and vocational education, placements and acceptance onto professional legal training courses were highly regarded. In contrast to this, students, and particularly staff, at Global projected an identity as 'academic, critical thinkers' which does not relate to actual practice- vocational training and placements are extra-curricular, post-graduate concerns. Only one of the students at Global chose to pursue a career in law. In conclusion, I argued that students at Global and Local were being advantaged and disadvantaged by different elements of the pedagogy and curriculum.

Acknowledgements

There are many people who have inspired and supported the writing of this phd:

The two participating universities (Global and Local) who let me into their law departments, shared their teaching and provided insights into the life of a law lecturer;

The participants who shared their stories and experiences with me;

My supervisors who kept me motivated and focused throughout the four years;

Jess and Lexi for the laughter, support and wine (long may it continue);

James, for looking after me, putting up with me, and loving me wholeheartedly;

And my family, especially Mum and Dad (the original Dr Ordoyno) for everything that they have done for me (this achievement is yours as much as mine!)

A huge thanks to you all

xx

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Abbreviations

ACLEC	Lord Chancellor's Advisory Committee on Legal Education and Conduct
BIS	Department for Business, Innovation & Skills
BME	Black and Minority Ethnic
BPTC	Bar professional Training Course
BTEC	Business and Technology Education Council
CAQDAS	Computer Assisted Qualitative Data Analysis
DfES	Department for Education and Skills
ESRC	Economic and Social Research Council
EU	European Union
HE	Higher Education
HEFCE	Higher Education Funding Council for England
HEI	Higher Education Institution
HESA	Higher Education Statistics Agency
ILEX	Chartered Institute of Legal Executives
JASB	Joint Academic Stage Board
KIS	Key Information Sets
LETR	Legal Education and Training Review
LLB	Bachelor of Laws
LPC	Legal Practice Course
MA	Master of Arts degree
NSS	National Student Survey
NS-SEC	National Statistics Socio-economic classification
PhD	Doctor of Philosophy
OFFA	Office for Fair Access
QLD	Qualifying Law Degree
THES	Times Higher Education Supplement

Chapter 1: Introduction

This thesis explores the transmission and acquisition of law knowledge in LLB Law degrees in two universities of different status, that is, in universities that in the UK are called 'pre-1992' and 'post-1992'. The exploration is based on the views of undergraduate students (12) undertaking the degrees and of their tutors, observations of teaching, and an analysis of curriculum documents. It takes a theoretical lens from the British sociologist of education Basil Bernstein. In this chapter I first explain the rationale for the research in terms of how it is located in relation to policies concerning widening participation, and in terms of ideas about the connections between access to knowledge and social justice. I then briefly introduce a previous project on which this research has been based, which investigated the transmission and acquisition of undergraduate sociological knowledge. I then introduce the questions that my research addressed. I follow this by a discussion of my own position in the research before outlining the thesis structure.

Widening Participation and Epistemic Access

The expanded system of Higher Education may, at one level, be blurring social divisions in the acquisition of symbolic and economic goods used to maximise individuals' positions in the economy. However, this may mask the fact that elite and mass Higher Education often co-exist and that this co-existence is likely to intensify positional difference. (Tomlinson, 2008. p.59)

I see my research as located within the two fields of widening university participation, which takes in policy as well as scholarly literature, and ideas about how 'epistemic access' connects to social justice.

There are inequities in the UK higher education system that, in the last three decades, has been the focus of government policy academic debate and university interventions. These interventions are aimed at developing fair access and widening participation of what are known as

'underrepresented groups'. As I will show in the next chapter, despite these efforts, inequities can still be seen in who accesses higher education, reports of differential experiences of university students' experiences at university, and, graduate destinations.

In policy terms, the widening participation strategy and initiatives introduced by the so-called 'New Labour' government focused upon changing the attitudes, attainment and aspirations of students from underrepresented groups. However these strategies were underpinned by discourse where students were viewed as 'consumers' and non-participation was framed as a deficit (Burke, 2009). The policies also tended to neglect changing cultures in higher education such as changes to financial support, ambiguity as to which groups are underrepresented in higher education (this currently includes students from low socio-economic groups, state schools, low participation neighbourhoods, mature learners and disabled students (HESA, 2015a)), and different approaches to widening participation within higher education institutions (Jones and Thomas, 2005).

The White Paper, 'students at the heart of the system' (BIS, 2011a) is part of this discourse which depicts students as 'consumers'. It requires all institutions that receive funding from the Higher Education Funding Council for England (HEFCE), to provide so-called 'key information sets' (KIS). These provide greater information about their undergraduate courses for potential applicants: such as the number of contact hours per week; the types of assessments required; student satisfaction survey results; graduate destinations, cost of tuition and accommodation; and the range of modules offered. The information contained in the KIS is standardised so that comparisons between institutions can be made and perceptions of quality can be determined. However these key information sets do not include any information about the knowledge, curriculum or pedagogy of individual courses. The result of this is that students are not

able to make a fully informed decision about their higher education choices.

Policy which depicts higher education as a product and students as consumers results in 'courses ... being valued not for their intrinsic value over time to the student, but for their immediate use value to the graduate in the labour market'. (Brown, 2012). The value being placed upon a students' value in the labour market is discussed further in the 2011 White Paper where the government proposed greater university and industry collaboration with the increase of sandwich courses and the 'kitemarking' or accrediting of courses by employers. The purpose of this was to let students know which courses were most valued by employers and were thus of a high quality. A greater diversity of provider was also proposed in the 2011 White Paper with further education colleges and private higher education providers being encouraged and less bureaucracy and fewer regulations for higher education institutions being promised.

Although I do not engage explicitly with the concept of 'quality' in this thesis, it does consider what constitutes good curriculum and pedagogy. Clegg (2008) argues that there is an assumption in higher education that a vocational curriculum focused upon employability rather than knowledge for the sake of learning is 'good' and relevant for students. I will explore whether students are disadvantaged by either a vocational or academic curriculum, and whether the academic or vocational focus of the curriculum results in an unequal, hierarchically structured education.

The thesis is also concerned with the hierarchy in the higher education system. Research and university recruitment data indicates that students from lower socio-economic backgrounds are more likely to apply to post-1992 universities. Comparisons of the quality of teaching and learning between institutions tend to be made using tools such as student satisfaction surveys and league tables, with implications that those

institutions which are highly ranked offer a better education. These tools often reinforce the view that newer, post-1992 institutions offer lower education standards (Ashworth et al. 2004). League tables focus upon factors such as student-staff ratio, entry requirements and research productivity, which are strongly linked to the status and wealth of the institution, rather than on factors such as diversity of teaching methods and the level of student engagement (Ashworth et al. 2004). This is discussed in greater depth in Chapter 2.

The second field that this research is located within focuses upon epistemic access and how this connects to social justice. Wally Morrow (2009) coined the phrase 'epistemic access'. Morrow argued that formal access to higher education is not sufficient for students to have epistemic access or access to knowledge. For the purposes of this research, my definition of epistemic access is students' acquisition of all kinds of law knowledge through the curriculum, teaching and learning on their undergraduate degree courses. There is a body of literature which discusses epistemic access generally and epistemic access to the disciplines which I will discuss in greater depth in Chapter 4.

Pedagogic Quality and Inequality in First Degrees

This PhD research builds on a three-year ESRC-funded research project entitled 'Pedagogic Quality and Inequality in First Degrees' (ESRC Grant Number: RES-062-23-1438 November 2008 - January 2012). This focused on curriculum and pedagogy in sociology-related social science disciplines in four universities in different positions in league tables. It was a longitudinal study which explored students' higher education choices, their university education, and what they gain from their respective courses. The theoretical framework was provided by the educational sociologist Basil Bernstein who argued that the distribution of formal education throughout society disadvantages those students who are already disadvantaged thus reproducing social injustices. The aim this project was to investigate whether this prediction played out in social

science departments in universities of different status. There are four main findings: firstly, indicators of quality in learning, which are currently absent from the usual measure of 'quality', were identified. These include 'enhanced academic and employability skills', 'understanding and empathy for a wider range of people' and 'a change in personal identity and an intention to change society for the better' (McLean et al, 2012; 2013, 2015). Secondly, engagement with knowledge appears to predict whether or not students achieve these outcomes. Thirdly, quality of teaching appears to mediate the extent to which students engage with knowledge. Finally, the institution's league table position was not reflective of those institutions that scored highly on these newly identified indicators of quality or student perceptions of teaching (Abbas et al, 2010; McLean et al., 2013). There is another body of literature, arising from the research project on which mine is based, much of which uses a Bernsteinian lens which presents evidence about how university curriculum and pedagogy dictates how students can engage with knowledge, and about factors which constrain this engagement. This is the heart of what this thesis is about and I will discuss the literature in greater depth in Chapter 4.

The discipline of Law has a different profile to social science and (in)equities of curriculum and pedagogy play out differently. Law has a core curriculum that all universities must include in their degree (see Chapter 6 for greater discussion). This enables comparisons to be made between the curriculum and pedagogy at different universities. My interest in exploring law as an academic discipline stems from personal experience studying this discipline at university. Although law is a vocational subject, my experience is of an academic curriculum; the only vocational elements existed in extra-curricular activities.

The emphasis of my project was on the distribution, recontextualisation and evaluation of knowledge in two law departments and students' identities both as law students and prospective lawyers. Findings may

throw light on how teaching in law departments might develop, resulting in an enhanced diversity of the academic and professional legal profession.

Research Questions

By comparing a pre-1992 university and a post-1992 university I hoped to reveal any similarities or differences in the pedagogy and curriculum. The content of a law degree is dictated by statute (see Chapter 6 for greater discussion) which meant that direct comparison between the two degrees was possible. The research questions which have guided this research are:

- What are students' experiences of curriculum, teaching and learning of the LLB Law degree throughout the years of their degree at two universities of different status?

- How does teaching and curriculum differ at the different universities? For example do they involve different teaching methods, assessment methods or curriculum content? How do these differences impact upon student retention and success?

- Do the projected students' identities differ at the two universities? How do these identities relate to students' success?

These questions were looked at through a Bernsteinian lens, which is discussed in greater depth in Chapter 3.

My position in the research

Before starting a PhD, I completed an undergraduate law degree at a pre-1992 university and an MA in Education at a post-1992 university, which primarily focused upon widening participation. I have also worked within the Widening Participation Teams at two universities. Through these roles I gained experience of raising awareness of higher education opportunities for students of all ages from lower socio-economic groups. These roles also involved providing school and college students with the opportunity

to experience university life through residential and campus visits. Working with young people, and conducting my own research encouraged my curiosity about various aspects of social justice and fair access within education, especially higher education.

Despite policy recommendations (Atkins & Ebdon, 2014) that universities should support students throughout their educational lifecycle, the work of the Widening Participation Team focuses solely on supporting and educating students before they enter higher education. Once these students enter higher education they become part of the wider student body, receiving support only if they seek it out.

My background in law, along with my experience and interest in the widening participation agenda and student retention directed me to this research area.

Thesis Structure

This thesis contains eight chapters. Below is a summary of the content contained in each chapter.

Chapter 2: The policy context

Chapter 2 deals first with literature about the definitions and evolution of the widening participation agenda, which provides the motivation and context for this research. This is followed by a discussion of the hierarchy within the higher education sector and the impact that league tables have on this hierarchy. The chapter concludes by examining factors which affect student recruitment and retention within higher education. Several of these factors emerged in this research and are discussed in Chapters 7 and 8.

Chapter 3: Applying the Bernsteinian conceptual framework

Chapter 3 introduces the Bernsteinian theoretical framework that I am using for this research. I have positioned this chapter before the literature

review in Chapter 4 because much of the research I will discuss is underpinned by Bernsteinian ideas. I start by introducing Basil Bernstein and the concepts that will feature in this research, namely: code theory, the pedagogic device and pedagogic identities. Each concept is discussed and applied to the discipline of law. The chapter concludes by discussing social realism and positioning my research within this perspective, which will be more fully discussed in the following chapter. I discuss the Bernsteinian framework before introducing social realism because much of this perspective is underpinned by Bernsteinian ideas.

Chapter 4: Conceptualising access to knowledge

Chapter 4 begins by exploring the notion of epistemic access. I then proceed to a systematic review of literature which draws on Bernstein and focuses upon epistemic access in various disciplines. Next, I thematically explore the findings of the earlier ESRC project. The chapter concludes with a discussion about law as a discipline and a profession, where I argue that law is a moral enterprise which preserves and serves society.

Chapter 5: Methodology and methods of data generation: A social realist design

Chapter 5 discusses my methodological approach, which is a longitudinal case study with elements of ethnography. I chose this approach because it not only enabled me an in-depth investigation of students' experiences of law at university, but it also enabled me to make comparisons between two universities. This comparison highlighted similarities or differences between students' experiences at the two universities. After setting out my research questions, I explain the recruitment process I conducted and the students I worked with, and justify my choice of research methods and set out the data sets that I produced. I then discuss Bernstein's languages of description which I used as a tool to interpret my empirical findings and I explain the cyclical process of data analysis used. The chapter concludes by examining the validity of my research and finally, the ethical conduct of my research.

Chapter 6: Setting the scene of the research

In the first part Chapter 6 sets the scene by introducing the LLB law degree as it currently exists in English universities and the tension between different legal professionals over the 'ideal' content of a law degree. I draw on a recent Legal Education and Training Review (LETR) by the Solicitors Regulation Authority (SRA), the Bar Standards Board and Institute of Legal Executives (ILEX) professional Standards into the need for diversification in the legal profession. I then discuss the current statutory content for a qualifying law degree. Having established this background, the chapter then introduces the participating universities, departments and students. I examine the rankings, wealth, student body and image of each institution and then highlight any similarities and differences between the two, using elements of my theoretical framework. The chapter concludes with twelve synopses, one for each of the participating students to introduce them to the reader and, to provide context for their experiences which are discussed in Chapter 8.

Chapter 7: The classification of curriculum and framing of pedagogy

This chapter discusses the LLB Law degree in each law department using analyses of curriculum documents, interviews with staff members and observations of tutorial sessions. I describe the learning environment, the pedagogy and the curriculum, analysing and interpreting through a Bernsteinian lens. I argue that three dichotomies emerge: the relative independence and dependence of the students; the different emphasis on academic and vocational content in the curriculum; and the degree of formality and informality in relationships between the tutors and students. These dichotomies reflect the identities that the departments are projecting. Chapter 8 reveals that these projected identities are the same as the ones being formed by the students.

Chapter 8: The different formations of a specialised pedagogic identity

Chapter 8 discusses the perceptions of 12 students' regarding the pedagogy of their LLB Law degree. I use the data collected from the 12 student life-grids and 36 students' interviews conducted throughout their degree to gain a holistic and longitudinal view from each university. Using a Bernsteinian lens I then examine the similarities and differences that emerge between students at the two universities. I argue that the three dichotomies revealed in Chapter 8 are present in the students' accounts of their university experiences and influence the specialised pedagogic identities projected by the students. This chapter also discusses the potentially negative effect of these dichotomies on students' access to knowledge.

Chapter 9: Access to undergraduate law knowledge

Finally, Chapter 9 discusses the implications of my research findings using a Bernsteinian framework. I suggest that the longitudinal element of this research design enables a holistic picture of the LLB Law degree to be seen, where the students' specialised pedagogic identity develops from fresher to graduate. The use of a Bernsteinian framework enables comparisons to be made between the two universities and I argue that elements of both universities curriculum and pedagogy are necessary to provide students with access to powerful knowledge. I clarify my contribution to knowledge in the fields of widening participation and social class, as well as epistemic access and social justice in higher education. I explain what this research suggests to be an 'advantage' and a 'disadvantage' at each university and I discuss who gets access to powerful knowledge and whether the hierarchies in the legal profession are being reproduced or disrupted. After I highlighting how my findings align to those of the original project, I conclude by discussing my work in terms of (in)equality and quality and how it has added value to the original project.

Chapter 2 : The Policy Context

Introduction

This research is focused on what constitutes justice for students within higher education and, in part, is situated within the widening participation policy and literature. Much of the equality and widening participation policy, research and practical intervention has focused upon widening access to higher education through recruitment, and it is well established that students from lower socio-economic backgrounds face significant barriers to higher education (Archer, Hutchings and Ross, 2003; Bowl, 2003; Crozier and Reay, 2011; Moreau and Leathwood, 2006; Reay, 2005; Reay, Crozier, and Clayton 2009, 2010; Reay, David, and Ball, 2005; Thomas, 2002). This chapter explores the evidence of the barriers to success that students face when they arrive at their chosen higher education institution.

In the last thirty years, there has been what can be described as a move from an 'elite' to a 'mass' system of higher education (Trow, 1973, Williams, 1997), with the number of 18-30 year olds in higher education rising from 12% in the 1980s to 49.3% by 2011/12 (Shelley, 2005). Nevertheless some students remain underrepresented within higher education (HEFCE, 2009; HESA, 2015a) and the opportunities available to students remain unequally distributed across the student diversities of different courses and different institutions (Archer, 2007; Raphael Reed et al. 2007). Students from low socio-economic groups (groups 4-7¹) are one such underrepresented group however they are more highly represented

¹ National Statistics Socio-economic Classification (NS-SEC) is the main social classification in the UK. NS-SEC divides people into classes which are described in terms of parental occupation, e.g. Higher Managerial and Professional Occupations (Class 1), Lower Supervisory and Technical Occupations (Class 5) and Semi-Routine Occupations (Class 6).

within the post 1992 institutions² (HESA, 2015a) and more underrepresented within medicine, dentistry and veterinary medicine courses³ (HESA, 2015a).

The first section of this chapter defines widening participation for the purpose of this thesis and also highlights the different definitions used by different institutions and the difficulties that can arise as a result. This is important for my research because any variations in these definitions limit the extent to which institutions widening participation targets can be compared.

I will then discuss the history of the widening participation policy from its beginnings in the 1960s through to the 2014 policies of the 'coalition'⁴ government in order establish the trajectory of a two tier system and the trajectory of increasing participation in higher education. This thesis compares two universities, a higher status pre-1992 university and a lower status post-1992 university, and so literature which focuses upon the stratification of higher education system will provide a context for this element of the thesis. The chapter will then discuss the role of higher education league tables in the stratification of the higher education sector. I conclude with an analysis of the factors that affect student recruitment and retention. There has been a lot of academic and government focus on higher education 'student recruitment' and some focus on 'student retention and success'. This thesis focuses specifically on the latter because I am investigating what happens to students at university in terms of experience of, and what they gain from, their education.

² In 2013/14 the top 3 institutions within England with the highest percentage (over 50% of their total student population) of students from NS SEC 4-7 were all non-Russell group institutions (University of Greenwich, University of Bradford and the University of Greenwich).

³ In 2013/14, only 16.5% of students registered on these courses came from NS-SEC 4-7.

⁴ David Cameron formed coalition between the Conservative party and the Liberal Democrat party on 11 May 2010.

Definitions of widening participation students

Widening participation is based upon the notion of increasing participation in higher education by those groups who are currently underrepresented; however it has no single definition. This means that the groups who are said to be ‘underrepresented’ vary between initiatives, institutions and even between departments within the same institution.

There are three main ways of defining a ‘widening participation’ student:

1. Students with no family history of higher education⁵.
2. Students from lower socio-economic classes. However, institutions differ in their interpretation of *lower* socio-economic classes. For example some use NS-SEC groups 4-7⁶ others using NS-SEC groups 5-8⁷.
3. Students from neighbourhoods with low levels of higher education participation⁸.

Currently, when placing people into different social groups, there is an element of subjectivity on the part of the researcher which can lead to classifications of groups having different meanings (Lambert, 2002; Lee, 2003). Within this thesis, students who are referred to as coming from a ‘widening participation background’ are those students from socio-economic groups 4-7⁹. This definition has been chosen because it is in line with the HEFCE definition of ‘widening participation target students’ (HEFCE, 2011) and forms one of the recruitment targets for higher education institutions (HESA, 2015a).

Trajectory of widening participation policy

Widening participation policy in the UK has been motivated by a perception that broadened access to higher education will meet the

⁵ The University of Nottingham use this definition.

⁶ The University of Winchester use this definition.

⁷ The University of Ulster use this definition.

⁸ POLAR2 data

⁹ These groups refer to small employers and own account workers, lower supervisory and technical occupations, semi-routine occupations and routine occupations

economic needs of the UK. In 1963, the Robbins Report was commissioned 'to review the pattern of full-time higher education in Great Britain and in the light of national needs and resources' (MacMillan, 1961). The Report also recommended ways of broadening access to higher education by proposing that it was 'available for all those who are qualified by ability and attainment to pursue [a higher education qualification] and wish to do so' (Committee for Education, 1963. p.8). At the time, 6% of people under 21 years old entered higher education, the majority of these coming from privileged, or higher socio-economic backgrounds (DfES, 2003a). In fact, the volume of higher education students aged 18-30 was starting to increase prior to the publication of the Robbins Report, from 3.4% in 1950 to 43 % in 2006 (Bolton, 2012): it has been argued that Robbins merely 'legitimated an expansion that was already underway' (Blackburn and Jarman, 1993, p. 201). This indicates an increased desire for education and relative social mobility among 18-30 year olds.

Following the dissolution of the original two-tier higher education system of universities and polytechnics, under the Further and Higher Education Act 1992, participation in higher education continued to increase with 35% of young people entering higher education in 1995. Following their re-election in 1992, the Conservative government appointed the Dearing Committee in 1995 in response to their concerns about the size of the higher education sector and its long-term funding (Ross, 2003). The Robbins Report in 1963 was the last time that a review of the higher education sector had been conducted and there was a lack of information about the student population since then, especially part time and mature students (Robertson and Hillman, 1997). The Dearing Committee's task was to make recommendations about the higher education sector for the following twenty years, focusing upon on the 'purposes, shape, structure, size and funding of HE' (cited in Davies et al. 1997, p.14). In 1997, just after a general election which saw the re-election of a Labour Government, the Dearing Committee published their recommendations. The central theme was the further expansion of the higher education sector, supported

by the introduction of tuition fees (Dearing, 1997). The Dearing Committee also recommended that funding be targeted at institutions who 'demonstrated their commitment to widening participation' (Recommendation 29). The Labour government's response to these recommendations is considered below.

The widening participation agenda of the 1997 Labour government, as outlined by HEFCE, aims 'to promote and provide the opportunity of successful participation in higher education to everyone who can benefit from it. This is vital for social justice and economic competitiveness.' (HEFCE, 2011).

In response to the Dearing Committee's recommendations in the National Committee of Inquiry into Higher Education (1997), in 2001 the Labour government committed to increase participation in higher education to 50% of 18-30 year olds¹⁰ (Labour Party, 2001). In order to reach the target, the Labour government introduced several measures to widen participation and reach those people in society who were isolated from educational and employment opportunities (DfES, 2003). It was believed that engaging these members of society in higher education would generate financial benefits (DfES, 2003; Kennedy, 1997) that would meet the 'needs of individuals, the nation and the future labour market' (Dearing Report, 1997. p.5).

Although the Labour government (1997-2010) strongly promoted a widening participation agenda as a means of generating increased wealth and employment within society (Kennedy, 1997), the Conservative Party 'in opposition' were critical of it and pledged to abandon Labour's target of recruiting 50% of 18-30 year olds into higher education by 2010. The Conservative Party described widening participation as 'social

¹⁰ This target was known as the Initial Participation Rate. It stood at 39% when the target was set by Tony Blair in 1999.

engineering' (Curtis, 2004. p.10) and Chris Patten, Conservative minister and Chancellor of Oxford University and Chancellor of Newcastle University argued in 2004 that there was a lack of evidence that the expansion of the higher education sector had increased social inclusion. Labour policy also focused purely on recruitment into higher education rather than student retention or educational outcome. A key element of Labour's widening participation strategy was aimed at the easing and facilitating of the students' transition through the compulsory and post-16 education sectors and into higher education. Several initiatives, such as Aimhigher, were introduced to raise the educational attainment of students from disadvantaged and ethnic minority groups so that they were encouraged to participate in higher education. Other initiatives, such as the Education Maintenance Allowance, were aimed at encouraging students to remain in post compulsory education and providing information, advice and guidance to support students.

During their term in government, Labour (1997-2010) launched the Independent Review of Higher Education Funding and Student Finance (9 November 2009) (The Browne Review). However, following the resignation of the Prime Minister, Gordon Brown, and the resulting general election, the Coalition government were formed in 2010, before the recommendations of the review were announced.

The commission of the Browne Review was motivated by the increasing cost of the higher education sector, pressure on the level of public spending and the increased level of spending on higher education in other countries that threatened England's international ranking. Its recommendations for reform were published in 2010 and the Coalition government's intentions for change were set out in the 2011 White Paper 'Higher Education: Students at the heart of the system' (BIS, 2011).

The Browne Review claimed that funding of the higher education sector needed to become more sustainable, which could be achieved through

higher tuition fees and targeted public funding. The review created a divide between different academic subject areas by targeting higher education funding at 'priority' subjects, such as medicine, science and 'strategically important' languages subjects whilst removing funding for arts, humanities and social sciences (Browne, 2013. p.42-47). This change in funding gave the 'priority' subjects greater scope to improve and expand whilst restricting the scope for improvement and expansion for other, less valued subjects. The government accepted the recommendation (BIS, 2011) that tuition fees be increased but they argued that unlimited fees could deter some students from considering higher education; therefore they proposed a cap of £9000 per year with a proportion of that being invested in promoting fair access for students. The government also accepted the review's recommendation that universities should be evaluated on their fair access measures which aim to ensure that students from disadvantaged backgrounds are not being penalised by the higher cost of higher education.

The Browne Review noted that the demand for higher education was exceeding supply. The review recommended that student places be increased by 10% over four years to ensure that 'everyone who has the potential to benefit from HE gets the opportunity to do so' (Browne, 2010. p.27). It also recommended that financial support should be available for all students, full time and part time, and only repaid when students have graduated and started earning. The financial support recommendations were accepted by the government although they chose to offer means tested support to students rather than the blanket support recommended by the review (BIS, 2011).

The Browne Review recommended that institutions needed to improve the quality of their courses to ensure that students graduated with the skills that employers demanded. This would lead to improved competition between universities, with popular institutions being able to expand to meet the demand. The review further highlighted the need to improve

advice and guidance given to students about university options, stating that students would be 'at the heart of the system ... shaping the landscape of higher education' (Browne, 2010. p.4). This recommendation was also accepted by the government.

In 'Higher Education: Students at the heart of the system' (BIS, 2011), the expression 'widening participation' was removed and it was replaced with expressions of 'equality of opportunity' and 'relative social mobility'. This had the effect of replacing the concept of 'disadvantage' with the concept of 'fairness'. The White Paper also placed responsibility for social mobility onto the individual institutions by requiring them to meet their HEFCE benchmarks for recruitment and retention. The White Paper (BIS, 2011) focused upon students' individual capabilities to move into higher socio-economic groups instead of focusing upon wider issues of societal inequality (Burke, 2013). The White Paper (BIS, 2011) also discussed the government's so-called 'AAB policy' which allows for institutions to offer unlimited student places for students who achieve AAB grades or higher at A-Level. However, students from lower socio-economic groups are less likely to benefit from this policy because they are less likely to achieve the required AAB grades (Morgan, 2011). The students of my research began their degree courses in 2011, before the effects of the Browne Review came into force and were, as a result, unaffected by the increase in tuition fees and targeted funding. However, changes within academic departments, such as the requirement that minimum levels of contact hours, quality measures and curriculum content be published have affected the students' university choices and experience.

Following its election, the Coalition government made several changes to the Labour government's higher education policies. They abandoned the Labour government's target of 50% of young people attending higher education and increased the cap on tuition fees to £9000 per year (see below). They also terminated several of Labour's widening participation initiatives, making individual higher education institutions solely

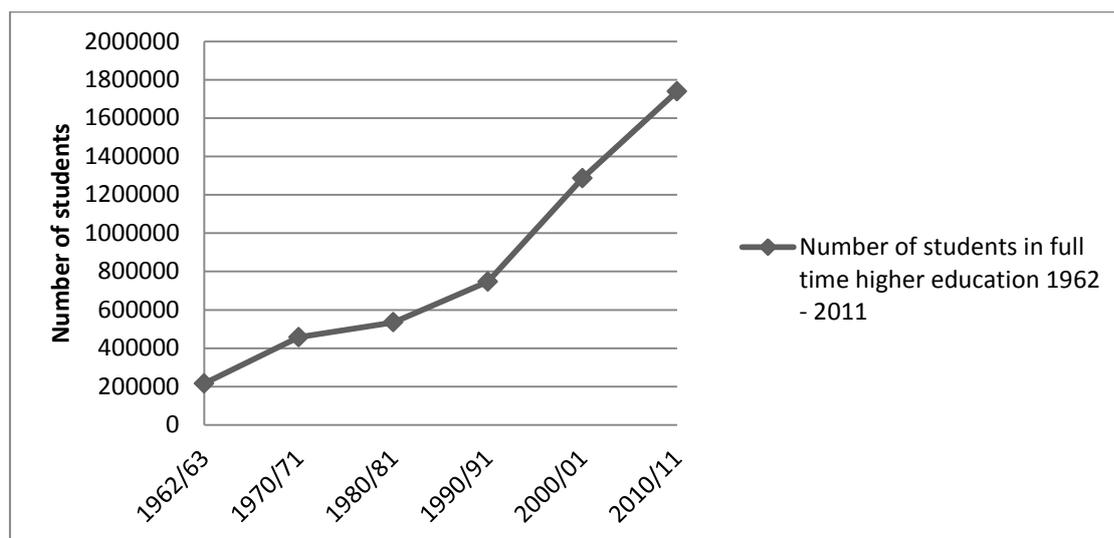
responsible for the widening participation outreach work in their local community (BIS, 2012).

The Coalition government appointed Liberal Democrat MP Simon Hughes as the Advocate for Access to Education, with the key strategic objective of widening participation, fair access and social mobility. Martin Harris, previous Director of Fair Access, announced that 'the need to secure investment in well targeted outreach that both widens participation in higher education and improves access to the most selective universities' (OFFA, 2010) highlighting the continuing importance of widening participation and social mobility in relation to higher education.

The development of a stratified system

During a speech in 1965 (Chitty and Dunford, 1999), Anthony Crosland, the Labour Secretary of State for Education (1965-1967) announced the introduction of 'Polytechnics' to expand the higher education sector (Booth, 1999). He rejected the view of the Robbins report that higher education equalled full-time university learning, believing instead that this 'new' element of the higher education sector should be based upon technical colleges; providing practical, vocational knowledge rather than the theoretical and abstract knowledge of the universities (Pratt, 1997). The White Paper, 'A plan for polytechnics and other colleges' (DES, 1966), formally introduced Polytechnics and was viewed as an effort to widen access to higher education by offering a 'different form of higher education [to] different kinds of students' (Ross, 2003, p.49). Polytechnics provided the option to study locally and focused upon promoting part-time, practical and vocational courses in order to meet the needs of industry (Ross, 2003; Weaver, 1994). The number of students within higher education rose much faster than predicted by the Robbins report, from 216,000 students in 1962/3 to 457,000 students in 1970/81, to 535,000 students in 1980/1, to 747,000 students in 1990/91, to 1,286,000 students in 2000/01 to 1,739,000 students in 2010/11 (Willetts, 2011).

Figure 2-i: Graph to show the number of students in full time higher education 1962 - 2011¹¹



Recruitment data indicates that Polytechnics recruited a higher ratio of students from socio-economic groups 4-7 than traditional universities did (Weaver, 1994). However, this increase in recruitment did not greatly affect the overall class distribution within higher education; students from middle-class backgrounds still filled a greater proportion of the places within the higher education sector (Halsey et al, 1980; Ross, 2003). Crosland offered an alternative to the hegemony of the higher education sector where the polytechnics would stand alongside the universities; 'not inferior, but different' (Crosland, 1982. cited in Ross, 2003) but this was not welcomed by everyone. Some other politicians and some university vice chancellors referred to the 'binary line' between polytechnics and universities, describing polytechnics as 'sub-university institutions' (Peterson, 1966. cited in Ross, 2003) that produced 'second-class citizens in the graduate world' (Brosan, 1971. cited in Ross, 2003).

By 1990 participation in both universities and polytechnics had risen to 19.3% of all 18-30 year olds from 12.4% in 1980 (Robertson and Hillman, 1997), at least partially as a result of the acceptance of alternative entry

¹¹Student data for these years is incomplete and often in different formats (ie) percentages, actual figures

qualifications such as BTEC and Access courses (Williams, 1997) as well as recommendations by the White Paper, *The Development of Higher Education in to the 1990s* (DES, 1985) that access to higher education be improved for mature applicants¹². Although overall access to higher education had increased, particularly at polytechnics, a two-tier system had been created resulting in the more privileged students maintaining their position within the traditional universities (Ross, 2003; Ainley, 2003).

Soon after their introduction, the mission of the polytechnics changed to a more conventional higher education approach (Pratt and Burgess, 1974), blurring the distinction between the university and polytechnic sectors (Furlong and Cartmel, 2009). Polytechnics began offering postgraduate courses and academic courses and universities began to offer more vocational courses.

The two-tier system of higher education was nominally dissolved by the Conservative government in the Further and Higher Education Act 1992. This legislation granted polytechnics university status. The aim of the legislation and dissolution of the 'binary divide' was to expand the higher education sector in a cost effective way that encouraged competition for students and for funding. The Conservative government believed that the best way of achieving this aim was by removing 'the barriers between the academic and vocational streams' of higher education (Major, 1991). The legislation made changes to the funding and administration of higher education and 35 polytechnics were granted university status with degree awarding powers. The new system might have at first seemed unifying, but a new two-tier system has since emerged between what has become known as 'old' and 'new' universities. The former became known as 'Pre-1992', research intensive and the latter became known as 'Post-1992',

¹² Mature students were those students who were 22 years or older when they started their higher education course

teaching institutions (NCIHE, 1997; Boliver, 2005; Boliver, 2013). Within this thesis, 'Global' is a pre-1992 institution and 'Local' is a post-1992 institution. Pre-1992 universities are viewed as more prestigious, and historically their graduates were likely to earn higher salaries and secure managerial positions than graduates from post-1992 universities (Chevalier and Conlon, 2003; Power and Whitty, 2008). However, some recent research indicates that graduate salaries are unaffected by the type of higher education institution attended by the student (BIS, 2013). This re-emerging two-tier system is also reflected in different tuition fees since the tuition fee cap was raised in 2012 (Boliver, 2013). In 2013, the average tuition fees charged by post-1992 universities was £7500 per year compared to the average tuition fees of £9000 per year charged by the pre-1992 institutions.

In 2002, Charles Clarke, the then Secretary of State for Education, spoke about the development of a tripartite sector. This sector would consist of 'the great research HEIs, the outstanding teaching HEIs and those that make a dynamic, dramatic contribution to their regional and local economies' (THES, 2002). The 'specialties' of each type of university within this envisaged tripartite sector indicated a policy move towards the separation of research and teaching across institutions (Barnett, 2003, Barnett, 2005) with the institutions that contribute to the regional and local economies recruiting higher levels of underrepresented students due to their role of 'retraining and meeting the needs of the changing workforce' (DfES, 2003a). The proposed tripartite sector hierarchy echoes the earlier division within the higher education of universities and polytechnics and later pre-1992 and post-1992 universities and Further Education Colleges offering higher education courses.

In 2003 the Labour government's White Paper *The Future of Higher Education* (DfES, 2003a) detailed its vision for a diverse higher education sector where each institution should 'identify and play to their strengths'. This differentiation is intended to result in a marketplace for the sector

with a high level of choice, and breadth of teaching and learning methods, to meet the needs of a diverse consumer, or student, group (DfES, 2003a. p.7). Diversity within higher education, where universities are encouraged to position themselves within the marketplace of the sector and target specific students or 'consumers', is promoted in the Future of Higher Education White Paper (DfES, 2003a). A possible result is that stratification rather than diversification emerges with some courses, especially those with a less vocational focus, failing to survive in the marketplace (Archer, 2007).

The role of league tables in stratification

In 1983 the first higher education league table was compiled by Bob Morse at the US News and World Report as a means of providing comparable and transparent data about higher education institutions. Today there are several different higher education league tables published in England. These include *The Times Good University Guide*, *The Guardian University Guide*, and *Sunday Times University Guide*. When calculating the institutions' overall score and result position, these league table compilers all award a different weighting to various indicators without providing a justification for doing so (Bowden, 2000; HEFCE, 2008). Looking at the 'staff-student ratio' indicator, *The Sunday Times* weight this at 9% whereas *The Guardian* weights this at 17%. Although it is unclear what impact these discrepancies have on the final position of an institution, there is a lack of transparency about the process used to calculate the league table positions and the differences between the league tables (Dill and Soo, 2005; HEFCE, 2008).

League tables are often used by universities as marketing tools for the purpose of attracting and recruiting prospective students. Their websites highlight institutional and departmental 'successes' within different league tables, often without giving further information about the indicators that were used to score the university.

Within this thesis I refer to The Complete University Guide, The Times Good University Guide and The Guardian University Guide to make comparisons between the two universities, and The Complete University Guide, The Sunday Times University Guide and The Guardian University Guide to make comparisons between the two law departments (see Chapter 6). I chose these league tables because they are the most widely used and easily accessible.

The league tables compare all higher education institutions with each other, rather than distinguishing between those institutions with different aims, values and missions (Turner, 2005; HEFCE, 2008). This results in league table rankings that 'largely reflect reputational factors and not necessarily the quality or performance of institutions' (HEFCE, 2008. p.6) and 'reinforce a traditional view of what a university is, accurate for many of the older universities but only giving a partial view of what is happening in the newer British universities' (Eccles, 2002. p.425). Many of the variables used in league tables are under the control of the universities' themselves (Bowden, 2000). These include variables such as the percentage of first class degrees awarded. The inclusion of university controlled variables can encourage institutions to take action to improve their position within the league tables rather than focusing upon improving the teaching and learning experience for students (Baty, 2010; Dill and Soo, 2005; HEFCE, 2008) and, it is argued, reinforces the view that higher education is a product and the students are consumers (Naidoo and Jamieson, 2005).

Within this thesis, Global University is a research-intensive university that is consistently ranked within the top 30 institutions in the UK¹³. Local

¹³ The number of institutions included differs between league tables. The complete University Guide includes 123 universities, The Guardian University Guide includes 116 universities and The Times Good University Guide includes 121 universities.

University may be found within the same league tables as Global university but it is a teaching-led university and is consistently ranked within the bottom 50 institutions in the UK. This thesis will be investigating whether access to the knowledge of law differs at universities with differing league table positions.

The high league table ranking awarded to some institutions strongly correlates with their Research Excellence Framework¹⁴ positions, entry requirements and the percentage of first class degrees awarded rather than indicators such as the institution's National Student Satisfaction (NSS) survey results or teaching quality. An issue relating to higher education league tables is the lack of a 'universally acceptable definition of the concept of academic 'quality' (Foley and Goldstein, 2012). Dill and Soo (2005) suggest that 'a common approach to measuring quality in higher education is emerging internationally' (p.499) with rankings being a reflection of 'universities' recruitment policies instead of the actual quality of education' (p.510). In many higher education league tables, indicators of academic quality 'appear to be biased towards research reputation and academic prestige rather than student learning' (Dill, 2006. p.14). The contrasting reputations of Global and Local universities are reflected in their respective positions in league tables; however it is the students' experiences, and access to knowledge, within the universities that I have explored.

Some commentators argue that league tables can 'provide important information to everyone interested and involved in higher education' (Van Dyke, 2005. p.3) by enabling independent analysis of the higher education sector (Merisotis, 2002). However much of the information that may be of interest to prospective students, and may therefore have an impact upon

their higher education choices, is not included in league tables (Ehrenberg, 2003) such as information about levels of student involvement in the teaching and learning process, the learning environment, teaching quality and graduate job prospects (Dill and Soo, 2005).

Profiling students in different status universities

Much work in the widening participation field has concentrated on recruitment. The literature discussed below considers the different backgrounds of students who typically attend pre-1992 and post-1992 institutions.

Despite the widening of higher education participation, recruitment has not been equitable across different genders, ethnicities and socio-economic groups (David et al. 2009), and post-1992 institutions are 'associated most strongly with recruiting students from traditionally underrepresented and "diverse" backgrounds' (Burke, 2013. p.21). However there is debate about the factors which cause this (Kettley, 2007). The Sutton Trust¹⁵ assert that approximately 3000 students per year from disadvantaged backgrounds do not go to the elite, pre-1992 higher education institutions even though they are qualified to do so (Sutton Trust, 2004) resulting in these institutions remaining largely white, middle class institutions (HEFCE, 2000a, Lampyl, 2000). This highlights the Sutton Trust's belief that factors other than educational attainment are acting as barriers which prevent these students from attending such institutions. However, there is research which contradicts this belief by highlighting educational attainment as the main barrier to higher education and the elite institutions (Ermisch and Del Bono, 2012; Vignoles and Crawford, 2010).

¹⁵ The Sutton Trust was founded in 1997 by Sir Peter Lampyl and is a charitable organisation who aim to promote social mobility through education.

The higher education sector is selective and applications, received through the UCAS process, are assessed on the basis of prior academic achievement, additional admissions tests, work experience and personal statements, especially for the most competitive courses and elite institutions. Students who had achieved top grades in prior academic achievement are unevenly distributed, with students from disadvantaged backgrounds generally achieving lower grades at key stages 4 and 5¹⁶ than their more privileged peers (Bynner et al, 1998; Chowdhry et al, 2013, Whitty and Mortimore, 1997). These differing levels of achievement offer some explanation for the differing patterns of higher education participation between social groups (Chowdhry et al, 2013; Coffield, 1999), but they also highlight a potential injustice in using prior qualifications as a sole entry criterion (Gorard, 2008).

Sociological research in the widening participation tradition identifies several barriers to higher education for students from underrepresented groups, particularly those from lower socio-economic groups, male students and Black and Minority Ethnic (BME) students (Archer et al. 2003; Reay and Lucey 2003; Reay et al. 2001). These barriers impact the students' higher education choice and behaviour, and the extent to which the student feels that they belong or 'feel at home' within an institution (Reay et al. 2001; Archer and Leathwood 2003; Reay et al. 2005; Sutton Trust, 2008). These factors include:

- differences in lifestyle and responsibilities, such as part time work or a family, which may constrain their university lifestyles (Reay, 2002);
- financial implications of higher education;
- understanding that students have about the learning environment and how to learn (Parr, 2000). An emphasis on lectures and exams

¹⁶ Key stage 4 describes the stage of compulsory education usually completed by 14-16 year old students. It incorporates GCSE, or equivalent qualifications. Key stage 5 describes the initial two years of post-compulsory education for students commonly aged 16-18. It incorporates A Level, or equivalent qualifications.

at university, for example, is likely to disadvantage all students whose previous education has been assessed continuously with coursework, observations or other assessment methods, not just those from lower socio-economic backgrounds (Hatt and Baxter, 2003; Merrill, 2001);

- students' habitus (discussed below) (Bourdieu, 1990); and,
- students' level of cultural and social capital that they possess (discussed below)(Bourdieu, 1977).

The financial implications of higher education are a particular barrier to higher education for some students (Callender and Jackson, 2005; Gibbons and Vignoles, 2009; Leathwood and O'Connell, 2003), and are a factor cited by students for non-completion of their degree (Yorke et al, 1997). Students from lower socio-economic backgrounds generally incur higher risks, due to a lack of family knowledge about higher education and the reduced level of parental financial support, in order to participate in higher education (Adnett 2006; Archer and Hutchings, 2000; Fuller et al, 2011). Gibbons and Vignoles (2009) argue that students from lower socio-economic groups are more likely to use economic factors as a basis for their higher education institution choices, and the Browne Review (2010) revealed that many students from lower socio-economic groups are unaware about the financial support that is available to them, especially bursaries and grants. This lack of information is likely to negatively affect their choice to enter higher education (Callender and Jackson, 2005) despite financial support being greater for students from lower income households (Davies et al. 2009). Local institutions or institutions who charge marginally lower tuition fees are more likely to be selected by students from lower socio-economic groups (Callender and Jackson, 2005; Gibbons and Vignoles, 2009). The 2009/10, the recruitment data for students from lower socio-economic groups (defined as NS-SEC groups 4-7) confirms this argument; the institution with the highest recruitment figure for students from lower socio-economic groups was the post-1992 institution, Harper Adams University College, (HESAa, 2015a) and the

lowest recruitment figures were at three pre-1992 Russell Group institutions, The University of Cambridge, The University of Oxford and The University of Durham (all had recruitment figures of below 13%) (HESA, 2015a). The effects of the 2012 increase in tuition fees on overall recruitment are still relatively unknown, however 2012 saw an 8% increase in the number of students sitting entrance exams for law degree courses (Paton, 2012).

A body of literature dealing with widening participation and social justice within higher education adopts a Bourdieuan perspective and uses the concepts of habitus and capital to explain why students from lower socio-economic groups are underrepresented in higher education (Archer, 2007; Crozier et al, 2008; David et al, 2009; Thomas, 2002). I will now discuss these concepts.

Habitus

Bourdieu (1990) defines habitus as the 'structure through which individuals acquire their views and behaviour as a second nature'. It encompasses the skills, attitudes and behaviours that an individual learns through their history (Bourdieu, 1993) and their everyday life experiences (Reay, 2004). It includes the influence of their class, background, race, age and gender (Bowl, 2003). Habitus may, therefore, be a determinant of the expectations and competencies with which students enter higher education. The concept of habitus was used by Mills (2008) to differentiate between a 'transformative' habitus which enables social mobility through individuals acting as agents' and a 'reproductive' habitus which can lead to insular communities due to low self-esteem and low aspirations, and self-exclusion from higher education. Mills' (2008) argument is that those students with a reproductive habitus are likely to have a lower self-confidence in their educational abilities which limits their aspirations and social mobility, whereas those students with a transformative habitus are likely to have a higher self-confidence in their educational abilities with resulting aspirations and mobility. However, students from lower socio-

economic groups, who have acted as agents by making the decision to enter higher education, can be said to have a transformative habitus due to their aspirations and increased chances of mobility if they graduate.

Capital

Capital is 'the guaranteed product of the combined effects of cultural transmission by the family and cultural transmission by the school' (Bourdieu, 1984), and can be increased through successful access to, and access to knowledge within higher education, something which is seen as the 'norm' for middle class students. A lack of capital when entering or studying within higher education may be something which needs to be compensated for in a system where middle class values are considered the 'norm' (Yosso, 2005; Clegg, 2011). During their higher education experience, students from higher socio-economic groups are likely to make one transition, from post-16 education to university. However, students from lower socio-economic groups are more likely to make two transitions; from post-16 education to university and 'from one social class to another' in order to fit in (Reay, Ball and David, 2005. p.96). Diane Reay and Gill Crozier (Crozier et al, 2008a; Crozier et al, 2008b; Crozier et al, 2010) found that students from lower socio-economic groups found it harder to fit in, engage with university life and develop their individual student identity than their middle-class peers, especially at higher-status universities.

Beyond the level of the individual, cultural capital can be enacted at the level of the institution as 'Institutional habitus'. Institutional habitus may be understood as 'the impact of a cultural group or social class on an individual's behaviour as it is mediated through an organisation' (Reay et al, 2001. para. 1.3). Bourdieu observed that the education system maintains social class hierarchies, and through his work concluded that the reduced levels of success for working-class students was because the curriculum was 'biased in favour of those things with which middle-class students were already ex-curricularly familiar' (Robbins, 1993. p.153).

The vision of the White Paper *The Future of Higher Education* (DfES, 2003) was for institutions to meet different consumer needs within the higher education marketplace. Research indicates that both students from lower socio-economic groups and employers view degrees from the elite institutions as being the best degrees to achieve (Archer, 2007). Despite this, many of these students do not see elite institutions as being a viable choice for them and exclude themselves from them by not applying. Reay et al (2001) argue that this self-exclusion results in these students' institutional options becoming limited. This in turn results in the value of their degree becoming devalued because their institution choices narrow and also focus upon the less research intensive institutions which are viewed as less prestigious by employers and result in lower graduate earnings (Boliver, 2013). Increased levels of social, economic and cultural capital and upward mobility held by middle class students' results in their having a greater choice within the higher education marketplace. This is another way in which the middle classes are advantaged, and the underrepresented groups of students are disadvantaged by the higher education policies of the 1997-2010 Labour government (Ball, 2003; Reay et al. 2005).

In summary, students from lower socio-economic groups face increased barriers to higher education in terms of their lack of knowledge and familiarity with the higher education sector. For many students these barriers are insurmountable and they choose not to enter higher education. For others, these barriers form the beginning of their degree experience. My interest is in what happens to students who do enter university, so the emerging, yet limited literature on 'retention and success' is key. Factors which affect the completion of these students are considered next.

Factors affecting the Retention of Students within Higher Education

Factors which influence the level and type of student in higher education fall into two categories: academic and social. These factors affect the retention of students, especially those from disadvantaged backgrounds who, described above, may have extra responsibilities or unrealistic expectations about workload or levels of difficulty. The habitus and levels of capital possessed by students may affect their retention as well as their recruitment into higher education.

In the context of France, Bourdieu explains that a middle-class background aligns with the university environment (Bourdieu and Wacquant, 1992). This is because, historically, only middle and upper-class students attended higher education. Although the number of students from working-class backgrounds entering higher education has increased, their under-representation in pre-1992 institutions due to 'embedded dispositions, attitudes, behaviours and expectation' (Fuller et al, 2011, p.146) means that they have been found to feel insecure (Reay, 2005), isolated (Thomas, 2012), at a disadvantage, or excluded (Reay et al. 2001; Reay et al. 2005; Reay et al, 2009; Crozier & Reay, 2011).

Such negative feelings may result in a lack of retention for students from lower socio-economic groups due to feelings of 'not fitting in' (Reay et al, 2009). Students from lower socio-economic groups are 2.6% (in 2008/09) (HESA, 2015a) more likely not to complete their course (Coffield and Vignoles, 1997). The rate of non-completion of degree by students from lower socio-economic groups is lower at the elite, pre-1992 institutions (HESA, 2015a). This might indicate that those students who do apply to higher status universities and come from lower socio-economic backgrounds are more confident than those from the same backgrounds who decide not to apply for possible fears of rejection or isolation (Attwood, 2009; HESA, 2015a).

Key influences on students retention include the social environment and the process of making friends (Rickinson & Rutherford, 1996; Thomas, 2002; Thomas, 2012), the teaching and assessment methods employed by the institution (Tinto, 2002; Yorke & Thomas, 2003) and the quality of the staff and student relationships (National Audit Office, 2002; Thomas, 2002; Thomas, 2012). Approaches to improving student retention include creating a sense of belonging for all students through social and academic integration, for example, an extended induction period (Yorke & Thomas, 2003) and the use of interactive teaching methods and group project work which facilitate peer group relations (Tinto, 2002; Yorke & Thomas, 2003).

Summary

While there is a policy interest in widening participation and social mobility by way of university education, arguably a stratified system (upheld by league tables) limits what is being achieved. Moreover different students in different universities have been found to have different experiences defined by their background and the relative wealth and income of the institution that they attend.

This chapter has sketched the policy trajectory over the last 50 years towards ever wider participation in higher education of students, including the time since the increase of university tuition fees to a maximum of £9000 per year in 2012. The 'employability' of graduates and their contribution to economic well-being has been the focus of this trajectory. However, student diversity across the higher education sector remains unbalanced: more students from higher socio-economic groups attend so-called 'pre-1992' institutions which aspire to being 'research-intensive' and fewer students register on the more competitive courses at pre-1992 universities. The implication is that barriers to these courses and elite institutions still exist for students from lower socio-economic groups (Reay Davies et al. 2001; Crozier et al, 2008a).

Although there is a wealth of research into the recruitment of students from underrepresented groups into higher education (as discussed earlier in this chapter), there is limited research focussing upon the retention, success and experiences of these students when in higher education. As such there are gaps in our understanding. Archer (2007) has claimed, but has not demonstrated empirically, that students who are currently underrepresented in higher education have limited access to knowledge and receive a diluted experience of higher education provided by the lower status institutions. However, without examining curriculum documents, interviewing staff and students and questioning the role and purpose of the higher education institutions it is impossible to ascertain whether these assertions are true. This thesis will attempt to contribute to our understanding of students' success and experiences in universities of different status, and reveal whether my findings support Archer's assertion.

The next chapter will detail the Bernsteinian framework that I will use as a lens through which to explore the question of access to knowledge. The chapter will begin by discussing Bernstein's concept of pedagogic rights and the way that they enable comparison between the LLB Law degree at Local and Global. I will then discuss the different elements of pedagogic device, using empirical examples to demonstrate the theory.

Chapter 3 : Applying the Bernsteinian conceptual framework

Introduction

This chapter introduces the theoretical framework I have used for this research. I start by introducing Basil Bernstein and his concepts that will feature in this research: code theory, the pedagogic device and pedagogic identities. I detail each concept before positioning them within the discipline of law. I then indicate which data sets they will be applied to for my analysis. I conclude by discussing social realism and positioning my research within this perspective.

A Bernsteinian conceptualisation of access to knowledge

Basil Bernstein (1924-2000) was a sociologist with a strong interest in the role of language in socialisation, whose life work, heavily influenced by Durkheim, focused upon equity and social justice. His early work encompassed empirical and theoretical work. It examined language and families (1958, 1960, 1961), arguing that the language of working class families was context dependant and implicitly understood, conveying what he called a restricted code. This results in the use of shorter, informal phrases, based upon shared understanding and knowledge, and creates a feeling of community and inclusivity. Bernstein argued that, in contrast, the language of middle class families is context independent, explicit, and allows for individuals to think beyond the local context (Bernstein, 1992) conveying what he called an elaborated code. This means that discussions can be clearly understood without any inside knowledge; the communication is clear and not condensed.

Critics, including as the sociologist Doris Entwistle (see Danzig, 1995 for further discussion), argued that Bernstein's code theory was a theory which cast working class language as deficient. An argument that Bernstein refuted, stating that the two codes actually related to labour; the

restricted code relating to the area of production and the elaborated code relating to the area of reproduction. He stated that code theory actually focused upon the way that knowledge and performance was evaluated, and the absence of everyday knowledge and experiences in that evaluation, rather than focusing upon any deficits in children. His work focused on schooling, examining the relationship between education and the reproduction and production of social class by way of code (1971, 1975, 1977, 1990, 2000). Bernstein's theories allow comparisons to be made between individuals and institutions in such a way that ideas of quality and distributional injustices can be highlighted and analysed. He discusses a mythologising discourse (2000) where he claims that educational hierarchies are made to appear unconnected to social hierarchies which are external to the school, or in this research, the university. This research aims to investigate and question this discourse and throughout this research I draw largely on Bernstein's final volume of work (Pedagogy, Symbolic Control, and Identity, 2000).

Although Bernstein's work has been widely used to inform compulsory education research, there has been less informing higher education research. The higher education research informed by Bernsteinian concepts has focused upon the formation of higher education curricular from academic, disciplinary knowledge (Ashwin, 2009; Luckett, 2009; Shay, 2008, 2011, 2012; Wheelahan, 2007, 2010, 2012), knowledge structures (Maton, 2006; Moore and Muller, 2002) and the effect of higher education on student and professional identities (Beck and Young, 2005; Young and Muller, 2010). This is discussed in greater depth in Chapter 4.

Code theory

The notion of 'code' is central to Bernstein's theory: 'Code draws attention to the relationship between the power structure in society and the ways in which individuals experience that structure' (Danzing in Sadovnik, 1995. p.149). In the present context, the notion of code denotes the relationship between the policies and practices of the universities and the government,

and the lives and experiences of the individual staff and students. For example, students who grow up in an environment where entry to higher education is expected will be more familiar with the processes, language and behaviours associated with university entry and study than students who are the first in their family to enter higher education.

Bernstein showed how education is one way that code is produced and reproduced. Through the pedagogic device (defined below) code is determined by the relationship between the framing and classification (Bernstein, 1971).

Pedagogic device

The 'pedagogic device' is how society's knowledge is distributed according to rules (Bernstein, 2000). The pedagogic device consists of three rules, the distributive rules, the recontextualising rules and the evaluative rules, which are hierarchically related; the distributive rules influence the recontextualising rules and the recontextualising rules influence the evaluative rules (Bernstein, 1990). I will discuss each of the three rules in greater detail below.

The pedagogic device operates between the structure and organisation of knowledge, and the way that knowledge is taught and learned (Ashwin, 2009). In order to understand the inequality that might exist in higher education it is important to understand that a range of pedagogic devices exist to govern the distribution of knowledge throughout society (Ashwin et al, 2012b; McLean et al, 2012, 2013; Singh, 2002). For example, pedagogic devices exist in fields of social activity, health and formal education (McLean et al, 2012). The UK Higher Education sector is responsible for producing new pedagogic devices and access to higher education dictates who has access to these new pedagogic devices; that is, only students who study at higher education institutions have access to pedagogic devices which operate in these institutions.

I will now develop a description of university law as I explain the three rules of the pedagogic device: distributive, recontextualising and evaluative.

Distributive rules

'Distributive rules' describe the conditions for knowledge transmission: they regulate how knowledge is to be transmitted, who is to transmit the knowledge, and, who is to acquire the knowledge, allowing access to some members of society, but not all (Bernstein, 2000. p.31). Knowledge distribution is according to hierarchy within society. For the purposes of this research project, the distributive rules can be understood as those rules which dictate the content of the undergraduate law curriculum; who is classed as a teacher or students; and, the material conditions of the teaching environment. These three aspects are discussed further in Chapter six when I introduce the two participating law departments and the participating students.

The distributive rules also distinguish between two different types of knowledge that can be distributed: sacred¹⁷ or mundane¹⁸. Mundane knowledge refers to 'knowledge of the other... the knowledge of the possible'(Bernstein, 2000. p.29). This is how society navigates through everyday life and is everyday, common sense and localised knowledge which is acquired and transmitted by way of horizontal discourse. It is context dependent and acquisition of knowledge in one context does not affect what is acquired in a different context. According to Bernstein, this results in knowledge which is non-transferable unless the contexts are sufficiently similar and, may result in different meanings and significances in different contexts (ibid. p.159). For example, in this research mundane knowledge refers to the skills and personal knowledge and experience that the tutors draw on in their teaching.

¹⁷ Also known as esoteric knowledge

¹⁸ Also known as profane knowledge

Sacred knowledge is 'knowledge freed from the particular and the local, through the various explicit languages of the sciences or the implicit languages of the arts which make possible either the creation or the discovery of new realities' (Bernstein, 1971. p.215). It is specialised and abstract knowledge which is known to a smaller, more restricted group of people than mundane knowledge and it is acquired and transmitted by way of vertical discourse. For example, in this research the sacred knowledge would be legal theories and concepts derived from research in the field of law. Sacred knowledge encompasses two different forms of knowledge structure: hierarchical and horizontal. Hierarchical knowledge structures exist when knowledge is linked hierarchically to other areas of the same topic or subject area (such in physics).

Horizontal knowledge structures exists when knowledge is organised into a series or specialised languages of disciplines (such as in the social sciences). Bernstein's diagrammatical representation of this type of knowledge structure is shown below; each of the specialised languages is represented by L1, L2, etc.

L1	L2	L3	L4	L5	L6	L7	L8	L9	L10
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In disciplines which have horizontal knowledge structures, students 'address human behaviour, conduct or practice in one form or another' (Bernstein, 2000. p.166) by acquiring a disciplinary gaze. This gaze enables the student to 'recognise, regard, realise and evaluate legitimately the phenomena of concern' (Ibid. p.171). Within horizontal knowledge structures, the languages can be distinguished between 'singulars', which have 'strong grammars' and 'regions' which have 'weak grammars'. A singular, or language with a strong grammar, is strongly insulated from other disciplines and has the ability to create 'relatively precise empirical descriptions' (Ibid. p.163) such as economics and psychology. Singulars dominated higher education until the eighteenth century when science

and technology became part of the curriculum (Muller and Young, 2014). Regions, such as Sociology and Engineering, 'are constructed by recontextualising singulars into larger units which operate both in the intellectual field of disciplines and in the field of external practice. 'Regions are the interface between disciplines (singulars) and the technologies they make possible' (Bernstein, 2000. p.52) and the 'truth' of the subject is 'a matter of acquired 'gaze'' (Ibid. p.165).

In terms of distribution, Bernstein (1990) predicts that the higher-status universities teach singular disciplines such as Law, comprising of singular modules such as Commercial Law, Maritime Law and Family Law where students are taught to interpret and challenge the existing law. In contrast, Bernstein (1990) predicts that the lower status universities will teach applied subjects or regions such as Criminology, comprising of regional modules such as Legal Skills and Work Placements which prepare the students for work rather than teaching them the skills to challenge and question the law. Bernstein (2000) argues that a university's position within the field of higher education will influence the relationship between knowledge, its curriculum and its assessments.

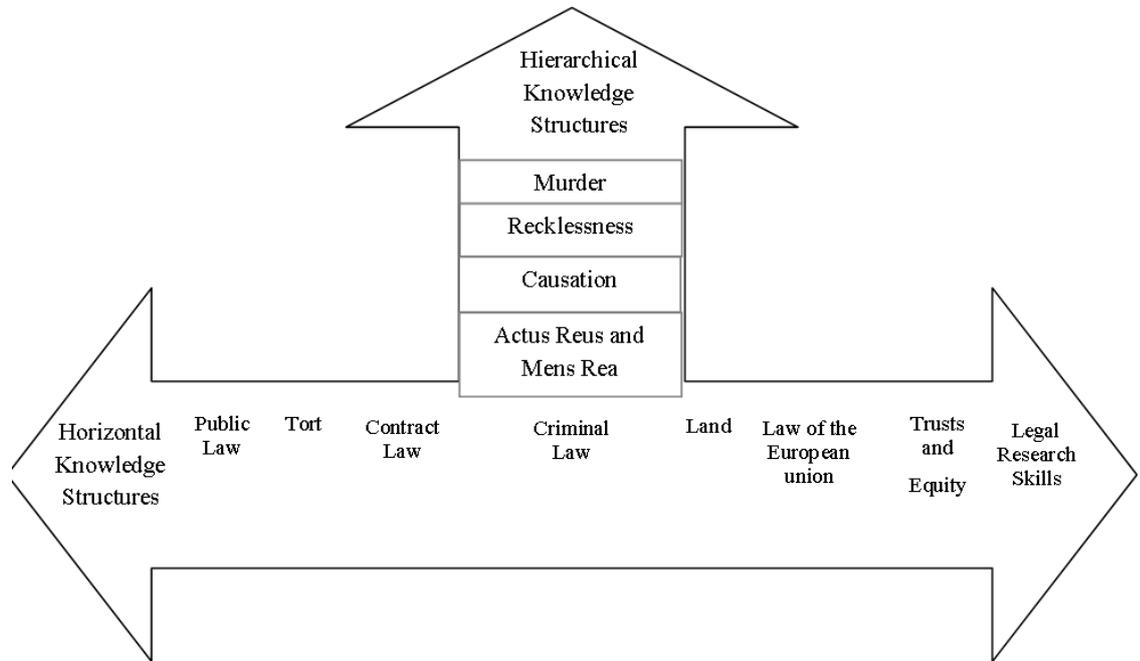
I am now in a position to characterise law in terms of Bernsteinian concepts I have laid out above.

'Law, as a discipline or field of education, is integrally bound to the practice of law and to a greater or lesser extent, depending on its focus, reflects that structure.... It has a number of divisions, each reflecting an area of application and that each division shares common ... principles,' (Brier, 2004. p.211).

Bernstein did not explicitly address the structure of the discipline of law, nor categorise it as a region along with medicine or engineering, however my personal experience concurs with Brier (above) who indicates that law is a singular which encompasses horizontal and vertical knowledge structures.

There are specialisms within the discipline of law which have their own distinct legal precedents, case law and legislation: these are specialised languages amounting to a horizontal knowledge structure. Within all the different specialisms of law, hierarchical knowledge structures are present (see Figure 3.1). For example in Criminal law, *actus reus* (the physical element of a crime) and *mens rea* (the mental element of a crime) are foundational concepts when establishing whether a crime has been committed. Without one or both of these elements a prosecution would fail. Once these elements have been established, causation needs to be established. This links the actions of the defendant to the crime. Without sufficient causation, a crime cannot be proved. Next, recklessness needs to be considered. If it can be proved using the relevant legal tests then the crime may be reduced (i.e. from murder to manslaughter) or it may be negated. Once all of these elements have been dealt with, the relevant legal precedents or legislation for the crime in question needs to be addressed. All of these elements build on one another logically when determining whether a crime has been committed and so arguably amount to a hierarchical knowledge structure. As illustrated in Figure 3.1, the curriculum that is being transmitted to law students is a series of specialisms (horizontal knowledge structure) with a hierarchical knowledge structure specific to each specialism.

Figure 3-i : Curriculum knowledge structure for the LLB Law degree and the topic of murder from the criminal law module. Adapted from Woolf, K. & Lockett, K. (2013)



The practice of law involves applying the law knowledge to different cases. Within law, vertical discourse relates to the legal language and terminology used throughout the subject, such as mens rea (meaning ‘the mental element of a crime’) and actus reus (meaning ‘the physical element of a crime’), and horizontal discourse relates to the everyday practice and applicability of the law (Breier, 2004). For example, applying the criteria set out in section 1 of the Sexual Offences Act 2003 to determine whether a rape has taken place. The use of legislation throughout different aspects of law, is a specialised language associated with a horizontal knowledge structure and which ‘addresses human behaviour, conduct or practice’ (Bernstein, 2000. p.166). In this research I will be exploring the relative distribution of the vertical (theoretical) and horizontal (vocational/applied) discourse in the two degrees.

Within the field of education, distributive rules operate through ‘classification’ and ‘framing’ of the curriculum and pedagogic processes (Bernstein, 1971; Bernstein, 2000). I will now discuss each of these.

Classification

Classification refers to the ways in which boundaries are created and maintained between different categories. These categories may be of 'agencies, ... agents, ... discourses, ...practices'(Bernstein, 2000. p.6). In this research the categories include the two universities, the two degrees, the different modules and the different students.

Within the field of higher education, an example of classification is the categorisation of institutions; pre and post 1992, research or teaching with the former of each pair generally being the richer and the more prestigious institution of the two (McLean et al, 2012, 2013).

I investigate whether students at pre-1992, research institutions have greater access to powerful knowledge than students at post-1992, teaching institutions, and, whether students who attend post-1992 institutions are disadvantaged within the higher education system.

Categories which are more strongly insulated, or have clearer boundaries, allow greater space for the development of specialised pedagogic identities (Abbas et al, 2010; McLean et al, 2012, 2013, 2015) (see below for further discussion). They are associated with singular disciplines such as physics or law and are strongly classified (C+). An example of a strong boundary is between being a graduate or not. In this research project I investigate whether different specialised law identities are formed in students studying law at different universities.

Within curriculum, classification relates to what skills and knowledge are taught and learned. Table 3.1 provides empirical and theoretical examples of different aspects, and strengths of classification. C+ denotes strong classification and C- denotes weak classification.

Table 3.1: Examples of classification within the LLB Law degree. Adapted from Chen (2010, p.80)

Classification		
Classification	Indicators of strong and weak classification	Empirical examples of strong and weak classification
Demonstrated by the strength of the boundaries between everyday and academic knowledge	Personal experience is weakly valued in the law department (C+).	The curriculum content of the law degree is held apart from students' everyday experiences of the law (C+).
	Personal experience is highly valued in the law department (C-).	Students are asked to relate areas of law to their own lives and experiences (C-).
Demonstrated by the strength of the boundaries between different types of academic knowledge	Knowledge gained in other subjects has little relevance to the learning of the law curriculum (C+).	When completing the LLB Law degree, students are unable to take modules from outside the school of law. This is because it is not seen as beneficial to their legal education (C+).
	Knowledge gained in other subjects is very relevant when learning the law curriculum (C-).	Students come from a range of academic backgrounds and that diversity enriches the teaching (C-).

Many areas of law involve a high degree of problem solving where students must apply legislation to everyday situations. This is an example of weakly classified knowledge because the everyday situation may involve knowledge and legislation from different legal areas (such as criminal law, family law, child law and negligence law). In my research I explore the degree to which law knowledges were integrated, and thus the strength of the classification of knowledge and skills within the curriculum and pedagogy at the two universities.

Framing

Where classification refers to the knowledge content, framing refers to the location and level of control within classifications. Within curriculum and pedagogy, this includes control by the teacher or the student, over the pace, content, assessment, timing and organisation of the knowledge transmitted, and the teacher-student relationship (Bernstein, 1973. p.88). Strong framing (F⁺) signals a limited degree of flexibility with more explicit boundaries and a greater level of teacher control (Bernstein, 2000). Weak framing (F⁻) signals a greater level of flexibility, a greater level of student control and a more personal relationship. Within higher education, an example of a strongly framed lesson is a teacher-led lecture where the students listen and take notes rather than ask questions. An example of a weakly-framed lesson is a seminar where students discuss and debate topics set by the teacher with minimal teacher intervention. Variation in the level of framing within a particular subject may vary between modules, teachers, student groups or topics. Table 3.2 provides examples of different aspects, and strengths of framing. F⁺ denotes strong framing and F⁻ denotes weak framing.

Table 3.2: Examples of framing within the LLB Law degree. Adapted from Chen (2010. p.80).

Framing		
Framing	Indicators of strong and weak framing	Empirical examples of strong and weak framing
Demonstrated by the degree of teacher control in selecting the curriculum content (Distributive rules)	The lecturer selects the content of the law curriculum (F ⁺)	The lecturers write the text books and the module handouts. These cover the curriculum content for the teaching of their specific module (F ⁺)

	Students are encouraged to select the content themselves (F-)	Students are not given reading lists, they can go away and select relevant reading for themselves (F-)
Demonstrated by the degree of teacher control in the sequencing and pacing of the teaching	The pace and sequencing of the work is decided by the lecturer (F+)	In the lectures, the lecturers expect students to know the content of the preceding lectures and to have read around the topic of the current lecture (F+)
	Students work at their own pace, and sequence the work themselves (F-)	Students do not have to do all the reading and tutorial work during the term, staff are flexible about these requirements (F-)
Making the assessment criteria explicit (Evaluative rules – discussed below)	The assessment criteria are specific and are clearly communicated to the students by the lecturer (F+)	Lecturers tell the students which topics will be covered in the assessments. This means that students only have to revise the necessary topics (F+)
	The assessment criteria are not specific (F-)	Some of the exam questions are quite broad and vague, using words like 'discuss' and 'analyse' (F-)
Regulating the behaviour of the learners in the student: staff relationship	There is a strong hierarchy between lecturer and student (F+)	Staff are addressed formally and they have office hours when they will meet students.

		Teaching sessions are formal and professional; staff do not discuss their personal lives (F+)
	There is a weak hierarchy between lecturer and student (F-)	Staff are addressed by their first name and they have an open door policy. Lectures and tutorials often start with informal chats between staff and students about the staff member's personal life (F-)

The level of framing, and any variations, within the two participating law departments will be investigated within this research to see what similarities or differences occur. This is because any differences in class sizes, teaching methods (such as lectures, seminars and tutorials) and assessment type influence students' access to knowledge.

Visible and invisible pedagogies (Bernstein, 1977) are frequently used when discussing different teaching practices. A 'visible pedagogy' is characterised by strong classification and framing (C+, F+) and 'invisible pedagogy' is characterised by weaker classification and framing (C-, F-). The level of teacher control may be explicit, for example, resulting in a more visible pedagogy, or implied, resulting in an invisible pedagogy. Visible pedagogy focuses upon the external performance of the students, such as their ability to meet set criteria through assessments and tends to exist in teacher-centred learning environments where the teaching focuses upon disciplinary knowledge. With invisible pedagogy, the discursive rules are implicit, they are known by the teacher and some students. This pedagogy focuses upon the natural abilities of the students and the way

that they acquire these abilities through their upbringing and family life. (Bernstein, 2003). It tends to exist in learning environments with weak classification and framing, where the teaching is more interdisciplinary (Morais & Neves, 2001). Bernstein (1977) proposed that an invisible pedagogy disadvantages working-class students because the teaching leaves unsaid the social rules of the classroom and of learning (Morais & Neves, 2001).

To summarise: the distributive rules regulate the means of knowledge transmission, who can teach and learn this knowledge and where this process can take place. These rules differentiate between sacred and mundane knowledge and the two different types of knowledge structure (horizontal and hierarchical), and they operate through classification and framing of the curriculum and pedagogy (Bernstein, 2000). The distributive rules influence the second component of the pedagogic device, the recontextualising rules.

Recontextualising rules

Knowledge is recontextualised for the purposes of teaching and learning (Bernstein, 2000. p.113). There are two elements to these rules: 1) the degree to which knowledge practices of the discipline maintain their specialised disciplinary voice (the classification), 2) and the process by which these disciplinary voices are turned into the curriculum (the framing) (ibid.). I will discuss each of these in turn.

The process of recontextualisation is where knowledge is taken from where it was produced (the field of production or the primary context), whether that is a piece of research, legislation, a text book or a court judgement, and relocated within the curriculum (the field of reproduction or the secondary context). For my purposes, the researcher or legislator are the primary contexts, they are the research stage, the sites of writing and development of texts. Secondary contexts are where the selection, planning and teaching of the text by the teacher, university curriculum

quality managers or curriculum developers (the recontextualising agents) takes place; in the law departments (the field of reproduction).

The selection of curriculum material is influenced by what Bernstein terms the 'pedagogic recontextualising field' made up of the teachers and others who are involved in planning the teaching and curriculum. Within a higher education law department, the primary context, where discourse is produced, is usually the courtroom, or, research funded by a research council or a legal firm. The secondary context, where this discourse is relocated for transmission, involves academic staff within the departments, school managers and administrators who are responsible for selecting the curriculum content and material, drawing up the students' timetables and setting assessments. This is done in the law department of the institution or the 'field of reproduction' (Bernstein, 2000. p.113). The field of recontextualisation often contains an 'official recontextualising field' (Bernstein, 2000. p.115) which is used by the state for monitoring pedagogic discourse. Within higher education, documents issued by the Quality Assurance Agency for Higher Education (QAA), the Higher Education Funding Council for England (HEFCE) and the Department for Business, Innovation and Skills (BIS) may be classified within this category. These documents refer to the quality of teaching, learning and assessment within higher education and they specify benchmarks that institutions have to attain in relation to aspects of the student experience and fair access.

Evaluative rules

These rules regulate the standards to be met and, within education, can be seen as how acquisition of knowledge is assessed both formally and informally; they regulate 'what counts as valid acquisition of instructional (curricular content) and regulative (social content, character and manner) texts' (Singh, 2002. p.573). Evaluative rules are especially notable in assessments where marking schemes dictate what counts as legitimate knowledge within that particular subject (Maton, 2006). They apply to the

teaching and learning of knowledge and, as such, relate to the teacher and the students. This research analyses curriculum and assessment documents, observations and audio recordings of taught sessions in order to assess the evaluative rules within the two departments.

Bernstein worked to understand 'how specific classification and framing values act on the rules of the acquirer so that the acquirer could produce the required practice/text' (2000. p.104). Producing texts or practices is done using recognition and realisation rules.

Recognition and realisation rules

Recognition and realisation rules reside in the individual who is acquiring knowledge. First, recognition rules allow students to identify what type of knowledge they are working with, for example, law rather than another academic discipline such as psychology. Realisation rules regulate how the students communicate their understanding of this knowledge that they have been taught (Bernstein, 2000). For undergraduate law students, their understanding of the course and content is realised in written and spoken work that is appropriate to the context of a law degree within their institution. This includes: correct referencing of case law and legislation within written work, the correct format, language and formalities to use during mooting and oral exams and the key legal judgements made by the courts for each area of law (for example, the judgement in *R v Ahluwalia* (1993) is the legal precedent for allowing a domestic violence defence to murder). Recognition rules also includes the ability to recognise which fundamental legal concepts are applicable to a scenario and apply those concepts correctly; for example, identifying whether a lease of land is present and then correctly applying the Law of Property Act 1925 to prove that the legal lease exists.

The acquisition of recognition and realisation rules varies between students, resulting in different students having different levels of understanding of subject matter. Theoretically, a Bernsteinian view is that

students from middle-class backgrounds, who have a family history of higher education and the legal profession, will have a greater understanding of legal knowledge and will carry this knowledge with them into higher education, compared to students from groups currently underrepresented in higher education (such as students from lower socio-economic groups with no family history of higher education) who will start their course with little understanding of university, the requirements of higher education, or the law. This links to Pierre Bourdieu's view that students who come from middle class backgrounds will have greater levels of 'cultural capital' with which to enter university. From this perspective the understanding of the recognition and realisation rules is due to the levels of capital students have amassed, and means that they are more able to acquire knowledge from weakly classified areas of the curriculum or from other areas of their lives and use it in other areas of knowledge. (Bernstein, 2000).

The final Bernsteinian concept I use is pedagogic identities which I will now discuss.

Pedagogic identities

Official knowledge is 'the education knowledge which the state constructs and distributes in educational institutions' (Bernstein, 2000. p.65).

Bernstein (ibid.) proposed that the classification and framing of curriculum and pedagogy shaped pedagogic identities. In higher education, universities decide upon their own curriculum and pedagogic practices thus influencing their official knowledge and affected the formation of pedagogic identities of their students and staff.

Specialised disciplinary identities

This is a concept developed by the ESRC project. Mclean et al (2014) adapted Bernstein's theory of pedagogic identities, proposing the idea of a 'specialised disciplinary identity' which is constructed of three elements:

the disciplinary aspect; the personal/social aspect; and the performative aspect.

The disciplinary aspect is based upon Bernstein's (2000) retrospective pedagogic identity and is characteristic of singulars such as physics or law where current practices are compared to past practices. This identity is typically strongly classified (C+) and strongly framed (F+). The disciplinary aspect influences the relationship between the curriculum and pedagogy, knowledge and evaluation, and a university's position within the higher education sector (e.g. its place in higher education league tables). Bernstein (ibid) predicted that higher-status universities would focus on singulars and lower-status universities would focus on regions, that is, students at pre-1992 universities would study pure law which would teach them new ways of understanding and reasoning, and students at post-1992 universities would study vocational law which would prepare them for employment.

The personal/social aspect is based upon Bernstein's (ibid) prospective pedagogic identity which was 'constructed to deal with cultural, economic and technological change' (ibid. p.67) and is characteristically strongly framed (F+). The personal/social aspect concerns the application of knowledge: that is, connecting sacred disciplinary knowledge to everyday lives and issues. For example, students' reading the fine details of their housing or employment contracts and applying the legal knowledge that they have gained.

The performative aspect is based upon Bernstein's (ibid) instrumental pedagogic identity. This involves making clear the 'underlying features necessary to the performance' (ibid. p.53) of law. The performative aspect comprises two elements: demonstrating competent performance at the written, oral and research aspects of the discipline, and the development of dispositions necessary for the disciplinary identity. These may include critical reasoning, being analytical and being open-minded: in essence

'thinking like a lawyer'. At university, the curriculum and pedagogy provide students with the opportunity to develop their performance. I am going to use this concept to make comparisons between the students and to investigate the types of law students that are produced at the two universities.

Social Realism

The central argument of social realists is that the key purpose of education is for learners to acquire knowledge (Moore, 2004; Young, 2008). The knowledge acquired in schools is more powerful than everyday knowledge because of its clarity of explanation. Curricular that are based upon everyday knowledge deny students to this powerful disciplinary knowledge (Young, 2008), however pedagogy can benefit from the inclusion of everyday knowledge (Young, 2009). This research investigates whether degrees at different universities, with different curricular and pedagogy reflect these claims, thus disadvantaging students by denying them access to powerful knowledge.

What is known as the social realist approach to research, builds upon the work of Emile Durkheim and Basil Bernstein, and since the start of the millennium, has emerged in the UK (Moore, 2007; Young, 2007), Australia (Wheelahan, 2007; Maton, 2010) and South Africa (Muller, 2000; Gamble, 2006). The approach is known as social because it argues that knowledge is produced by communities or groups of individuals and it is realist because it argues that knowledge has some objective basis, existing independently of human personal experience. At the same time, knowledge can never be totally independent of its social or historical origins; it can also change over time and in different contexts (Maton and Moore, 2010). Social realism agrees with social constructivism on two issues: the view that knowledge is affected by time and context, and the view that knowledge is produced by social behaviours; by communities of people featuring power struggles and differing personal interests (Young, 2008). This second point is not without issue: firstly, social realists argue

that knowledge is ultimately about power. It is produced by people wishing to maintain their powerful and privileged positions within the community, and results in those privileged individuals imposing their ideas on those who are less privileged in the community (Wheelahan, 2010). Secondly, if knowledge is produced by social behaviours then the boundary between everyday and theoretical knowledge becomes blurred or removed (Young, 2008).

Those who adhere to the social realist approach argue that students need access to abstract theoretical knowledge (what Bernstein calls vertical discourse) so that they are able to cross the boundaries between theoretical knowledge (vertical discourse), and the boundaries between everyday knowledge (horizontal discourse) and theoretical knowledge (vertical discourse). Social realism challenges the assumption that these boundaries are preventing individuals from accessing knowledge, arguing instead that the boundaries provide the necessary conditions for producing and gaining new knowledge. Bernstein (2000) argues that as well as acting as barriers to knowledge, these boundaries help to create learner identities and, as such, are one of the necessary conditions for accessing powerful knowledge.

Summary

In this chapter I introduced in this chapter are: code theory, the pedagogic device, classification, framing, recognition and realisation rules; and specialised pedagogic identities.

The first concept that I introduced was Bernstein's code theory; a notion which is central to his work. I discussed the restricted and elaborated code and the link between code and social class. I then introduced the pedagogic device, which using classification and framing, can be used to standardise code theory.

My discussion about the pedagogic device detailed the different rules of the device and characterised the discipline of law in terms of these rules. I also discussed classification and framing, and recognition and realisation rules. I use these concepts in Chapters 6,7 and 8 to analyse the interview transcripts, observation transcripts, field notes and curriculum documents.

These concepts inform my analysis and interpretation of students' experiences of their undergraduate law degrees. The rules of the pedagogic device enable comparisons to be made between the curriculum and pedagogy at the two universities, highlighting any differences that exist and revealing whether these differences fall along hierarchical lines. The classification and framing of the curriculum and pedagogy also enables me to explore whether the approaches used by the two universities produce students with different specialised law identities.

I concluded this chapter by introducing the social realism view of knowledge and positioned my research within this viewpoint.

Chapter 4 : Conceptualising access to knowledge

Introduction

This chapter introduces literature which will situate my research. I start by introducing epistemic access and defining it for the purpose of this research. I then focus upon literature which relates epistemic access to fields of study, or disciplines, specifically sociology, history and engineering. I go on to discuss the original ESRC project upon which my research is based, reviewing the publications from the project and detailing the findings in relation to sociology. I conclude by discussing the history and role of law as a discipline and a profession.

Epistemic Access

The term 'epistemic access' was coined by Wally Morrow (2009) and is defined as 'access to knowledge [and] to the forms of inquiry in the disciplines' (p.77). He argued that a key role of higher education is to produce knowledgeable graduates, and so a central task of universities must be to provide their students with access to knowledge or 'epistemic values' (ibid, p.37). These values are the hidden curriculum of any discipline: its language and rules that go beyond facts and figures. Access to these values provides students with the tools to move beyond the boundaries of the discipline in a creative and innovative manner, providing the tools for development and growth. For Morrow, providing students with epistemic access also raises questions about social and educational justice. For example, participation in higher education may be increasing but the proportion of students from underrepresented groups is not increasing at the same rate, and the retention and completion of these students is lower than average for the higher education sector. So some groups in society are systematically denied the access to knowledge that other groups have.

Educational theorists, most of them influenced by Bernstein, argue that curriculum knowledge is unacceptably invisible within higher education policy, research and theory (Ashwin et al, 2013; Barnett and Coate (2005); Moore, 2007; Muller, 2000; Wheelahan, 2010; Young, 2003). For example, interventions aimed at widening access to higher education, and increasing the success of underrepresented groups within higher education, focus upon the background of the learners and higher education pedagogy but ignore how students might access knowledge within the curriculum (Maton, 2010). These theorists also argue that there are two types of knowledge, theoretical and everyday, both of which are key elements of education (Moore, 2007; Young, 2008; Maton, 2000; Muller, 2000; Wheelahan, 2010). However, these different types of knowledge are not equal, and this inequality has significant implications for the curriculum. The selection of different types of knowledge within curricular at different institutions can result in a hierarchical sector. Muller (2014) highlighted the importance of focusing upon theoretical knowledge rather than just practice. He argued that, in order to understand what has been done in practice, an individual needs to have gained adequate theoretical knowledge first, because repeated practice does not necessarily assist with understanding. Despite the focus of educational policy swinging between the inclusion of theory and practice in the curriculum¹⁹, Muller (2014) advocates the inclusion of both 'knowledge as theory' as well as 'knowledge as practice' (ibid. p.264). Law is an academic and a professional discipline. My research reveals the extent to which law as theory and law as practice are included in the curricular of a pre-1992 and a post-1992 university.

Michael Young (2007, 2008, 2010), who builds on Bernstein's work, has been influential in thinking about what kind of epistemic access is

¹⁹ For example, the GCSE and A Level reforms introduced in 2014 have a renewed focus upon theoretical knowledge and summative assessments.
<https://www.gov.uk/government/speeches/qualifications-and-curriculum-reform>

important, discussing what types of knowledge acquisition has 'powerful' effects for individuals. Young (2007, 2008, 2010) argues that replacing knowledge with 'outcomes' (for example 'learning outcomes') is misleading because it assumes that all pathways through education, although different, are equal, in particular a vocational route and an academic route. Similarly, Muller (2000), also a Bernsteinian, critiques outcome-based education in South African schools, Allias, Raffe and Young (2009) critique the National Qualifications Framework in the UK and Wheelahan (2010) critiques policies which focus upon vocational education and training in Australia.

For students to have access to powerful knowledge, all curricula must provide epistemic access to theoretical knowledge, formal access is not sufficient. This is necessary if students are to succeed once they enter higher education, that is, entry to university in itself, does not amount to epistemic access.

'Formal access is a matter of access to the institutions of learning, and it depends on factors such as admission rules, personal finances and so on; epistemological access, on the other hand, is access to knowledge. While formal access is important ... epistemological access is what the game is about' (Morrow, 2007. p. 2)

For the purposes of this research, my definition of epistemic access is students' access to knowledge through the curriculum, teaching and learning on their undergraduate law degree courses.

Epistemic access to the disciplines

Social realists (see Chapter 3 for further discussion) who explore curriculum and pedagogy and the issue of knowledge in higher education use a range of Bernsteinian concepts including the pedagogic device, classification and framing, and knowledge structures (Lockett, 2009, 2012; Shay, 2010, 2013; Wolff and Lockett, 2012). For example, Wheelahan (2010) explored knowledge in the context of vocational education and training, arguing that students' success at cumulative learning depends on

the ability to apply academic knowledge to the work, and for this they need increased access to context-independent, sacred knowledge rather than a purely vocational curriculum.

Bernstein argued that 'curriculum defines what counts as valid knowledge' (Bernstein, 1975. p.85). Taking this point up, Lockett (2009) argues that it is the role of the curriculum to define clearly the structure of an academic discipline to students. To do so, the knowledge structure of the discipline should be taken into account during curriculum development and reform; that is, elements of theoretical knowledge and contextual, applied knowledge should be included (Case, 2011; Wolff, 2010).

The knowledge structure of a discipline within its field of production can both enable and constrain the recontextualising agents. In higher education these agents tend to be the academic staff. When knowledge moves from the field of production to the field of recontextualisation it is affected by social practices and beliefs, such as an academic's personal beliefs, specialisms and projects (Lockett, 2009; Shay, 2010), and rules imposed by government or university management. Although the curriculum design of many subjects is controlled by academics, vocational and professional courses, such as law, have compulsory requirements imposed by external, regulatory bodies. The compulsory requirements of a law degree are discussed in Chapter 6. Lockett (2009) revealed that in the context of sociology, a discipline with a horizontal knowledge structure, selection of the curriculum content resulted in an incoherent curriculum which left 'even strong undergraduate students ... 'confused', 'in the dark', feeling 'vague' and not always sure of the evaluative rules' (p.245) potentially resulting in poor levels of achievement and higher levels of non-completion. Although law has a horizontal knowledge structure, it has hierarchical knowledge structures within different specialisms, such as criminal law or land law.

Further research into the relationship between the field of knowledge production and the field of recontextualisation has been conducted, specifically developments in the field of production and the impact of these on higher education curricula. This provided insights into the relationship between the formation of curriculum and the construction of students' identity. Shay (2010) revealed a dichotomy between history modules which required students to act and think like historians, and modules which required students to learn vast amounts but not develop the skills of thinking like a historian. I will discuss the different law identities projected by Local and Global, and formed by the students at the respective universities in Chapter 8.

The recontextualisation of theoretical knowledge for vocational curricular poses challenges for the pedagogy and curriculum (Shay, 2012). These challenges include content selection and sequencing. Disciplines with vertical knowledge structures do not face these challenges. For example, in chemistry, there is a natural order to the key principles of organic chemistry which is followed by the curriculum. Law is a vocational discipline but the inclusion of practical skills in the curriculum is at the discretion of the individual universities. In Chapter 9 I will discuss whether students have been denied access to powerful knowledge as a result of a practical, vocational curriculum.

Analysis of the relationship between theoretical and contextual knowledge in regions, or multidisciplinary disciplines (specifically engineering) revealed a difference in the dominant knowledge structure between the curriculum and student practice (Wolff and Lockett, 2012). These findings indicate that an alternative, complex knowledge structure is more representative of regions, one which requires 'the ability to appropriately access relevant theory from the core disciplines (the 'know-why') as well as procedural 'know how' (ibid. p.91). In Chapter 6 I will discuss whether law is taught as a single discipline or a region at Local and Global and the

impact this has, if any, on the dominant knowledge structure of curriculum and practice.

Shay (2012) argues that universities must respond to other agendas, not solely those of the academic disciplines; the 'curriculum of the future' (Young and Muller, 2010) lies in the synthesis of context and verticality of knowledge. I will explore the extent to which theoretical knowledge and vocational knowledge is integrated at Local and Global in Chapter 7, and the impact this has on the identities of the students at the respective universities in Chapter 8.

Pedagogic quality and inequality in university first degrees

The original ESRC project was introduced in Chapter 1 and I will now discuss their findings, the publications of which are listed in appendix 7. There is a corpus of 14 papers from the project, which used Bernstein to explore the effects of the acquisition and transmission of sociology knowledge in four universities of different status. The findings can be categorised into three groups: the transformatory effects of sociology knowledge; perceptions of quality; and, challenging the hierarchy. I will look at each of these in turn.

The transformatory effects of sociology knowledge

After examining students' relationship with knowledge throughout their degree, Ashwin et al (2014) argue that academic engagement transforms how students view sociological disciplinary knowledge, how they see themselves in the world and how they view their relationships with others. Although this transformation is an intended aspect of the higher education curriculum, they further argue that disciplinary engagement is not the only requisite condition for the transformation, there needs to be a common focus between the curriculum content and the personal priorities of the students. This is because, although the majority students become

more inclusive in their description of sociology as their degree progressed, some became more disengaged with the discipline. The reasons for disengagement varied from subject difficulty to a change in personal focus. These findings differ from the student accounts of their degree given after their first year (Ashwin et al, 2012) and Ashwin and colleagues (2014) highlight the need for additional studies, focused upon sociology based degree courses, to strengthen these conclusions.

Earlier research within the project revealed that lower-status universities used biographical teaching methods where 'tutors encourage students to bring the social science 'gaze' to bear on their own lives' (McLean and Abbas, 2009. p.268). Bernstein (2000) believed that this approach restricted students' access to vertical knowledge however McLean and Abbas (2009) demonstrated that pedagogy enabled students' transformation by teaching disciplinary knowledge and illuminating it with everyday, personal examples. I will explore whether similar transformations play out in law degrees (see Chapter 8 for further discussion).

Quality

Quality is a central theme in higher education policy but systems, such as league tables, which are used to make comparisons between universities reproduce hierarchies in the sector by combining an institution's wealth and status with indicators of teaching quality. Although in the early stages of the project, Abbas and McLean (2007) argue that higher-status universities do not necessarily offer a higher quality curriculum and pedagogy than lower-status universities.

Higher education policy documents present differing depictions of a high quality system: Ashwin and colleagues (2013) revealed two competing discourses. The first discourse depicted a high quality higher education as one which is focused upon business needs, employability and student choice alongside widening participation. This discourse described a higher

education market place which drives up quality through competition between different institutions, and does not engage with discussions about the knowledge that students would access as part of their degree. The student identities projected by this discourse are those of future employees. The second discourse depicted a diverse view of the sector in terms of students and subjects, in which teachers were active researchers and students had access to knowledge, and where standards were raised by staff development and student consultations. However this second discourse does not detail the type of student identity which was developed. Ashwin and colleagues (ibid) propose that there needs to be a unified message about what constitutes a high quality higher education sector. They argue that rather than focusing upon the marketisation of higher education, this unified message should focus upon the knowledge that students will access, the relationship they will develop with this knowledge and the impact of this knowledge on their identity. When analysing documents in relation to the law degree I will explore whether either of these discourses are apparent as well as whether knowledge and its impact on students is evident.

The findings of the ESRC project formed the basis of a guide which made recommendations to those with responsibility for monitoring and evaluating the quality of undergraduate programmes. The recommendations were classified into three categories: 1) defining good quality undergraduate courses; 2) improving the quality of undergraduate courses; and 3) measuring the quality of undergraduate courses. Category one discusses the need for students to engage with transformative disciplinary knowledge and the role that good teaching plays in this engagement. Research findings reveal that a perception of high quality teaching facilitates students' engagement with the curriculum (McLean et al, 2013, 2015). Category two discusses the central role that high quality teaching plays in improving the quality of the degree courses along with the need to develop teaching and learning rather than focus solely on the external reputation of the university. Category three discusses the need to

measure students' engagement with academic knowledge and include this as measure in national league tables. All of these findings come with the caveat that they apply to social science based disciplines.

Challenging the hierarchy

A major finding of the ESRC project was that many of the students interviewed and surveyed wanted to engage with, and be challenged by, sociology regardless of which institution they attended (Ashwin et al, 2011a, 2012b; McLean et al, 2012). In this sense, their findings challenge higher education hierarchies and preconceptions about good and bad universities. Although students were advantaged or disadvantaged by the league table positions and reputations of their chosen university, this did not affect their undergraduate experience (Ashwin et al, 2012b, 2014; Mclean et al, 2012, 2015). In fact, students at the two lower status universities perceived the teaching they received to be of a higher quality than students at the two higher status universities and they reported a closer and friendly relationship with departmental staff (Ashwin et al, 2012, McLean et al, 2013, 2015).

Building upon Bernstein's (2000) concept of pedagogic identities, the project developed the concept of 'specialised disciplinary identities' which are shaped by acquiring sociology based knowledge (McLean et al, 2013, 2015). In sociology, the disciplinary identity broadened students' horizons through characteristics such as open minded thinking, questioning the relationships between people, and the desire to improve society.

Overall, the findings of the ESRC project reveal similar curriculum content at the four universities which projected similar disciplinary identities onto students from a diverse range of backgrounds. This challenges Bernstein's predictions of unequal identity formation for staff and students in a hierarchical higher education system (Ashwin et al, 2012; McLean and Abbas, 2009; McLean et al, 2012; 2015). In Chapter 8 I will discuss the

disciplinary identities projected by the law students at two universities of different status to see if my findings concur with the ESRC project.

Using Bernstein's concept of the pedagogic device, Ashwin and colleagues (2012) challenge Bernstein's assertion that distribution, recontextualising and evaluation rules always operate hierarchically. They argue that, although their findings revealed differences in the distribution rules between the higher and lower status universities, these differences became less pronounced with the recontextualising rules and disappeared with the evaluation rules. Their findings were qualified with three caveats: the data was only related to sociology; the data was only related to first year students; and, their analysis was in the early stages. My research investigates whether the hierarchical rules of the pedagogic device apply to law as a discipline.

The project has contributed to higher education debate with two findings which are particularly relevant in the current arena (Ashwin et al, 2011a; McLean et al, 2012, 2013). Firstly, they present a challenge to 'policies that are likely to perpetuate misconceptions about so-called "good" and "bad" universities' (Ashwin et al, 2011a) with evidence that teaching at lower-status universities was, in some cases, of a higher quality than at higher-status universities. Secondly, they argue that the data contained in universities' key information sets are 'not fit for purpose' (ibid). These information sets ignore the potential for 'personal transformation' (ibid) which higher education provides and focus upon information such as tuition fees, teaching methods and graduate destinations (KIS, 2015).

In Chapter 9 I will discuss how my research has added value to the ESRC project. Before introducing the participating universities and students of this research project, I will introduce the discipline, and profession of law, demonstrating its importance in society.

Law as a discipline

The foundation of the English legal system and the importance of law in society is enshrined in the rule of law.

‘The Rule of Law, in its most basic form, is the principle that no one is above the law. The principle is intended to be a safeguard against arbitrary governance, whether by a totalitarian leader or by mob rule. Thus, the rule of law is hostile both to dictatorship and to anarchy’ (Fleck, 2015)

The rule of law was established in the Magna Carta (1215) and requires a transparent and accessible legal system to operate successfully. Lord Bingham identified eight principles necessary to uphold this rule:

1. ‘The law must be accessible, intelligible, clear and predictable.
2. Questions of legal right and liability should ordinarily be resolved by the exercise of the law and not the exercise of discretion.
3. Laws should apply equally to all.
4. Ministers and public officials must exercise the powers conferred in good faith, fairly, for the purposes for which they were conferred – reasonably and without exceeding the limits of such powers.
5. The law must afford adequate protection of fundamental Human Rights.
6. The state must provide a way of resolving disputes which the parties cannot themselves resolve.
7. The adjudicative procedures provided by the state should be fair.
8. The rule of law requires compliance by the state with its obligations in international as well as national laws.’ (Bingham, 2010)

Lawyers play an important role in today’s society, they have a professional duty to ‘uphold the rule of law and the proper administration of justice’ (Smithers, 2015). This role has historically been held by a small, select group in society. I will now discuss the history, and the continuing exclusivity of the legal profession.

Law as a profession

Law is one of the ‘trinity of original professions’ along with medicine and the ministry (Boon et al, 2005). Although law was one of the first academic

disciplines studied in European universities (Radding, 1988) it was only offered by two British universities, Oxford and Cambridge. This monopoly was protected by statute in 1234 which prohibited the teaching of law at any London university, at that time Oxbridge's main competitors. Formal legal education was very slow to develop. In the 1840s there were two Professors of Law at Oxford, only one of whom taught. In 1909 there were eight law faculties across Britain, and in 1935, Leeds University awarded 11 law degrees. As recently as 1959, the Law Society advised the University of East Anglia against offering a law degree, which they took until 1977 when their first law degree was established (Boon and Webb, 2008).

One reason for the slow development of legal education is that a higher degree was not a compulsory requirement for entry to the legal profession until 1872 (Manchester, 1980). Before then, entry was gained following a nomination from two barristers. Once accepted, the nominated individual trained as an apprentice in London. The entire profession was centred on the London Courts of Justice and Inns of Court; it was a closed society which added to its exclusivity.

The legitimacy and control of the legal profession was gained by members' status in society, which, in turn was established by their control over the knowledge required to practice. Historically, the Bar Council and Law Society dictated the content of all law courses, both academic and professional. This control has weakened over time: in 1921 the professional bodies handed over responsibility for legal education and training to universities. Law is now an undergraduate course and, apart from the loosely defined requirements of a qualifying law degree (see Chapter 6), the universities dictate the content of their curriculum.

Despite the widening of access to higher education, the legal profession in England and Wales still retain some control over who can enter the profession. Previously this control limited the number of women and

ethnic minorities (Muzio and Ackroyd, 2005). However, the increase in the size of law firms over the past thirty years, and the introduction of Human Resources, formal recruitment processes and staff structures has reduced this social control (Muzio and Ackroyd, 2005) and increased the importance of educational achievement (Galanter and Roberts, 2008). There are still concerns about the diversity of the legal profession which have resulted in the Legal Education and Training Review (see Chapter 2 for further discussion), and programmes such as Pathways to Law aimed at supporting students from lower socio-economic groups into the legal profession (Sutton Trust, 2015).

Now, access to work experience, and the benefit of work experience for securing a job, is a means by which access to the profession is restricted. Students from upper class families who mix with legal professionals in their social circles have a greater chance of securing work experience in a legal environment than students without these social relationships (Burrage, 1996; Hoare, 2006). Although it is becoming more diverse, the upper ranks of the legal profession are still stratified by gender, class and race.

Conclusion

This chapter has discussed epistemic access in general, and discipline specific terms. Epistemic access is characterised as requiring a balance of theoretical and applied knowledge to maximise students' engagement with disciplinary knowledge and in Chapters six, seven and eight I will explore whether the law degrees at Local and Global are providing students with epistemic access.

The findings of the ESRC project have guided my enquiries during this project and I will make comparisons between these findings and my own findings in Chapter 9 of this thesis. I am interested to see whether, any differences in the pedagogic device or student identities, in law, follow hierarchical lines. I am also interested to see what, if any differences are

revealed between the disciplines of law and sociology, and how my research adds value to the ESRC project.

My discussion has also introduced the historic exclusivity of the legal profession and the struggle between the profession and the higher education sector. This struggle remains today and is visible in the lack of clarity and focus provided for law schools about the content and purpose of the law degree. This is discussed further in Chapter 6.

Chapter 5 : Methodology and Methods of Data Generation: A Social Realist Design

Introduction

My research was a longitudinal study over three academic years (2012-2014) of the LLB Law degree in two universities of different status. This chapter shows that the research process is aligned with the theory set out in the previous chapter, it is a non-linear process, and, cyclical with the results from one stage of data collection influencing the shape and form of the next stage of data collection.

This chapter details the research design that was selected to investigate students' epistemic access during their law degrees. The chapter is divided into 4 parts. It begins by discussing the methodological approach. The second section details the research design and the research tools, and the third section details the methods for data analysis including the limitations and ethical considerations. The chapter concludes with a summary of the research methodology.

Methodological approach

This research is a comparative case study, which uses different methods of data generation, with a longitudinal element. There are two cases to compare: the LLB Law degree at two universities ('Local' and 'Global'). A qualitative approach was used because the study aimed to gain a rich and detailed understanding of the students and their access to law knowledge. I wanted to gain 'an understanding of social processes rather than obtaining a representative sample' (Arber, 1993, p73); in other words I sought 'answers to questions about the 'what', 'who' or 'why' of [the] phenomenon, rather than questions about 'how many' or 'how much' (Green and Thorogood. 2004. p5). This involved exploring the learning environment, students' personal experiences and backgrounds, and staff expectations (Maxwell, 2005). It was key that the voices of the students

were heard (Creswell, 2007) because their experiences revealed their specialised pedagogic identity. This study has several characteristics typical of qualitative research (Patton, 2002): naturalistic inquiry; flexibility; personal experiences; reflexivity; a holistic perspective; and rich thick description. These are developed below.

- *Naturalistic inquiry.* This research was partially naturalistic because, by studying the students and staff in their university learning environments, I was able to explore their behaviour and attitudes and the impact this had on their learning (Maxwell, 2005). For example, were the students comfortable and relaxed in their learning environment or did they feel awkward and out of place? Had I met the staff and students away from the university, I would not be studying them in the natural context of teaching and learning.
- *Flexibility.* By remaining flexible in my research design I was able to adapt to any circumstances that arose and explore any new paths if they emerged. For example, when a student withdrew from his degree I was able to adapt his final interview to explore the reasons for his withdrawal rather than continuing with the original interview schedule (see appendix 5) or being forced to omit his data from the study.
- *Personal experiences.* My own experience as a law student gave me an informed insight into the perspectives of the research students and staff. I was able to explore their different perspectives about the law degree, the university and their backgrounds to these perspectives, using personal knowledge to guide my questioning. For example, I am familiar with legal terminology so when these were mentioned in observations and interviews I did not need to seek clarification.
- *Reflexivity.* I have been reflexive throughout this research and have documented examples of this. For example, after listening to my first-year interview recordings I identified occasions when I was

not probing the interviewees about their responses; instead I was just accepting them. During the second and final year interviews I explored the students' responses in more depth, trying to ask more about the actual discipline of law and probe what the students had actually learned, what law meant to them and what being a lawyer meant to them.

- *A holistic perspective.* Analytically, I have focused upon individual parts of the two degrees such as the curriculum documents or the views of the students, but I have kept a holistic view by conceptualising the two universities as two 'cases' of epistemic access and by retaining a sense of students as individuals.
- *Rich, thick description.* Rich, thick description is a sufficiently detailed description of a phenomenon so as to allow the transferability of research findings to be evaluated. In this thesis it is intended to enable readers to vicariously experience the documented research events (Stake, 2005).

Qualitative research has different measures of rigour than quantitative research (Farmer et al, 2006; Morse, 2006a, 2006b; Sandelowski, 1986, 2004) and so researchers must take precautions to ensure that the methods used are sufficiently robust. My research design, data collection and data analysis has been systematic and well documented, enabling another researcher to replicate my study.

Taking a case study approach to research

This project uses what Stake (2013) refers to as the multiple-case study model: a study with several different cases - in this research there are two cases, which enabled me to explore any differences and similarities, and make comparison between them.

A case study is variously described as: a method, a strategy and an approach (Simons, 2009), a qualitative methodology (Yin, 1994) and a way of defining a specific area that is being studied (Stake, 1980). However a

'case' is always defined as a contained system: 'a unit around which there are boundaries' (Merriam, 1998. p.27). Using the entire 'case' and looking at how different factors within that 'case' relate to each other is how case study research differs from other methodologies.

The tradition of using case studies in research suggests the importance of gaining a sense of what is happening within an institution, such as a university, and describing it in detail (Stake, 1995). A case study is a useful methodology if the researcher is asking questions about how and why in a real life context with many variables that cannot be controlled (Simons, 2009; Stake, 1995; Stake, 2013). When conducting a case study it is important that all elements are clearly defined (Simons, 2009; Stake, 1995; Stake, 2013). I can clearly define the students, the universities and the degree course that feature in this research project. The context of the cases also needs to be taken into account because this can influence or alter the cases; individual behaviour differs depending upon their environment and needs at that particular time (Dreier, 1999, 2008). For example, the students' behaviour may alter depending upon the time of year; whether it is nearing the exam period when they are anxious and revising, nearing the end of term when they are starting to look forward to the holidays or the start of a new term when they are refreshed and enthusiastic after their holidays.

Within this multiple longitudinal case study methodology, I used several methods of data generation to gather rich, detailed data (Cresswell, 1998; Stake, 2013) and to allow each case study 'to present more rounded and complete accounts of social issues and processes' (Hakin, 2000. p.61). It also enabled me to establish credibility, or validity, through triangulation and to view the different data sources alone and as a collective (Gadamer, 1975).

The longitudinal research design meant that I could follow the students through their degree, eliciting their views and experiences at regular

intervals. By spreading the research over a long period of time, I was able to gain a more balanced and holistic view of each university and participant (Bogdan and Biklen, 1992). Merriam (1988) believes that a longitudinal element is appropriate for a case study and Mason (2002) argues that the longitudinal element allows the researcher to view and interpret events as they occur rather than retrospectively, a particularly important point for my research because it enabled me to experience the students' education alongside them rather than asking them to recall three years' worth of thoughts and experiences.

Ethnography within the case studies

This research contained elements of ethnography which 'document[s] the culture, the perspectives and practices, of the people in these settings. The aim is to 'get inside' the way each group of people sees the world. (Hammersley, 1992). I was able to write detailed accounts of the universities and the students based upon direct observations made when visiting the two universities.

A strength of this ethnographic approach is that data was collected in naturally occurring settings. This 'can only be achieved by first hand contact with it, not by inferences from what people do in artificial settings (such as experiments) or from what they say in interviews about what they do in other settings' (Hammersley, 1994. p.5). All field work was carried out within the two universities, environments that the students were familiar with. I conducted my fieldwork over three academic years and kept field notes throughout this time. These were used to inform my research and acted as a reminder of things to investigate further.

When interpreting the data from this research project, it was important that I took an ethnographic position; that is, I presented a 'thick description' of the cases. I used my understanding of the contextual use and meanings given to words by the students which I had learned throughout the research and my own experiences as a law undergraduate

student. This was important, not only for words used in a social context but also for the legal terminology that was used by all of the students throughout all of the data. Without this position, I may have been unable to appreciate the importance and meanings of the empirical data. For example, when students discussed free movement of goods, I knew they were referring to their Law of the European Union module and when they discussed the case of *Donohue v Stevenson* I knew that they were referring to their Tort module.

Implicitly or explicitly, all researchers will bring their own understandings to their interpretation and analysis, based upon practitioner or theoretical perspectives. When I first began this research project my understanding was based upon my experience, as a law student and widening participation staff member, of higher education. This understanding, which was supported by statistics, included the view that the pre-1992 university students would be high achieving students from predominantly middle class, with parents or family contacts who would support their legal careers with the provision of placements and work experience. I further assumed that the student population at the post-1992 university would be more diverse, with a greater range of abilities and fewer family links to the legal profession. To ensure that my understanding and assumptions did not affect the reliability and validity of the research I tried to remain open-minded throughout the research process and strove to remain objective throughout the interpretation and reporting processes. This is demonstrated by: the frequent discussions I had with my supervisor about my interpretation of the data; the audit trail provided later in this chapter; the use of several research methods; and the rich and detailed descriptions I give about the participating institutions and students to enable others to scrutinise my results.

Selecting and accessing the research sites

There were two important factors that influenced the selection of the two universities: they offered the LLB Law degree; their positions in university

league tables contrasted; and they were located in close proximity to one another. I have called the participating universities 'Global' and 'Local' to reflect their international and national reputations and their international and local student populations respectively. I will discuss each university in greater depth in Chapter 6.

To recruit the two institutions I approached their law departments. I provided them with information about my research and asked if they would volunteer to participate. Initially one university department agreed to participate and one declined. I approached a third university department and it agreed to participate.

My supervisors had professional relationships with people in the law departments which facilitated my access. At Global I approached the Undergraduate Programmes Manager and at Local I approached the Head of the School of Law to invite them to participate in my research. These two universities were a pre-1992 and a post-1992 institution located within 25 miles of one another and they were both easily accessible to me which made the research practically feasible. I attended meetings with my supervisors at both Global and Local and provided the department staff with an information sheet about the research project (appendix 1), detailed the commitment I would require from the university and answered any queries or concerns raised by the departments. Following these meetings the two departments agreed to participate in my research project. A key member of staff within each of the two law departments was identified to act as my contact point. I called them 'department champions'.

Throughout my research the role of the department champions included: facilitating access to undergraduate law students and other department staff so that I could organise interviews and session observations; providing data about the procedures and processes within their departments; and, providing access to curriculum documents for the LLB

core modules. The experiences and knowledge of the department champions about the subject and their department assisted with the participant recruitment process and also assisted with the data analysis.

Students: access and sampling

During 2011/12, eleven students were recruited to participate in the research project; a further student at Global was recruited the following year (2012/13). This meant that there were six students at each institution. At Global an email was sent to all first year LLB Law students during the academic year 2011/12 by the department champion. The email outlined the research project, the requirements of students and asked students to email their department champions if they were interested in participating. I believed that there would be a higher likelihood of students reading and replying to an email from a familiar member of staff from their department than from a stranger. Initially only three students at Global responded to my email, agreeing to take part. A further recruitment email was sent our resulting in five students at Global. I then emailed the students directly to introduce myself and arrange times to conduct life grids and interviews. I recruited the final student in the following academic year, after we met at a university training event, and completed a retrospective first-year interview with them alongside their second-year interview.

The recruitment process at Local was much easier. Six students were recruited by the department champion. I met them all at a meeting arranged by the department champion and we arranged interview times for each of them. I travelled to their institutions and met with them as soon as possible at times convenient to them. When I met with all of the students for the first time, at Local and Global, they were provided with a research information sheet (appendix 1) and a participant consent form to read and sign (appendix 2).

This approach can be best characterised as a convenience sampling method (Wellington and Szczerbinski, 2007) when recruiting students. Convenience sampling is when students are selected due to their accessibility to the researcher. This sampling method is a simple, easy and cost effective way to recruit students. I chose to use this method because recruitment time was limited: I wished to interview current first year students during the 2011/12 academic year so needed to recruit students before they left campus for the summer holiday, and the use of this sampling method can result in a higher participant response rate (Wellington, 2000). However, because it is a non-random sampling method, the recruited students are unlikely to be representative of the whole population (Wellington, 2000).

There were many other students who did not volunteer to participate and there may have been many reasons for this, for example, they may be shy, overburdened with work, have had a very busy extra-curricular life, had children or elderly relatives to care for or simply did not want to take part. It is possible that these students have different opinions from those who volunteered about their experiences and perceptions of their course and university. These students will go unheard because they are not represented by the students, possibly resulting in bias appearing in the data because a full picture of data is not being seen. In other words, it is likely that the views of struggling students or students with extra personal responsibilities will be ignored. Nevertheless, as I will show, the views of the twelve participating students, alongside the curriculum documents and observations do provide detailed insight into the curriculum and pedagogy of the two departments.

Pseudonyms were given to each participant to ensure anonymity. The students at Global were given pseudonyms which began with the letter G and students at Local were given pseudonyms that started with the letter L: Gemma, Gabby, Grace, George, Gavin and Gina at Global and Laurence, Luke, Leah, Lauren, Lucy and Laura at Local. All of the students are

classified as 'home'²⁰ students' expect for Lucy and Laurence at Local who are classified as 'EU' students. The students are introduced fully in Chapter 6.

Methods of data collection

The research methods of this project follow the methods used in the original project (entitled 'Pedagogic Quality and Inequality in First Degrees' ([ESRC Grant Number: RES-062-23-1438 November 2008 - January 2012])).

When using multiple methods of data collection it is also important to have clear research objectives and clear boundaries concerning what will be included in the research (Silverman, 2006). This enables the researcher to work efficiently with their time, students and resources. My research questions and aims were continually referred to during the data collection and analysis stages of this project to ensure that my field work was efficient.

The methods that I used were:

- Life grids of twelve students
- Semi structured interviews with twelve students and four tutors
- Four tutorial observations
- Analysis of curriculum documents using NVivo
- Ethnographic field notes

I introduce and discuss each in turn below.

Life grids

I completed life grids with participant students in the first year interview. A life grid template, and a completed life grid are available in appendix 3. Life grids are a research tool used to gain an insight into an individual's life

²⁰ 'Home' students are UK based students.

history and they provide a common framework which allows for easy comparisons between lives. I used the life grid which was used in the ESRC research project. This had been adapted from the Webster et al (2004) and Wilson et al (2007) life grids which categorise the students' lives in periods rather than focusing on specific dates (see appendix 3). These life periods were Pre School (under 4 years old), Primary School (4 – 11 years old), Secondary School (11-16 years old) and Post Compulsory Education (above 16 years old). Several categories were then examined for each life period. These categories were Education, Family, Housing, Friends and Significant Relationships, Leisure Activities / Outside Education, Parents' Employment, Students' Employment and Health.

The life grids were used to inform a synopsis for each participant and they were also referred to during the interviews when appropriate. Details from the life grids, such as the employment status of the students and their parents were checked each year to ensure that they were up to date. I coded the life grids using NVivo to code the different attributes of the students. This enabled comparison to be made easily and highlighted any themes that emerged from the data. This is discussed further below.

Life grids are an economical research tool and are less resource intensive than recorded biographical interviews because they are written by the participant and interviewer as aspects of life are being discussed. The discussion was recorded and the life grid was completed by me during the discussion. The discussion that took place during the completion of the life grid resulted in me gaining a deeper understanding of the students' lives (Abbas et al, 2013). This process assisted me during other elements of the data collection and analysis process; that is, interview questions were tailored to the experiences of individual students and data was analysed whilst taking into account attributes of the students (such as number of schools attended, number of houses lived in, professions of their parents and employment history of the students).

Interviews

Each student was interviewed three times during their degree. I used semi-structured interviews, where a framework of key questions were asked of the students but there was room for flexibility for me to respond to a student's interview responses or to ask follow-up questions that related to a previous interview (Bogdan and Biklen, 1992). The common framework for the interviews enabled comparisons to be made between the students' responses and the flexibility resulted in a greater flow of dialogue between me and the student (Gudmundsdottir, 1996; Marton, 1981).

Although the interviews and life grids were used during the original research project, I did complete a pilot life grid and interview with law undergraduates (n=5) to ensure that the questions and format were applicable to law students. Piloting confirmed the existing templates could be used successfully in this project and so both the interview schedule and life grid template from the original project were used without amendments for the first and second year interviews (and appear in appendices 3 and 4). A new interview schedule for the final-year interviews was drafted and was piloted with one recent law graduate before being conducted with the twelve students in 2014. The result of the pilot was the rewording of several questions to improve the clarity of the question (see appendix 5). The final year interview schedule included a Case Analysis question which probed students' legal knowledge and reasoning skills. As part of this question I presented all of the students with the facts of an American court of appeal case; the case involved three young boys being convicted, as adults, for the murder of a family member. This provided the opportunity for the students to demonstrate their legal reasoning skills and ability to 'think like a lawyer', something that both universities profess to teach as part of their curriculum. The case question is detailed in appendix 5.

The use of interviews allowed me to probe students' individual experiences of their undergraduate law degrees and their perceptions of themselves as law students and lawyers. Their responses complemented the other data that I collected, such as tutorial observations, curriculum documents and staff interviews, providing a holistic view of the LLB Law degree at the two universities.

The longitudinal research approach allowed me to evaluate the extent to which the students had acquired epistemic access throughout their academic careers. Each annual interview focused on the students' experiences in that academic year and their aspirations for the next year and the future. Several themes of the students' lives were addressed and questions, such as asking the students to rate their satisfaction with their course, institution and experience out of ten, were repeated each year to see what, if any, differences occurred over the course of the degree. This allowed me to probe for the reasons behind any changes as they occurred. The interview questions were open-ended with additional prompts included on the interview schedule. This was to allow the students to tell a story about their experiences and perceptions of university and for the interviewer to provide some guidance and direction to the students if necessary. The framework for the interviews is detailed below in table 5.1.

In order to develop a trusting relationship between myself and the students (Cohen et al, 2000), and to ensure that the interview process was one of collaboration (Fontana and Frey, 2005), I did not remain totally neutral and did contribute to interviews, at times. For example, I had conversations with some students about law modules that we both liked, and discussed our respective plans for the summer holiday. I believe that the development of a trusting relationship put the students at ease during the interview process. This resulted in students revealing personal information about their struggles, worries and expectations, data which may have been lost in a formal interview environment.

Table 5.1: Participant interview framework for the three years of interviews

Interview framework for years 1 and 2		
Question	Topic	Probes
1	Background	University choice Course choice
2	Academic Work	Progress so far Staff expectations Volume of work
3	Assessment	Results Module Options Feedback Mark schemes
4	The 'student experience'	Enjoyment of student life Benefits of student life Any personal gains from university
5	Students' lives	Employment Personal relationships University experience
6	Future aspirations	Plans/aspirations beyond the degree
7	On a scale of 1-10	Satisfaction with the university Satisfaction with the course Satisfaction with their university experience
8	Anything else	
Interview framework for the final year		
Question	Topic	Probes
1	Introductory Questions	Academic progress Future plans
2	Academic work	Personal expectations – have they been met? Skills and knowledge gained Likes and dislikes

		Do they 'feel like a lawyer'? Anything to be improved? Any recommendations
3	University life	Social activities Likes and dislikes about university Friendships at university
4	Friends and Family	Changes to relationships with family and friends at home
5	Personal changes	Changes since starting university Future plans Law careers?
6	Summary questions	A worthwhile experience? Any recommendations
7	On a scale of 1-10	Satisfaction with the university Satisfaction with the course Satisfaction with their university experience
8	Anything else	

The interviews and life grids were carried out in tutorial rooms within the law departments of the students' institution. This meant that the students were in a familiar environment and all appeared at ease during the interviews. The interviews and the life grids were audio recorded so I was able to give my full attention to the interviewee during the interview. I saved the audio recordings as individual MP3 files and transcribed each interview after the session had concluded. Not making notes added to the informal nature of the interview and helped to put the interviewee at ease.

Teaching Observations

I chose to include observations within my research design because they provided me with the opportunity to observe the relationships between the students and the staff, the different teaching approaches that were

used and the level of student engagement and interaction within the sessions. Observations provided me with a holistic view of the teaching, the learning environment and the students and staff relationships' and enabled me to see the students and staff in a naturalistic setting. The approach I took was that of Persson (2005, cited in Newby, 2012): an inactive known observer where I was visible to the class of students but did not participate in the lecture or tutorial. Visibility may result in students acting differently as a result of my presence and so I tried to sit at the back of the room, drawing little attention to myself. Despite this, I was a new face in the group, I was introduced as a researcher and a law graduate with an understanding of the topic of the tutorial sessions so I felt that my presence did affect the dynamic anyway. None the less, this was as naturalistic an observation as could be achieved by ethical methods.

I observed one core module tutorial at each university during the second year (Criminal law) and final year (Equity and Trusts) of my research and the students' LLB degrees. Observing the same modules at each university meant that I could make direct comparisons between them. The observations were accompanied by a pre and post observation interview with the lecturer. The questions for these interviews focused upon: the aims of the session, the learning outcomes for the session and the teaching strategies used during the session. The interviews allowed me to capture the lecturer's perceptions of the session and later compare them to the students' perceptions. Criminal law and Equity and Trusts modules were taught by a mixture of lectures and tutorials but only the tutorials were observed. This was because the lectures, unlike the tutorials, did not involve the students' interaction and the teaching strategies used were limited.

During each observation a small audio recorder was set up in the corner of the room and each observation was recorded and saved as an individual MP3 file. Handmade notes and personal observations were also made

during the session and these were typed up on the same day. This follows the four sets of data that observers should keep, as suggested by Spradley (1979) and Kirk and Miller (1986). These include: notes made when 'in situ', an expansion on these notes which are made as soon after the observation as possible, a diary of notes to record musings, thoughts, questions and problems that arise during the fieldwork and a record of on-going analysis (cited in Cohen et al., 2003, p.313).

A limitation of observations is a tendency for the researcher to see what they want, or were expecting, to see. To avoid this I took notes about pre-set topics and recorded the sessions so that they could be listened to again. The pre-set topics that I chose to frame my observations were: language used by the staff; language used by the students; engagement of students; interaction between staff and students, the learning environment; content of the session and literature to accompany the session. I felt that these topics were specific enough to provide a structure to my notes, yet broad enough to not be restrictive.

Documents

Documentary analysis was included in this research to provide a policy and curriculum background for the interviews, survey and observations. The documents gave me an insight into the policy, processes and knowledge that the students were being exposed to during their degree. The documents I included were: core curriculum documents, institutional Office for Fair Access (OFFA) agreements, institutional strategic plans, Widening Participation Strategic Assessments and institutional definitions of widening participation. Documentary data provides 'a wealth of easily accessible and readily available research data' (Appleton and Cowley, 1997. p.3) that has a 'pervasive significance...in contemporary social settings' due to its central position in 'the fabric of everyday social life' (Atkinson and Coffey, 2004. pp.56-57). Documentary data also remains unaltered by its use by the researcher (Robson, 2002). There are several limitations of documentary analysis. One is that the meaning of a

document will change according to the context within which it is read (Atkinson & Coffey, 2004; Hodder, 2000; Prior, 2003) and Hodder (2000) suggests that once a document has been written the possibility of different interpretations increases. This occurred in relation to department Handbooks where instructions for pastoral support and independent study time were unclear to some students. I also discovered that the definition of 'widening participation' varied between academic departments, universities and government organisations. This meant that widening participation strategies involved different activities and different groups of students; that is, some strategies referred to students from socio-economic groups 4-7, some strategies referred to students from socio-economic groups 5-8 and some strategies referred to students who were the first generation in their family to enter higher education.

Ethnographic field notes

Ethnographic field notes were also included because they provided a journal of my observations and thoughts throughout the three years of my research. For example, I used them to record observations such as the appearance of a classroom, the fact that in stark contrast to his fellow students, one participant always carried a briefcase and wore a suit, and any comments made by staff or students that I wanted to investigate at a later date.

Table 5.2 provides a summary of the data sets generated in this research project along with the dates that they were generated.

Table 5.2: Summary of data sets

Data set	Global	Local	Total
Interview transcripts	n = 18 over 3 years (2012-2014)	n = 18 over 3 years (2012-2014)	n = 36
Life grids	n = 12 (March – April 2012)	n = 12 (March-April 2012)	n = 24
Analysis of curriculum documents	n = 8 full year modules	n = 8 full year modules	n = 16 full year modules
Session observation transcripts	n = 2 (May 2013, Nov 2013)	n = 2 (May 2013, Nov 2013)	n = 4
Staff interview transcripts	n = 2 (May 2013, Nov 2013)	n = 2 (May 2013, Nov 2013)	n = 4
Ethnographic field notes	Throughout the research project	Throughout the research project	Throughout the research project
Institutional policy documents (OFFA agreements, strategic plans, Widening Participation Strategic Assessments and institutional definitions of widening participation.)	n = 4	n = 4	n = 8

Data Handling and Analysis

Languages of description

'A theory is only as good as the principles of description to which it gives rise.'(Bernstein, 2000. p. 91)

Bernstein defines 'languages of description' as 'a translation device whereby one language is transformed into another' (2000. p.132). This offers a way to think about the research process. Bernstein distinguishes between internal and external 'languages of description' with 'internal languages of description' referring to theories or concepts. 'External languages of description' refers to descriptions of everyday realities, to which empirical data refers. The internal language of description in this research is a Bernsteinian Framework which is detailed in Chapter 3.

Bernstein (2000) proposes that empirical data should be analysed and coded before the theoretical framework is applied to the data. This means that the themes which emerge from the data are fully analysed, independent of a theoretical, rather than the analysis being limited to the themes that merely repeat the original theory. This prevents the empirical data being distorted by the overuse of the theory.

To ensure that the theoretical framework was not overly imposed upon the data, the data was thematically coded and analysed without the use of the framework. I did this to keep the empirical data 'as free as possible' (Bernstein, 2000. p.135) from the influence of the theoretical framework. After developing descriptions of what was emerging from the data, I introduced the theoretical framework to the process and I was able to reflexively see the relationship between the empirical data and the theory. The external languages of description, or the empirical data, allow the possibility of showing the strengths and the weaknesses of the theory (Bernstein, 2000). In other words they can facilitate the development of a discursive gap which is a gap that exists between the empirical and the theoretical (Bernstein, 2009).

When describing what is external or outside the theory, the external language should describe what is relevant to the theory but also what goes beyond or challenges the theory. For example, during the ESRC research project (Pedagogic Quality and Inequality in University First Degrees) a discursive gap allowed a challenge to what was arguably a Bernsteinian prediction that there would be differences in what would be considered legitimate knowledge at the four different institutions. (McLean et al, 2012). Like that project, this research aimed to allow a discursive gap between the Bernsteinian theories and framework and the empirical data gathered during the fieldwork stage of the research to challenge or confirm Bernstein's concepts.

The analytical process

The data analysis was continual throughout the final two years of this research project. Findings from the data collected in the earlier stages of the project informed and supplemented the second and final year student and staff interviews. I conducted multi-level analysis so that the analysis at different levels could be viewed as individual parts of the research and as part of the whole project (an approach that is proposed by Cohen et al, (2003)). The four levels that I used are outlined below, followed by further detail about the analysis of the different data sets.

- 1) **The level of the individual student.** After completing a life grid with each participant, I entered these into NVivo for coding and then used the information provided to write a synopsis for each student. These are included in Chapter 6. These synopses provide an introduction to each student, offering the reader a concise overview of each participant, their background and their university experience before their interview data is used in the final chapters.
- 2) **The level of the group of students, at each university and as a whole group.** After interviewing the students, I transcribed, coded and analysed the recordings each year. This was to enable any

themes from a particular year of study to emerge without being lost or dismissed due to changes in students' responses. The interviews allowed me to see the opinions and perspectives of the students as individuals and as a group. I used this data and analysis in Chapter 8.

- 3) **The level of the department.** The curriculum documents were analysed and then used to complement responses made during the participant interviews and observations. This was to ensure that the differences between the two departments were not lost or mixed together. It also meant that I was able to develop an understanding of the two law departments' identities. This data is presented in Chapters 6 and 7.
- 4) **The level of the institution.** All data from each university was drawn together viewed as a whole case. This overview of the university meant that similarities and differences between the two universities could be identified and discussed, and comparative case analysis could occur. Through this layer of analysis I was able to develop an understanding about the identity of the whole university. This information is presented in Chapter 6.

My analysis chapters reflect the Bernsteinian framework. They discuss the curriculum of the law degree (Chapter 7), the pedagogy of the degree (Chapter 8) and the identities of the students and the departments (Chapters 6, 7 and 8).

The use of qualitative coding

I transcribed all interviews and life grids which helped me to become familiar with their content and made the process of coding easier. I then analysed the interview transcripts and life grid transcripts using NVivo (computer assisted analysis of qualitative data or CAQDS); this made it easier to handle the large amounts of qualitative data. The software enabled me to organise the data into themes more quickly and thoroughly than if I had completed the process manually, resulting in the combination

of human skill and understanding with the thorough technique of computer assisted analysis. The process of coding has been criticised because it can lead to the context of the data being lost (Bryman, 2012) and the fragmentation of data resulting in the loss of conversational flow (Coffey and Atkinson, 1996). To avoid this situation, I asked myself 'what's the main story here?' as advised by Strauss (1987, p.35). I kept the full transcripts and recordings so that I could refer back to them if necessary.

The coding process was cyclical and had several stages. Firstly I read through the transcripts, several times, making notes about general themes that emerged from the data, these are known as free nodes (Charmaz, 2006; Goulding, 1999). Secondly, I read through the extracts for each theme and coded them into more specific themes and linked them to each other as appropriate (tree nodes). I coded and analysed the different data sets independently of one another. Finally I played with the data, cutting out quotes and positioning them so that I could see the longitudinal story, the students individual stories and the universities' stories. This process was continued until the transcripts were saturated of ideas. It can be difficult to define 'saturation' (Morse, 1995), and it has been described as an elastic principle (Mason, 2010). I chose to define saturation as process of coding which continued until all of the data was coded and no further themes or codes emerged. Once the data was fully coded, Bernstein's theoretical framework (see Chapter 3) was used to assist with the data analysis. The theoretical framework was only applied once the data had been fully coded.

Teaching observations

I selected one second year (Criminal law) and one final year (Trusts) core module tutorial to observe at both Local and Global. This was so that I could make comparisons between the tutorial teachings of the same subject at the two universities. I sat at the back of the room and was not introduced to the students so that I could remain as un-intrusive as possible. I audio recorded all observations which I transcribed after the

observations. I also made notes about the number of students who attended, the environment and the time of day that the tutorial took place and anecdotal comments throughout the tutorial.

Once the tutorials had been transcribed, I followed a similar process to the analysis of the interview transcripts; I analysed the transcripts using NVivo which enabled me to organise data into themes. Once I felt that saturation had been reached, I introduced the Bernsteinian framework to my analysis.

Document analysis

By analysing the curriculum documents I was able to explore the relationship between the documentary curriculum and the delivered curriculum, and the learning environment as perceived by students and staff. This analysis enabled me to identify and differences between the curriculum and pedagogy that the department offered and what they students felt that they received as part of their degree and further, allowed me to analyse the classification and framing (Bernstein, 2000) of the curriculum and pedagogy.

The institutional policy documents (listed above in table 5.2) were analysed in order to compare the proposed recruitment, attainment and destination data for students (most specifically students from underrepresented groups) contained in these policy documents with the achieved figures and in light of HEFCE targets and benchmarks.

Field note analysis

I kept my field notes in a journal throughout the three years of my research. I manually analysed these notes rather than entering them into NVivo because I used this data to enrich my other data sets. I read through my notes line by line and colour coded different themes as they arose from my reading. Once this process was complete I matched these themes to themes that had arisen from my other data sets. When writing up my

findings I used the ethnographic notes to support or contradict the themes from the other data sets. For example, my criminal law tutorial observation at Local supported the students' perceptions of their friendly and supportive relationship with the tutors.

Validity and the position of the researcher

Questions relating to the validity of a research project refer to the degree of truth of the research findings (Scott and Morrison, 2005). Mason (1996, p.21) asserts that reliability, validity and generalizability are 'means of the quality and rigour and wider potential of research which are achieved according to certain methodological and disciplinary conventions and principles'. The definition for validity used by Mason (1996) is whether 'you are observing identifying or measuring what you say you are' (p.24) and is close to the definition used by quantitative researchers. However, Lincoln and Guba (1985; Guba and Lincoln, 1994) suggest that qualitative research should be judged according to different criteria to those for quantitative research. They suggest that trustworthiness is a more suitable criterion for assessing qualitative research. Trustworthiness consists of four criteria; Credibility (equates to internal validity), Transferability (equates to external validity), Dependability (equates to reliability) and Confirmability (equates to objectivity).

- Credibility can be established through triangulation and respondent validation of the research findings (Cohen et al, 2003; Guba and Lincoln, 1994; Lincoln and Guba, 1985).
- Transferability can be established through the use of rich, thick description by the researcher which enables others to decide whether the research findings are transferable to other social contexts. Case studies research is not easily transferrable due to problems of interpretive bias (Nisbet and Watt, 1984). By conducting the research to a sufficient depth then it is, cautiously, possible generalise results from one group of individuals to another group, but not really possible to generalise to a population (Stake,

1980). My observations, documentary sources and interviews enabled me to write rich, detailed accounts of both universities and all students. This provides a context for the research as well as providing the description needed for others to decide whether to generalise the conclusions to other cases. Also, the interplay between the internal and external languages of description (the discursive gap) (discussed above) makes these research findings transferrable. It is these constructs which mean that these findings can be applied to other academic disciplines.

- Dependability can be established if the researcher keeps an audit throughout the research process. I have maintained records which contain personal details about the students; dates and times of interviews, observations and the survey; a record of all curriculum documents and a work schedule for the duration of the project. (see appendix 8).
- Confirmability can be established if it is demonstrated that the researcher acted in good faith throughout the research process, even though complete objectivity is impossible in a social reality. After each interview I systematically transcribed the interview which allowed me to read the students' responses and look for any unanswered questions (Silverman, 2000). I then sent the first transcripts of my interviews to my supervisor for feedback about the depth of the interviews and the richness of the data that was being collected. This informed subsequent interview schedules where I began to ask students for concrete examples within their answers, and other methods of data collection (such as observations and the survey questions).

My rich descriptions and detailed research audit resulted in credible, transferrable, dependable and confirmable research. Alongside these qualities, I also acted ethically throughout the project. I will now discuss the ethical conduct of this research.

Ethical conduct of the research

This research involved students discussing their personal backgrounds and academic staff discussed their teaching and marking methods, which are potentially sensitive discussions. The students were asked to reveal personal information about themselves and their families, such as: the level of their parents' highest educational qualification and job role; their own results achieved whilst at university; and, any problems they may have encountered throughout their education.

The staff and law departments were asked to share their teaching materials and assessments for comparison with those of another institution. This may have raised questions about the quality of teaching which could have caused offence.

Diemer and Crandall (1978) identified four elements of informed consent which were all complied with throughout this research ensuring that: all students were capable of giving their informed consent (Cohen et al. 2000) all students participated voluntarily; all students were fully informed about the purpose and process of the research; and, all students understood any implications arising from their participation.

Before the interviews and observations were conducted I provided all students with an information sheet about the research project (see appendix 1) and a consent form (see appendix 2). The information sheet explained that all students (both individuals and institutions) would remain anonymous and confidentiality would be maintained throughout the research and had the right to withdraw from the research at any time. Students were also assured that all data would be stored securely and would only be used for the purposes of this research. No interviews or observations took place until these consent forms were signed. I also provided the contact details (name and email address) for myself and my supervisors so that any questions that arose could be answered. With the consent of the students I recorded and transcribed all interviews and

observations and the students were given the opportunity to check the transcripts and request changes if they felt that they had been misrepresented or there was a factual error in the transcript.

All transcriptions were anonymised and pseudonyms were given to both participating institutions and all student students to ensure their anonymity. Cohen et al, (2003) suggest that by making the research anonymous it may make it anodyne however Stake (2000, p.447) suggests that, by not doing so, the research students 'risk exposure and embarrassment, as well as loss of standing, employment, and self-esteem'. It can be hard to maintain anonymity throughout a research project, especially if there are only a few students (Goodwin, 2006) and verbatim quotes are used in the final report. This project involved only two institutions and twelve students so extra care was taken to ensure that neither institution nor any students were identifiable.

When I reported the data and my conclusions I made comparisons between Global and Local, and between the students. My obligation to the participating universities, department champions and students was to protect their rights and interests during the research process which I did by being transparent about the purpose and methods of my research.

The British Educational Research Association (BERA) Guidelines (2011, p.7) state that 'Researchers must recognize concerns relating to the "bureaucratic burden" of much research, and must seek to minimize the impact of their research upon the normal working and workloads of students'. In order to comply with this I ensured that interviews only lasted one hour unless prior consent for a longer interview had been given by the students' and the interviews were scheduled around the students university timetable and workload.

This research project has received ethical approval by the Research Ethics Coordinator for the School of Education at the University of Nottingham

and all ethical considerations were addressed in line with the BERA's revised ethical guidelines for educational research (2011).

Limitations of the research

Case study research also has its limitations relating to the validity or generalizability of case study research (Silverman, 2005; Bryman, 2012). Stake (2005) emphasises the need to understand the case itself rather than generalize findings however Silverman (2005) disagrees and states that focusing solely on the case means that the researcher is merely providing 'description of a case for descriptions sake' (p.128). However by ensuring my approach was that of evaluation rather than just description I was able to avoid this limitation (Merriam, 1988).

Summary

This research used a longitudinal comparative case study approach to illuminate students' experiences throughout their law degrees and make comparisons between two different universities. This chapter has detailed the recruitment process I used, and the 2 institutions and 12 students who participated in this research project. I have detailed the research tools that I used to gather data and the steps I took to ensure that the research was trustworthy. I have discussed the ethical considerations that were made during the project and the methodological limitations that I encountered. Table 5.3 provides a summary of the methodology and methods of data collection for this research project.

Table 5.3: Summary of Methodology and Methods of Data Collection

Methodology	Comparative case studies with a longitudinal element
Epistemology	Social Realist
Theoretical Framework	Basil Bernstein
<p>Q1.What are students’ experiences of curriculum, teaching and learning of the LLB Law degree throughout the years of their degree at two universities of different status?</p> <p>Q2.How does teaching and curriculum differ at the different universities? For example do they involve different teaching methods, assessment methods or curriculum content? How do these differences impact upon student retention and success?</p> <p>Q3.Do the projected students’ identities differ at the two universities? How do these identities relate to students’ success?</p>	<p>Research Methods</p> <p>(I have mapped these methods onto the research questions which are detailed in the left hand column)</p> <p>Life Grids</p> <p>Student Interviews</p> <p>Observations</p> <p>Staff Interviews</p> <p>Documentary Analysis</p> <p>Student Interviews</p> <p>Observations</p> <p>Staff Interviews</p> <p>Documentary Analysis</p>
Number of Participating Institutions	2: Global and Local
Number of Student Students	12
Number of lecturer interviews	4
Sampling	Non-probability Convenience
Tool used in my analysis	NVivo

The next chapter provides contextual information that is important for the study: I will introduce the discipline of law, and the participating universities and students in greater detail.

Chapter 6 : Setting the scene of the research

Introduction

This chapter sets the scene for my research. The chapter is about the institutional environment, the departmental environment, the law degree courses, the students generally, and the twelve students who participated in this research. It is divided into 3 sections. In the first section, 'Recontextualising the law as curriculum' I give an overview of the report into the need for diversification of the legal profession because it provides insight into the opinions of legal professional bodies' about the necessary content of law degrees. I clarify the current requirements for a qualifying law degree. In the second section, I provide information about the two participating universities and their respective law departments, to contextualise discussions about the pedagogy and curriculum of the two universities in Chapter 6. In the third section I introduce the twelve research students. These introductions provide familiarity with the students and some context prior to discussing their university experiences in Chapter 7.

Recontextualising the law as curriculum

The law consists of rules, statutes, cases and principles that need in Bernstein's terms to be recontextualised for the purpose of teaching to those who will go on to practice law.

Qualifying Law Degrees

At present the first stage to qualify as a legal professional is the academic stage, during which students must successfully complete a 'qualifying' Law degree or 'qualifying' Law conversion course. The second stage is the vocational stage during which students must successfully complete a professional course and training (Solicitors Regulation Authority, 2014). I will set out what students are expected to know, understand and be able to do at each of the two stages.

A qualifying Law degree is a degree that is approved by the Joint Academic Stage Board (JASB). This board is comprised of the Law Society, representing solicitors, and the Bar Standards Board, representing barristers, and within what is known as the Joint Statement on Qualifying Law Degrees they set out the requirements for a qualifying Law degree. These requirements are classified as Knowledge and Transferable Skills (Schedule 1, the Joint Statement on Qualifying Law Degrees).

a. Knowledge

Students should have acquired:

- i. Knowledge and understanding of the fundamental doctrines and principles which underpin the Law of England and Wales particularly in the Foundations of Legal Knowledge;
- ii. A basic knowledge of the sources of that Law, and how it is made and developed; of the institutions within which that Law is administered and the personnel who practice Law;
- iii. The ability to demonstrate knowledge and understanding of a wide range of legal concepts, values, principles and rules of English Law and to explain the relationship between them in a number of particular areas;
- iv. The intellectual and practical skills needed to research and analyse the Law from primary resources on specific matters; and to apply the findings of such work to the solution of legal problems; and
- v. The ability to communicate these, both orally and in writing, appropriately to the needs of a variety of audiences.

b. General Transferable Skills

Students should be able:

- i. To apply knowledge to complex situations;
- ii. To recognise potential alternative conclusions for particular situations, and provide supporting reasons for them;
- iii. To select key relevant issues for research and to formulate them with clarity;
- iv. To use standard paper and electronic resources to produce up-to-date information;
- v. To make a personal and reasoned judgement based on an informed understanding of standard arguments in the area of Law in question;
- vi. To use the English language and legal terminology with care and accuracy;

- vii. To conduct efficient searches of websites to locate relevant information; to exchange documents by email and manage information exchanges by email;
- viii. To produce word-processed text and to present it in an appropriate form.

The 'knowledge' referred to above represents 'academic' sacred knowledge and the 'skills' represent the vocational element of the degree. It is this balance between academic knowledge and vocational skills that I am interested in and I will explore this dichotomy further in Chapter 7.

Law modules must constitute a minimum of 2 years in a 3-4 year course and a minimum of 240 credits in a 360-480 credit course. Each of the legal foundations of knowledge may be attempted a maximum of three times and the qualifying pass mark is low, set at 40%.

The Law degrees offered at Local and Global are both qualifying Law degrees and so each of the seven foundations of legal knowledge (compulsory modules) are contained within them. My interest has been in the content of the modules, the teaching methods used and the different ways that students are assessed to see if either university provides students with greater access to knowledge, which, as I will show in Chapter 7 had significant differences.

Although participation in higher education has widened, several professions, including legal profession, are becoming more socially exclusive; over 50% of barristers and solicitors have attended independent schools (compared to 7% of the whole population) and the highest earning barristers and solicitors typically come from families who earn up to £800 per week more than average family (Milburn , 2009. p.24). This exclusivity is also evident in the recruitment of trainee legal professionals. According to Rolfe and Anderson (2003) recruitment at larger Law firms favours graduates from pre-1992 universities due to 'a number of beliefs about old and new universities, which [does] not include that type of Law course or its content' (p.321). These beliefs are based upon:

‘The perceived quality of application and calibre of recruits, the position in the Times league table, the belief that universities with higher entry requirements will deliver more demanding courses and the graduates will be better, and the image of the firm’ (Rolfe and Anderson, 2003, p 321).

In response to regulatory change and expansion of the legal services market, the legal profession, including legal education and training, has recently undergone its most fundamental review since the Ormrod review in 1971 (Ormrod committee, 1971)(discussed below). This is known as the Legal Education and Training Review (LETR) which took place between June 2011 and May 2013. The review was run by the three main regulators of the legal profession, the SRA, the Bar Standards Board and ILEX Professional Standards and was observed by the Legal Services Board (LSB). The scope of the review was to examine all legal services and all stages of legal education and training to ensure that the objectives of the Legal Services Act 2007 were being satisfied, most notably the need to protect and promote legal service users’ needs and to ensure a diverse and effective legal profession.

Since 1971, reviews of legal education have assumed that there is an academic and vocational division between the academic and professional courses within the discipline, and have avoided being drawn into commenting on the curriculum content of the Law degree. The Ormrod Review (1971) recommended that legal education and training be based upon a three-stage model: an academic stage, a professional stage and a continuing professional development stage. The curriculum content for the academic stage was loosely defined as five core subjects with no compulsory structure: constitutional law, criminal law and land law, contract and tort.

Fifteen years later, the Lord Chancellor’s Advisory Committee on Legal Education and Conduct (ACLEC) Report (1996) gave a thorough review of legal education and training in England and Wales. The report

strengthened the division between the academic and vocational stages of legal education by stating that the Law degree should exist as an independent degree, not tied to the profession of Law. Boon and Webb (2008) argue that this divide was due to uncertainty about the role and purpose of the law degree.

‘One reason for the continuation of the academic and vocational divide within legal education is epistemic uncertainty. The uncertainty about the role of the Law degree as an independent qualification or a precursor to a legal profession remain due to a tendency of previous review committee’s to ‘respond ad hoc to national, regional and Globalizing pressures’ (Boon and Webb, 2008. p.79).

The ACLEC report also gave Law schools the freedom to choose the content and structure of their Law degree courses.

Most recently, the Legal Education and Training Review (2013) included a process of consultation with legal professionals through an online survey. When asking about legal education within the UK, the survey asked three questions:

- 1) ‘Undergraduate Law courses should be primarily liberal arts degrees that look at the Law in a rich cultural context.’ Agree or disagree?
- 2) ‘Undergraduate Law courses should be primarily practically focused on the skills and knowledge needed to work in the legal professions.’ Agree or disagree?
- 3) ‘The core subjects prescribed within the Qualifying Law Degree (QLD) provide students with a sufficient knowledge base.’ Agree or disagree?

The respondents were solicitors, barristers and legal executives. The results highlight the different weighting attached to the academic and vocational elements of the Law degree by the different professions. Barristers, the higher-status and most exclusive profession which requires

a law degree to practise, favoured the academic focus and sacred knowledge of the degree. The lower-status profession, legal executive, which does not require a law degree to practise, favoured a practical, vocational focus and everyday knowledge, with the inclusion of weakly classified, horizontal knowledge in the form of a career focus course. This is something currently provided by the professional legal courses (LPC and BPTC). The views of the solicitors fell in between the two. These results reflect the vested interests of the different legal professions; barristers wish to retain the academic, sacred knowledge which they profess to require for the role and the legal executives wish to shift the focus onto a vocational pathway, potentially minimising the power of the degree. Nevertheless, the survey as a whole shows that professionals across the legal sector believe that the Qualifying Law Degree (QLD) should provide a balance between an academic, abstract discipline as well as grounding for a legal career.

The survey further indicates that all legal professions feel that the QLD is a sufficient base for students to begin their legal careers. However a higher proportion of the barristers and solicitors, who must have completed a degree in order to practise, believe that the high-status vertical knowledge of the QLD core subjects are a sufficient knowledge base for students. Legal Executives, who have not completed a QLD, are less satisfied that this vertical knowledge is sufficient. Despite these views, the content of law degrees varies greatly in terms of the balance between vertical and horizontal knowledge and vertical and horizontal discourse. I will demonstrate this further in Chapter 6.

In response to the results of the survey into the legal education and training of students within the UK, the LETR report contained three recommendations.

Recommendation 1

Learning outcomes should be prescribed for the knowledge, skills and attributes expected of a competent member of each of the regulated professions. These outcome statements should be supported by additional standards and guidance as necessary.

Recommendation 2

Such guidance should require education and training providers to have appropriate methods in place for setting standards in assessment to ensure that students or trainees have achieved the outcomes prescribed.

Recommendation 3

Learning outcomes for prescribed qualification routes into the regulated professions should be based on occupational analysis of the range of knowledge, skills and attributes required.

(LETR Report, 2013)

These recommendations focus upon applying consistent standards of knowledge and skills across all legal education providers. This additional structure appears to be aimed at removing the hierarchy between providers by ensuring they all offer comparable courses and assessment criteria, rather than just the comparable core areas of law which currently exist. The curriculum that I have examined has not been influenced by these three recommendations.

Following these recommendations, under the Courts and Legal Services Act 1999 (as amended) the Bar Council and the Law Society have specified that QLD must include, as learning outcomes, the key points of law for seven foundations of legal knowledge, and these must equate to a minimum of 240 credits for a 360 or 480 credit degree course. The seven foundations of legal knowledge are: Public Law (including Constitutional Law, Administrative Law, and Human Rights), Law of the European Union, Criminal Law Obligations including Contract, Restitution and Tort, Property Law and Equity and the Law of Trusts.

Despite the topics being specified by the Bar Council and the Law Society, the syllabus for the topics and the teaching and assessment methods are not specified. This means that there is scope for great variation between legal education providers as will be seen in the research I present here.

Course entry requirements are also left to be decided by the individual universities, resulting in a wide range of entry requirements and fuelling the hierarchy of Law degree providers with higher admissions criteria being equated to a higher quality degree. The entry requirements range from A*AA- AAB at some pre-1992 universities like Global, to ABB-BCC for some post-1992 universities like Local; a difference of up to 100 UCAS points (Harris and Beinart, 2005). The higher entry requirements at pre-1992, or selective universities are likely to reduce their number of prospective students, especially those from lower socio-economic backgrounds, because many will not have the necessary academic qualifications, (Bibbings, 2006; Zimdars et al, 2009). This is because social class is, unfortunately, a solid predictor of educational attainment (Kerr and West, 2010).

The current guidance for qualifying law degrees allows for a hierarchical education sector, with the traditional teaching and academic focus of the pre-1992 universities (rather than the vocational approach of the post-1992 universities) being favoured by barristers, solicitors and larger law firms. This reflects Bernstein's argument that the distribution of higher status knowledge within formal education reflects the hierarchies in society. Even if the standards set by all Law degree providers are based upon a single competency framework, institutions will still have a vested interest in maintaining boundaries between themselves and other institutions.

In addition to the legal knowledge gained through studying the seven foundations of legal knowledge, the QLD should also 'start the students down the path of thinking like Lawyers' (City of London Law Society,

2012). In order to achieve this, the LETR report (2013) suggests several competencies that all Law graduates should have: communication skills, particularly writing skills, for a range of different audiences; legal research skills; commercial awareness including numeracy and an understanding of the business interests of clients and the commercial environment in which Law firms operate; social awareness including empathy; management skills including project management; client relationship management and risk management; ethics and professionalism; organisational and leadership skills. It is notable that these suggested competencies all focus upon the practical, vocational side of legal education and training rather than the academic side. That is, recommended competencies focus upon everyday, horizontal knowledge rather than the sacred knowledge favoured by barristers and solicitors and, as I shall show, Local's curriculum was more heavily weighted in this direction than Global's.

In conclusion, the recommendations made by the Legal Education and Training Report indicate a move towards a more inclusive profession, educating students about the professional elements of becoming a legal professional and maintaining the legal knowledge that is currently provided by the qualifying Law degree.

University and department contexts

For this research I chose to refer to the two participating universities as Local and Global. This reflects the fact that Local is a community centric university with multiple campuses within one county. They pride themselves on providing education and training to the local community. Global has an international reach with multiple campuses across the world. They pride themselves on their international staff and student bodies, the internationalisation of their modules and their relationships with other international universities, which provide students with the opportunity to experience life and education in other countries and cultures.

Rankings

The ranking of universities in league tables is closely related to the prestige that a university does or does not enjoy. This section provides a detailed account of Local and Global in terms of their ranking.

Local

Local is a post-1992 campus based university which charged tuition fees of £8500 per academic year in 2015. It is a member of the Million+ group²¹ of universities all of whom are all post-1992 universities or university colleges. The university has approximately 20,000 students, from over 170 different countries studying there. Over the last three years, Local has risen into the top 80 universities (out of a total of 119, 121 and 124) in three different University League tables. The position of the Law department is markedly different between the different league tables; it is within the top 80 law departments within the UK for one league table and within the top 40 Law departments in another. Local's league table rankings are illustrated in the tables below. Exact positions have not been given for traceability purposes.

²¹ Million+ is a university think tank, previously known as the coalition of modern universities, and consists of post 1992 universities and university colleges. Their mission is to influence public policy and funding, so that access to higher education is widened and collaboration between institutions increased.

Table 6.1: League table positioning for Local (top three lines) and its law department (bottom three lines).

League Table	2015	2014	2013	2012
The Complete University Guide – Overall ranking (Total 123)	Top 90	Top 110	Top 100	
The Times Good University Guide – Overall ranking (Total 121)		Top 90	Top 90	Top 110
The Guardian University Guide – Overall ranking (Total 116)	Top 50	Top 80	Top 70	Top 100
The Complete University Guide – Law (Total 98)	Top 70	Top 80	Top 80	
The Sunday Times University Guide – Law (Total 95)		Top 60		
The Guardian University Guide - Law (Total 97)	Top 40	Top 40	Top 40	Top 40

Global

Global is a pre-1992¹ Russell group²² university which charged the maximum tuition fees of £9000 per academic year in 2015. It is twice as large as Local with over 40,000 students from 145 different countries studying there and multiple campuses worldwide. Global has maintained a position within the top 30 UK universities in three different league tables over the past four/five years. The School of Law has risen from a top 15 department to a top 10 department since 2012. Global's league table positions are detailed in the tables below.

²² The Russell group was established in 1994 and represents many of the UK's leading and research intensive universities. It was established to represent the interests of its members to parliament, the government and other bodies.

Table 6.2: League table positioning for Global (the top three lines) and its law department (the bottom three lines)

League Table	2015	2014	2013	2012
The Complete University Guide – Overall ranking (Total 123)	Top 25	Top 25	Top 20	
The Times Good University Guide – Overall ranking (Total 121)	Top 25	Top 25	Top 20	
The Guardian University Guide – Overall ranking (Total 116)	Top 25	Top 30	Top 30	Top 20
The Complete University Guide – Law (Total 98)	Top 10	Top 10	Top 10	
The Sunday Times University Guide – Law (Total 95)	Top 5	Top 10		
The Guardian University Guide – Law (Total 97)	Top 10	Top 10	Top 15	Top 15

Research rankings

Research and teaching is also ranked separately. The Research Assessment Exercise (RAE) was carried out every five years and was a measure of research quality, volume and strength. In 2014 the RAE was replaced by the Research Excellence Framework (REF). In the 2008 RAE, Local was ranked as a top 100 university out of 132 for research power. They submitted research to four units of assessment, not including Law. In contrast, Global were ranked as a top 15 university for research power in 2001 and a top 10 university for research power in 2008. In the RAE 2008 Global submitted to over 45 units of assessment, including a Law submission. They were ranked within the top 5 universities for Law stating that their research informs government policy, non-governmental organisations and the commercial sector. High ranking in research bestows high prestige.

Global highlight their status as a world leading centre for legal research and their RAE 2008 ranking. Their website provides links to research and articles written by members of staff and detailed staff profiles which include their specialisms, research interests and positions of responsibility. There are 52 academic staff within the school all of whom hold doctorates and one is also non-practising solicitor. In contrast, Local state that their research informs their teaching, they only mention the RAE to highlight the submissions made by other disciplines and their staff profiles are minimal, with only a few mentioning any research interests. Within the School of Law and Criminology at Local, there are 31 academic staff, 8 of these staff hold doctorates, 6 hold LLM degrees and 7 are legal professionals (solicitors, barristers, paralegal and a forensics expert). At Global, students are taught by researchers and are learning within an environment where 'sacred' legal knowledge is being produced; a field of production. At Local, students are taught by practitioners who provide personal examples to illuminate their teaching. I will discuss this in further detail in Chapter 6.

Despite their differing league table positions, the levels of students' satisfaction at each university are similar. In 2013, Local achieved an overall score of above 80% in the National Student Satisfaction Survey, with a score of above 80% for their teaching. In 2013 Global achieved an overall score of over 85% in the National Student Satisfaction Survey, with a score of over 85% for their teaching. This indicates that despite many differences between the two universities and law departments (highlighted above), the students are equally satisfied with their higher education experience.

Wealth

The league table position of higher education institutions appears to be related to their material wealth (Abbas et al, 2008; Amsler and Bolsmann, 2012; Ashworth et al, 2004). In this project, this tendency is confirmed by several factors. At Global the spending per student is higher than at Local,

the value added score²³ is higher and the student staff ratio is lower (Guardian Higher Education league table, 2015). Within the Law departments at the two universities, the spending per student is also higher and the student staff ratio is lower at Global, however the value added score for the Law departments is higher at Local (Guardian Higher Education league table, 2015). The overall income of Global is four times greater than Local's (HESA, 2015a).

In 2011/12 the annual turnover at Global was over £520 million with a surplus of over £20 million. £100 million was awarded for research grants and contracts and over £130 million from other research awards. In the same period, the annual turnover at Local was £120 million, with a surplus of over £8000. Local received over £45 million from research grants, over £700,000 which came from non-HEFCE research.

The difference in wealth can be seen in the teaching environment and the images of the two universities. Although both universities are campus based, they differ greatly. Global has large campuses in the UK and abroad, the architecture ranges from period buildings with landscaped gardens to sustainable and modern buildings. Its alumni include Nobel Prize winners, Olympic athletes and politicians. These factors all contribute to Global's image as a prestigious institution.

Local has a more industrial and functional appearance. It is located in the heart of a manufacturing city and its status as a former polytechnic presents a less prestigious, less well known image to the public. Despite their proximity to one another, these two universities are strongly classified and are well insulated from each other. The prestigious image of Global is maintained through this insulation and this is the way that it is classified in the minds of parents, prospective and current students and

²³ This score compares students' final degree results with their entry qualifications. This is given as measure of how effective the university teaching is.

the local community. Although prestige influences people's perceptions of quality, as the 'Pedagogic Quality and Inequality' project showed, it does not necessarily equate with real pedagogic quality, and such perceptions depend on how good quality education is conceptualised.

The student body

In light of the widening participation agenda, higher education students are classified by socio-economic group (NS-SEC) data. Each year HEFCE sets universities benchmarks for the number of students from the lower socio-economic groups (socio-economic groups 4-7) that each institution is expected to enrol. These benchmarks are unique to the institution and are calculated according to various factors, for example, the subjects studied at the institution, and the age and entry qualifications of the student population. The proportion of the student body from low socio-economic groups also appears to be related to the wealth of the university (Abbas et al, 2008). In 2010/11, the HEFCE benchmark was set at 38.1% for Local: they achieved this, recruiting 38.5% of students from lower socio-economic groups. In 2010/11 the benchmark set for Global (17.5%) was less than half that set for Local (38.1%). Despite this, Global fell short of achieving this target by almost 5%. This is similar to the situation relating to the number of state school students enrolled at Global. In 2010/11 Global were set a comparatively lower benchmark than Local (79% at Global compared to 95.6% at Local). Global failed to meet this, falling short by 8% (71.3%) whereas Local comfortably surpassed their benchmark target (97.6%). The higher proportion of students from low socio-economic groups and from state schools enrolled at Local reflects its lower position in the league tables (Guardian, 2015) and is an element of the strong classification of Global as a higher status, higher achieving university than a university like Local.

The average number of UCAS entry points that students enter Local with is 288 (equivalent to BBC grades at A Level) compared to Global which is 439 (more than AAA grades at A Level). This difference again appears to

relate to their league table positions, as does the average entry tariff set by the Law schools at two universities. The tariff at Global is 503 UCAS points (equivalent to AAAAD grades from 5 A Level qualifications): over 50% higher than the tariff at Local (315 points which is equivalent to ABB). At Local the entry requirements also specify that LLB entry is conditional upon students achieving five grade Cs at GCSE. By asking for UCAS points rather than particular A Level grades, the entry requirements can be described as weakly classified, in that the department is creating greater flexibility in its entry criteria. For example, UCAS points can be gained through music qualifications, ASDAN Volunteering Qualifications and Horse Riding Qualifications (UCAS, 2015). Alternative qualifications (including BTEC diplomas, the Access to HE diploma, the International Baccalaureate and Scottish Highers) are discussed on the school's entry requirements web page. At Global, the entry requirements for 2014 were set at A*AA (over 360 points) at A Level, excluding General Studies, with the additional requirements that students must also sit a fee payable additional admissions test, the Law National Aptitude Test (LNAT), prior to application. These requirements are strongly classified, offering little flexibility. Alternative entry qualifications are dealt with on an individual basis and students are encouraged to contact the admissions team for further advice, an indication that A Levels are the preferred qualification for entry.

Graduate destination figures indicate that Global students have a 5% higher chance of being employed, or entering further study, within six months of graduation than their peers at Local. They also have a higher chance of finding employment within professional occupations (NS-SEC 1-3). This may indicate that students at Global are more independent and career focused than the students at Local. However, it may also occur because employers may think more highly of a degree from Global and actively recruit these students. Graduate destination information for law students is quite misleading because no-one graduates and then immediately enters the legal profession, they must enter further study at

another institution to complete professional courses in order to begin their career.

The league table rankings reflect stratification. Local has lower and more flexible entry requirements than Global's strongly classified entry requirements. Local recruits more state school students and a high proportion of students from lower socio-economic groups. Despite being set higher widening participation recruitment targets by HEFCE, Local exceeds these targets. Global are set comparably lower targets which they fail to achieve, recruiting lower proportions of students from lower-socio-economic groups and lower numbers of state school students. The characteristics of the respective student body's reflect the universities league table positions and are characteristic of their wealth, status and image.

Image

The classification in public presentations of the law degree at the two universities is quite different. In order to attract students, and funding, it is important that the universities are distinct from one another with clear boundaries between them. These boundaries may result from the type of law degree that is offered and the experience that the students will have at that university which I shall discuss in Chapters 6, 7 and 8. University websites provide data about the image the university's project of themselves.

Global's website highlights the large size of the department and the 'dynamic' mix of teaching and research that they offer. 'Excellence', 'very high international reputations' and 'rigorous and diverse courses' are all phrases used on the website. They also highlight their top 10 position in 2015 higher education league tables and the Research Excellence Framework. When discussing the LLB course, Global highlight their 'highly qualified students' and law as an 'academic discipline' irrespective of whether students wish to pursue a legal career.

Local's website focuses instead upon their 'effective teaching' and 'high level professional accreditation'. Such phrases as 'manage a real case load', 'hands on and challenging learning opportunities' and 'professional mentors' are phrases used to describe their LLB, a course with 'excellence in legal practice at its heart'. These websites maintain the boundaries between Local and Global. Students at Global are encouraged to envisage themselves as high achieving academics being taught in an environment of teaching and research excellence; students at Local are assured that the teaching provided will give them insights into the career of legal professionals. The practices within the two departments highlight the academic and vocational dichotomy that is emerging between Global and Local. Global focus upon sacred, abstract law knowledge, and Local focus upon mundane, applied law knowledge.

As well as the external image of the department, internally, boundaries operate differently and can be described as strong or weak classification. The Law Department at Local is weakly classified in the sense that its physical location is diffuse. The department is part of the School of Law and Criminology and is located within the main university building. There is a floor of the main building which is dedicated to the School of Law and Criminology. This is where the department staff has offices and is where Law department notices, timetables and careers information are located. However, teaching takes place throughout the entire main building in generic classrooms and lecture theatres. Local also teach some Law lectures and seminars in courtrooms and interview suites which are located within the main university building. Local offers three undergraduate courses with the provision for full time and part time undergraduate study.

The Law department at Global is strongly classified in the sense that its location is highly evident and static and is located within the large law wing of a social science building. The Law wing houses several lecture

theatres, a seminar room, the offices for the Law staff, a computer room exclusively for Law students, Law department notices, timetables and exam arrangements and results. All Law teaching takes place within the staff offices, seminar room or lecture theatres within the Law wing of the social science building. The School of Law at Global is larger than the Law department at Local. There are twelve undergraduate Law degrees offered by Global, all of which are only offered in full time provision.

Research Participant students

This section introduces the twelve undergraduate law students who participated in this research. The section begins by providing an overview of the key characteristics of the students and then moves into a more detailed synopsis of each student. In this way I hope to convey a sense of the students as people with whose specific experiences in their pasts and during their degree shaped their aspirations and capacities.

Table 6.3: Students' attributes.

Global	Global	Global	Global	Global	Global	Global	Global	Global	University:
Grace	Gina	Gavin	George	Gabby	Gemma	Participant age at start of degree course:	Participant pseudonym:	Participant ethnicity:	Participant ethnicity:
18	19	18	19	19	18	18	Gemma	White British	Type of schools attended:
White British	Mixed race British	White British	White British	White British	White British	White British	Gemma	White British	Disability:
State primary school, State CofE secondary school, State 6 th form college	State primary school, State girls secondary school, 6 th form college	State primary school, State boys grammar school	State primary school, Private secondary school	Private primary school, Private girls secondary school, State 6 th form college	State primary school, State girls grammar school	State primary school, State girls grammar school	Gemma	White British	Parents occupation:
No	No	No	Tourette's	No	No	No	Gemma	White British	NS-SEC Category: (socio-economic group)
Accountant, School finance manager	Unemployed Carer for Granddad	Salesman, Accountant	Both Self Employed in a shop	Both Solicitors	Insurance Broker, Teaching Assistant	Insurance Broker, Teaching Assistant	Gemma	White British	1st generation of family into higher education?
1	8	1	1	1	2	2	Gemma	White British	Any family members are legal professionals?
No	No	No	No	No	Yes	Yes	Gemma	White British	
No	No	No	No	Both parents are solicitors	No	No	Gemma	White British	

	Local	Local	Local	Local	Local	Local	Local	Local	University:
Lucy	Lauren	Leah	Laura	Luke	Laurence	Participant age at start of degree course:	Participant pseudonym:		
18	19	21	18	18	19				
White EU	White British	Mixed race British	White British	White British	White EU	Participant ethnicity:			
State primary school, State secondary school	State primary school, State secondary school	State primary school, State secondary school, State 6 th form college	State primary school, State comprehensive school, State 6 th form college	State primary school, State CofE secondary school, State 6 th form college	State primary school, State further education college	Type of schools attended:			
No	No	No	No	Dyslexia, hearing impaired	No	Disability:			
Army Officer, Primary Teacher	Manager for Peugeot in Dubai, Office Worker	Mum is a Teaching Assistant, Does not know about Dad	Lorry Driver, Apprenticeship Manager	Optician, Teaching Assistant	Delivery Driver, Babysitter	Parents occupation:			
4	3	6	6	4	7	NS-SEC Category: (socio-economic group)			
No	Yes	Yes	Yes	No	No	1st generation of family into higher education?			
No	No	No	No	No	No	Any family members are legal professionals?			

Table 6.3 shows that the only two students who attended private school were students at Global. The majority (8) of all students are White British students and only Leah is classified as a mature student.²⁴ All of the students at Global were British students compared to four of the students at Local, the other two students at Local were EU students. Half of the students at Local are the first generation in their family to attend higher education; this is much higher than at Global where only one participant is the first generation in their family to attend higher education (Gemma). Only one student, Gabby at Global, has parents who are legal professionals; both of her parents are solicitors.

Using data provided by the students in their life grids I was able to categorise them according to their families' socio-economic (NS-SEC) status. I have dealt with this attribute separately because my research is set in the context of widening participation which deals largely with social class. This was to see whether there was a different spread of NS-SEC categorisation at the two universities. It would also indicate which, if any, of the students fell within the lowest socio-economic groups (groups 4-8) and are classed as underrepresented within higher education. To identify the NS-SEC category for each student I looked at the employment of the highest wage earner that the students lived with. I identified the relevant category for each resident parent and the students were categorised according to the highest socio-economic status (or lowest number category) available.

²⁴ A mature student is aged 21 or above when they enrol at university.

Table 6.4: NS-SEC status of all final year LLB students at Local and Global 2013/14

	Global (%) (total of 176 students)	Local (%) (total of 130 students)
NS-SEC 1	30%	7%
NS-SEC 2	27%	28%
NS-SEC 3	9%	24%
NS-SEC 4	5%	21%
NS-SEC 5	3%	2%
NS-SEC 6	6%	8%
NS-SEC 7	1%	7%
NS-SEC not classified	19%	3%

Global recruits a higher number of students from the highest two socio-economic groups (NS-SEC groups 1-2), as reflected by the socio-economic status of the participating students. Only 15% of the year group comprises students who are classified as being from a widening participation background (NS-SEC 4-7) (see table 6.4). This contrasts with the lower socio-economic status of the participating students at Local (see table 6.4) and is reflective of Local's higher proportion of students from NS-SEC 4-7 (38%) (see table 6.4).

Synopses

The synopses are included in the thesis because they introduce the students who participated in this research; they provide background and context to the experiences of their degree which are revealed in Chapter 8. These students and their experiences are central to this thesis and so it is important that their stories feature within the main body of this thesis, rather than an appendix.

Global

Grace (NS-SEC 1, Parents' Occupations: Accountant, School finance manager)

Grace grew up in York with her parents, older brother and sister, and younger brother. Both of her older siblings went to university. She attended a state Church of England secondary school and achieved 10 A* grades at GCSE. She then chose to move to a sixth form college for more independence. She achieved 3 A*s and an A grade respectively in A Level English Language, Law, History and Maths. Global was her first choice university due to its high position in league tables and the 'beautiful' campus. She chose to study law because she wanted to pursue a career as a barrister and she enjoyed studying the subject at A Level. In her first year, Grace chose to live in self-catered university accommodation and then moved into privately rented accommodation with the same people in her second year. During her third year, as part of her course, Grace studied in Canada. She was a member of the university Law Society, Bar Society and Pro Bono Society, and socialised with both her house mates and her friends from these societies. She worked as a student ambassador during her degree. By the end of the course Grace had decided to pursue a career as a solicitor although she had not chosen a specialism. Grace achieved a first class degree and secured a training contract with a law firm near to her home. She was about to begin her LPC at the University of Law in London.

Gemma (NS-SEC 2, Parents' Occupations: Insurance Broker, Teaching Assistant)

Gemma grew up in a village in Kent with her parents, her younger brother and her older sister, who studied at the London College of Fashion. She achieved highly at GCSE (13 A/A*s) and A Level (3As at A level in English Literature, Politics and Art and a B in History). She was her school house and form captain and deputy head girl, and, had several part time jobs including shop work and pub waitressing. Although she originally wanted to study Art at university, she changed her mind and applied for Law at

Global. Her change of heart came after advice from her father that Law was a subject that she would be good at. She chose Global because she had heard positive things about the university from friends who had been to visit it, she felt that it was a 'good' university in league tables and she didn't want to study too near to her home. Gemma lived in halls of residence in her first year and then moved in with her close friends from her halls of residence in her second year. Her boyfriend from Kent also studied in the same city as Global and she remained in this relationship throughout her time at university. She socialised with her boyfriend and his university friends as well as with her house mates and friends from her halls of residence. During her second and final year she also socialised with friends from her course. She visited friends from Kent at their universities and met them during holidays and her sister visited her regularly at university. She was not employed during her degree. She spent her third year studying in Holland and when she returned she was editor of the university Law Society magazine. Gemma began with an interest in pursuing a career in law as either a solicitor or a barrister, although she had not undertaken any work experience in the field. By her final year she had decided against pursuing a career in law. Gemma achieved a 2:1 in her degree.

Gavin (*NS-SEC 1, Parents' Occupations: Salesman, Accountant*)

Gavin grew up in Kent with his parents and his younger brother. He studied at an all-boys grammar school and achieved 11 GCSEs at grades A* to C. He went on to achieve 4 A levels at grades A*ABC in Maths, Further Maths, English Literature and Physics and AS levels in IT, Biology, General Studies and Extended Project. He chose to study law over science because he had studied the subject for GCSE and enjoyed it; he also achieved a higher grade in A Level English than he anticipated, and enjoyed the subject. Gavin wanted to earn a lot of money when he was older and thought that a law degree would help him achieve that. Global was not his first choice university but he liked Global when he visited their Open Day and was now pleased to be studying there. Gavin lived in catered halls of

residence during his first year, and spent most of his time on campus socialising with his friends from halls. He also met his girlfriend in halls but this relationship ended at Christmas of his second year due to the pressure of his workload. He moved into privately rented accommodation with friends from his halls of residence in his second and third years. He was not employed during his degree. Gavin started his degree wanting to train as a solicitor but he became unhappy with the course and, after two years of studying law, he moved to the first year of a degree in Computer Science. He now socialises with his friends from Computer Science. Gavin will graduate in 2016.

Gina (NS-SEC 8, Mother's Occupation: Unemployed)

Gina grew up in London with her mother and older brother who also studies at Global. She attended a state girls only secondary school and achieved 11 GCSE's at grades A* to B. She then attended the sixth form at her secondary school and achieved A levels at grades AABB in Music, Biology, English and History. She didn't meet her father until she was 7 years old because he lived in Nigeria. He started to travel more and she saw him more frequently as she got older. She applied to Global because it ranked highly in league tables and because her mother wanted her to study there so that she would be close to her brother. She chose to study law because she didn't like any of the subjects she was studying at A level enough to do study them further and she thought law would lead her into a high earning job. She chose to live in self-catered accommodation during her first year at university so that she could cook for herself and she continued to live with her house mates in her second and third years. Alongside her studies she played rugby at university. She also socialised with friends from rugby, from her accommodation and friends from home who regularly visited each other. During her second and final year she also began socialising with friends from her course. She worked as a student ambassador during her degree. Gina never wanted to pursue a legal career and had no career plans when she graduated. Gina achieved a 2:1 in her degree.

Gabby (NS-SEC 1, Parents' Occupations: Solicitors)

Gabby grew up in London with her parents and her older sister who also studied at university. She attended a private all-girls secondary school and achieved 9A*s at GCSE. She then attended a local sixth form college which gave her more independence and she achieved A*AA in her A Levels in Law, Spanish and English Literature. Gabby decided to study law at university because she enjoyed studying A Level Law, and she believed that it was a respectable degree to achieve. She applied to Global because she liked the campus. She had unsuccessfully applied to Oxford University. She plays tennis to a high level, previously coaching at London tennis clubs and for a travel company in Greece. By the end of the course she played tennis for the university and worked as a tennis coach during the holidays. Gabby lived in halls of residence for her first year and in her second year she moved into a shared house with friends from her halls. She stayed in this house in her final year. She socialised with friends from her halls and friends from the tennis club during her first year and second year. She also visited friends from home at their universities. Throughout her degree, Gabby was in a relationship with someone she met whilst working for the travel company in Greece. He studied at university in Southampton and they visited each other regularly. During her third year, Gabby studied in law in Spain as part of her degree course. She initially wanted to pursue a career as a solicitor, but as her degree progressed she became unsure about her future and decided to take a year out after graduation to travel. Gabby achieved a first class degree.

George (NS-SEC 1, Parents' Occupations: Self Employed)

George grew up in the Midlands with his parents and his younger brother. George has Tourette's Syndrome and dyslexia. He went to a private boys' secondary school where he achieved 10 GCSE's at grades A*-As, AS Chemistry and 3 A Levels in Biology, Psychology and History. He was going to study medicine at university, but he changed his mind because he didn't think he would get the necessary grades in A Level Chemistry and, after a

discussion about law degrees with a friend, he read several books on the subject. He then applied for to study for a law degree. He chose to apply to Global because he had heard that it was a 'good university' and that it appears highly on league tables. George studied in Finland during his third year as part of his course. During his first year George lived in halls of residence. He then moved into a rented house in the second year with friends from his halls. He was a member of the rowing club: he left because he didn't get on with the other members. In his second year he became a member of the Latin and Ballroom societies and the Massage society. He socialised with friends from his halls of residence, from societies and, in his second and final years with friends from his course. He worked as a lifeguard, a scout leader and a student ambassador during his degree. George began his course wanting to train as a solicitor in commercial law or work within the civil service on their graduate fast track programme. After his year in Finland, where he competed in an international mooted competition, he changed his career plans to work within the European Union as a specialist in maritime law. George achieved a 2:2 in his degree but due to extenuating circumstances he was awarded a 2:1.

Local

Luke (*NS-SEC 4, Parents' Occupations: Optician, Teaching Assistant*)

Luke grew up in the Midlands with his parents and older brother who is currently at university. When he was at primary school he was diagnosed with dyslexia, asthma and a hearing impairment. He attended a Church of England secondary school where he achieved 10 GCSEs including 5 A*-C grades. He then moved to a sixth form college where he achieved A Level grades B, C, C and C in History, German, Law and Politics. Luke chose to study law because he enjoyed studying law at A Level and was initially interested in a career as a barrister, although by the end of his degree he decided to pursue a career as a solicitor after his work experience at a local firm. He applied to Local because he liked the campus and he was impressed with the high standards of teaching offered by the department. He speaks fluent German and hopes to use this skill during his career. Luke

lived in halls of residence in his first year and he moved into a shared house in his second year with friends from his course. He chose to return to university halls of residence in his final year because his food and cleaning was provided for him. He is close friends with a girl who is also on his course and he socialises with her outside of lessons. He also socialises with other course friends and friends from the debating society which he is a member of. He has not been employed during his degree. He met his current girlfriend, who is not a student at Local, through mutual friends when he was at college and this relationship continued until Luke started the final year of his degree. Due to the pressures of his workload he chose to end the relationship. Luke achieved a 2:1 degree and was about to begin his LPC at a local university.

Lauren (NS-SEC 3, Parents' Occupations: Manager for Peugeot, Office Worker)

Lauren grew up in Devon with her mother and older half-sister who went to university. Her father lives in the Middle-East and she hasn't seen him since she was 4 years old. She went to a state Sports Secondary College and achieved A* to C grades at GCSE. She stayed at school for the sixth form and achieved an A grade in AS Level Politics and three B grades in A Level Maths, History and English Language. She took a gap year before starting university when she worked in a microbiology lab full time. She chose to study at Local because the entry requirements were comparably low for a law degree and it was a more practical vocational course. The course also offered the chance for students to work in the Citizen's Advice Bureau as part of a module which she felt would be good experience for entry to the necessary professional courses after her degree. Lauren lived in halls of residence during her first year and then moved into privately rented accommodation with friends from the computing and gaming society, of which she was a member. At university she was also a member of the debating society and she socialised with friends from these societies and her course. She was not employed during her degree. Lauren chose to study for a law degree because she wanted a career as a barrister. In her

final year Lauren decided to complete a Master's degree and then complete the BPTC and specialise in intellectual property. Lauren achieved a first class degree.

Lucy (NS-SEC 4, Parents' Occupations: Army Officer, Primary Teacher)

Lucy grew up in Lithuania and moved to the Midlands with her parents when she started her university course. She attended a state school in Lithuania until she was 18 years old. She completed optional exams at 18 years old in subjects that she chose and she was awarded a pass in all of these. Throughout her degree she lived at home with her parents. She applied to Local because it meant that she could live with her parents and because the law school ranked highly in some league tables that she had seen on the internet. She chose to study law because she is interested in the subject. She socialised on campus and she worked as a student ambassador for her university. Her friends were people from her course and other members of the debating club and the international students' society. At the end of the course Lucy wanted to train to become a solicitor and her 'dream' was to work in Canada. Lucy achieved a first class degree and was about to begin her LPC at a local university.

Laura (NS-SEC 6, Parents' Occupations: Lorry Driver, Apprenticeship Manager)

Laura grew up in the Midlands with her mother, step-father, younger half-sister and three younger half-brothers. She went to local state secondary schools and she achieved 11 GCSEs at grades A*-C. She went to a local sixth form college and she completed A levels in Geography, History, Law achieving grades A*, D and E and AS Biology. Even though she had not met the entry requirements for studying law at Local she was still offered place due to extenuating circumstances; her boyfriend and his brother were both in the army and were in Afghanistan during her A Level exam period. Her boyfriend's brother died in combat. Laura chose to study law because she enjoyed the subject when she studied A Level law. When she visited her current institution a lecturer suggested that because criminal

law was her favourite area of law she might be interested in a law with criminology degree. She chose Local because it is close to home and she liked the atmosphere when she visited. In her first year she lived in a shared house in the local area. However she didn't like the noise and work distractions, and she was homesick so she returned home and commuted to university. She lived with her boyfriend in her second and final years. She socialised with friends from her course and a friend from her first year shared house. Throughout her degree, Laura worked at a local pub for twenty hours every week. She initially wanted to train as a barrister in the local area. Her career plans changed as her degree progressed and she ended her degree wanting to train as a Coroner, following the completion of the Coroner's Court module. Laura achieved a 2:2 degree and was about to begin her LPC at a local university.

Leah (NS-SEC 6, Mother's Occupation: Teaching Assistant)

Leah grew up in Manchester with her mother, step-father, two younger sisters and one younger brother. She has never met her biological father. During secondary school her mum told her to move out of the house and she moved in with her boyfriend. She attended a state secondary where she achieved 10 GCSE's at grades A-C and a GNVQ in hospitality. She went to a local sixth form college where she achieved A Levels in Psychology, English Language, Sociology, GSCE double Science and an AS in Textiles. She wanted to do A level law but the course was full. She has a one year old daughter (born in 2011). She became pregnant during the second year of her law degree course at Leeds Metropolitan University so she left and returned to her current university 18 months later. She wasn't ready to go back so quickly due to suffering from postnatal depression but the increase in fees pushed her to enrol in 2011 rather than wait until 2012. She was rejected by her first choice institution. She chose Local because it was close to home. She chose to study law because she thought that the subject looked interesting and she was interested in a career in law after graduation. Leah lived away from university in private accommodation with her daughter and her boyfriend throughout her degree. She

socialised at university with a few girls from her class and they regularly worked together. In her first year she wanted to train as a solicitor and was interested in specialising in family law. She struggled with the workload and, despite receiving a lot support from staff at the university, she left the course and the university at the end of the first year. She was not employed during her degree.

Laurence (NS-SEC 7, Parents' Occupations: Delivery driver, Babysitter)

Laurence left Latvia when he was 16 years old and moved to London to live with his mother and father. His family moved to the UK because his father felt that it was important for him to complete his education in England as it would open more doors for him. When he arrived in East London he attended college where he studied Level 1 ESOL, 5 GCSEs in Science, English, Maths and Citizenship and A Levels in Law, History and Psychology. Local was his 'insurance' choice accepted after being turned down by his first choice university because he did not achieve the necessary grades. He chose to study for a law degree based on advice from his Dad who believed that law was a good career for him to have. In his first year Laurence lived in university accommodation. He moved into privately rented accommodation in his second and third year with friends who speak Russian. In his second year Laurence was elected as the secretary for the debating society. He socialised with friends from his course, the debating society and his house mates. He enjoyed playing the guitar, had a part time summer job as a postman in London and during term time he worked as a member of various focus groups at university. By the end of the course, Laurence wanted to train as a solicitor, specialising in medical negligence or criminal law. Laurence achieved a 2:1 degree and was about to complete his LPC at a university near to his home.

Summary

This chapter has set the scene for the remainder of this thesis. It has introduced the two universities, Local and Global, and their respective law departments, highlighting the differences between them in terms of

ranking, wealth, research activity, image and type of student attending. Local is attractive as a vocational, weakly classified Law department where the degree has a horizontal knowledge structure and is related to everyday experiences: here the subject of law is best classified as a region. That is, Local is ranked lower than Global in higher education league tables. Their income is lower and a lower proportion of their staff have postgraduate qualifications. In contrast, Global offers a traditional, more strongly classified law degree where the degree has a vertical, sacred knowledge structure: here the subject is better classified as a single discipline. Global is highly ranked in higher education league tables and strongly classified as a research intensive institution. They are wealthier, have a larger and more academic staff and focus on the academic study of the discipline of law.

The synopsis of each student provides an insight into their background and brings them to the centre of this research; their experiences are central to the analysis in the next two chapters.

The next two chapters will describe and analyse the curriculum, pedagogy and students' identities at Global and Local using the pedagogic device as an analytical tool. These chapters will illustrate the similarities and differences that emerge between the two universities and how this impacts on students' experiences of their law degree. I will also explore the students' specialised pedagogic identities which are formed at the two universities. The following analysis traces two perspectives distinctly, in order that they may be compared:

- Department, in the form of tutors interviews and curriculum documents; and,
- Student experience

The next chapter will consider the department's perspective.

Chapter 7 : The Classification of Curriculum and Framing of Pedagogy

This chapter uses the different elements of the pedagogic device discussed in Chapter 3 to compare how the two universities' curriculum knowledge is classified, and how students gain access to it by way of the framings of pedagogy. I first identify, and briefly define, the Bernsteinian concepts that will inform the chapter.

The first section is the 'classification of curriculum': this explores the structure and content of the degrees to show similarities and differences in recontextualisation of law knowledge. The next section focuses upon the framing of the curriculum, revealing how the discipline of law, and the law students, are constructed by the tutors. I draw on eight tutor interviews and four tutorial observations, and I analyse curriculum documents from all three years of the LLB degree at the two universities. Using these data sets I present the range of teaching methods in each department through an examination of the different approaches to tutorial teaching; and by discussing the two approaches to assessment, which also gives some clues about classification of curriculum. Finally I take the case of teaching 'negligence', in an attempt to bring classification and framing together, using this mini case study to illustrate the similarities and differences in the two degrees.

A conceptual framework for exploring curriculum and pedagogy

Throughout this chapter I use elements of classification, framing, and regulative and instructional discourse in order to explore curriculum and pedagogy at Local and Global. Classification relates to the strength of boundaries: in this chapter the boundaries considered are those between tutors and students and between different modules or degree courses. In Chapter 6 I showed that the LLB degree at Global was a singular, that is, the boundary surrounding the discipline is strong. At Local, the LLB is a

region, that is, the boundary surrounding the discipline is weak and elements of criminology, sociology and legal practice are also present in the degree. Framing will be discussed in relation to the degree of control within the LLB degrees at Local and Global, for example the control within the relationship between tutors and students. I will begin by discussing the classification of the curriculum at the two universities.

Classification of the curriculum

In this section, I first compare how the two degrees are structured and then consider the content in order to draw out differences in recontextualisation of the discipline of law and the Law Society requirements. I will show that Local and Global interpret these requirements differently with Local focusing upon the vocational aspect of law and Global focusing upon the academic study of law, a dichotomy that reflects the professional backgrounds of the tutors and is related to access to sacred and mundane knowledge and questions of equity.

Comparative structure of the degrees

As discussed in Chapter 3, law is an academic discipline that consists of a horizontal knowledge structure with elements of hierarchical knowledge structures. That is, any law degree is made up of specialisms which are taught as individual modules that sit alongside each other, representing a horizontal knowledge structure. Within each individual module the curriculum content builds on itself, representing a hierarchical knowledge structure.

At Local, students can graduate from 10 different LLB degree programmes of study: LLB (Hons), LLB (Hons) Corporate and Commercial Law, LLB (Hons) Employment Law, LLB (Hons) Family Law, LLB (Hons) International and Comparative Law, LLB (Hons) Medical Law, LLB (Hons) Social and Public Law, LLB (Hons) with Criminology, LLB (Hons) with Politics, Law (Joint Honours). At Global, students can graduate from 7 programmes of study: LLB, LLB/BA Law with American Law, LLB/BA Law

with Australian Law, LLB/BA Law with Canadian Law, LLB/BA Law with Chinese Law, LLB/BA Law with European Law, LLB/BA Law with New Zealand Law, LLB/BA Law with South-East Asian Law. Although there appear to be many choices for the students, at both universities, the boundaries between the individual courses are weak. That is, the majority of the content of the different courses is the same for all of the degree courses; only 120 credits of a maximum of 480 credits accounts for different material.

The range of degree courses offered by Local and Global is significant in terms of their focus. At Local the different degrees offer students the opportunity to specialise in specific areas of law such as employment law and corporate law. At Global, students are given the opportunity to expand their horizons by travelling abroad, possibly learning a new language and studying the legal system of other countries and cultures. This indicates an academic and vocational dichotomy between the two institutions where Global favour the academic study of law that takes a broad view and Local favour the vocational study of law, preparing students for everyday practice in their legal careers.

As shown in Table 7.1, the first and second year of the LLB Law degree course at Local consists of compulsory, core modules. These are Contract Law, Tort, Public Law and Legal Context, Skills and Ethics (Legal research training) in the first year, and in the second year, Criminal Law, Law of the European Union, Land Law and Advanced Legal Skills and Ethics (Legal research training). In the final year of the degree, students study one core module (Equity and trusts) and may choose 100 credits of optional modules; these choices must contain one 40 credit module. The final degree mark awarded comprises their second year results (20%) and their final year results (80%).

Table 7.1 Overview of the LLB modules at Global and Local, along with their credit allocations

	Local		Global	
	Optional	Compulsory	Optional	Compulsory
First Year		Contract (20)		Contract (30)
		Tort (40)		Tort (30)
		Public (20)		Public (30)
		Legal Skills (20)		Understanding Law (30)
Second Year		Criminal (40)		Criminal (30)
		EU (40)		EU (30)
		Land (20)		Land (30)
		Legal Skills (20)	One choice (30)	
Final Year		Trusts (20)		Trusts (30)
	Optional modules worth 100 credits		Optional modules worth 90 credits	

At Global the first year of the LLB Law degree course consists of the same compulsory modules as Local. Unlike Local (who have four), second year students at Global take three core modules (Criminal Law, Law of the European Union and Land Law) and may choose 30 credits of optional modules. Final year students, like those at Local, study one core module (Equity and trusts) and may choose 90 credits of optional modules. Like Local, the final degree results comprises students' second and final year results however the weighting of these results differs; at Global the second and final year results both account for 50% of the students' final degree result. The framing of the course structure is comparatively stronger at Local than at Global because at Local compulsory modules form a greater proportion of the degree, and students' choice of modules occurs only in

their final year after they have finished all except one of their core modules. Arguably this gives them a greater basis of legal knowledge to build their optional module upon than the students at Global.

The assessments completed by students contribute to their final degree classification. Table 7.3 illustrates that since 2010 there has been little variation in the proportion of degree classification awarded to students at Local; 13-15% of students have achieved a first class degree and 75-85% of students have achieved a second class degree. Prior to 2010 50% fewer students were awarded a first class degree.

Table 7.2: Degree classification breakdown at Local 2008-2012

Degree	2012		2011		2010		2009		2008	
	LLB	%	LLB (actual)	%						
1 st	15	15	15	13	10	15	5	7	5	5
2:1	30	32	25	23	20	25	25	36	35	44
2:2	50	53	62	63	40	55	40	55	35	46
3	0	0	0	1	5	5	0	3	5	5

Table 7.3 shows that overall fewer students at Global are awarded a first class degree than at Local (7% of students in 2012 compared 15% of students at Local). The majority of students (90% in 2012) achieved a second class degree; 85% of students at Local achieved a second class degree in 2012. Global's degree classification results are detailed in the table below.

Table 7.3: Degree classification breakdown at Global 2008-2012.

	2012		2011		2010		2009		2008	
Degree	LLB (actual)	%								
1 st	11	7	8	4	5	3	12	9	3	2
2:1	95	61	89	50	78	52	87	61	86	55
2:2	44	29	66	37	52	35	42	28	61	40
3	5	3	16	9	14	10	3	2	5	3

These results highlight that although students at Local enter with lower average entry tariffs, they are more likely to achieve a second or first class degree than their peers at Global.

Comparative content of the degrees

In this section I detail the content of the two law degrees. I explore the similarities and differences in module options and credit weighting allocated to modules and the difference in classification of these modules. I begin by providing an overview of the core modules of the two law degrees.

Table 7.4 presents the difference in credit weightings attached to the seven foundations of legal knowledge and different course lengths between the two universities. At Global, each of the seven foundations of legal knowledge are taught as individual modules. These modules are all equal in length (full year), have the same number of contact hours (5 hours per fortnight) and have the same credit weighting (30 credits). At Local, the seven foundations of legal knowledge also run for a full academic year however five of these core modules are split into two equal modules meaning that students are assessed, rather than once as at Global. Despite being equal in length (full year) and having the same number of contact hours (see table 7.4) the foundations of legal knowledge at Local have different credit weightings. For example, tort and contract law both

have 56 hours of contact time per year but tort constitutes 40 credits of the entire degree and contract law constitutes 20 credits (see table 7.4 for further detail). This may result in modules with a higher credit allocation being seen as more important than those with lower credit allocations. In addition, legal research training modules run for first and second year LLB students at Local whereas Global students only study a similar skills-based foundation of legal knowledge in the first semester of their first year; this illustrates the stronger framing at Local.

Table 7.4: An overview of the LLB degree core modules at Local and Global.

Foundation of Legal Knowledge		Local	Global
Obligations 1 (Contract)	Year 1	Contract Law: Theory and Practice (20 credits, year)	Law of Contract A/B (30 credits, year)
Obligations 2 (Tort)	Year 1	Tortious Liability and Negligence (20 credits, semester)	Foundations of Tort A/ B (30 credits, year)
	Year 1	Specific Torts and Remedies (20 credits, semester)	
Public Law (Constitutional, Administrative and Human Rights Law)	Year 1	Constitutional Law and Civil Liberties (20 credits, semester)	Public Law A/B (30 credits, year)
	Year 1	Administrative Law and Human Rights (20 credits, semester)	
Legal Research Training	Year 1	Legal Context, Skills and Ethics (20 credits, semester)	Understanding Law (30 credits, semester)
	Year 2	Advanced Legal Skills and Ethics (20 credits, semester)	
Criminal Law	Year 2	Criminal Law: Principles and Application (20 credits, semester)	Criminal Law (30 credits, year)
	Year 2	Criminal Property Offences and Practice (20 credits, semester)	

Law of the European Union	Year 2	European Union Law (20 credits, semester)	Law of the European Union (30 credits, year)
	Year 2	European Union Trade Law and its International Context (20 credits, semester)	
Property/Land Law	Year 2	Land Law (20 credits, year)	Land Law (30 credits, year)
Equity and Trusts	Year 3	Equity and Succession (20 credits, year)	Law of Trusts (30 credits, year)

Local students attend compulsory skills training with tutors for a longer period than the students at Global who are expected to gain this knowledge through extra-curricular activities and independent study. This indicates that a greater level of independence is expected of the students at Global.

Both universities offer students the chance to choose optional modules; these are detailed in table 7.5 (below).

The optional module choice on offer at Global is greater than that at Local, with students having 32 modules to choose from rather than 21, signalling students' access to a wider breadth of research knowledge. This is probably because of Global's larger department and greater research capacity. The optional modules are based upon the research specialisms of tutors in the department and are taught by these specialists. The classification of the optional modules at Global is strong; that is, the modules offered are distinct specialisms within law. They are taught by specialists and may be defined as a *collection* curriculum: the subjects within the curriculum are distinct from one another and are strongly classified, for example employment law, consumer law, environmental law (Bernstein, 1975). This contrasts with the weaker classification of the modules offered by Local where 7 of the 21 modules are extensions of core modules which are all taught by several different tutors, not specialists

who research in the area, and the content of the modules is more skills based than the modules at Global. The weakly classified modules offered by Local may be defined as an *integrated* curriculum, for example a module entitled ‘The English Legal System’ may include criminal law, contract law, the constitution of England and land law. (Bernstein, 1975). In terms of access to knowledge, students at Global have greater access to sacred knowledge than the students at Local who are exposed to more context-dependent knowledge and skills.

Table 7.5: An overview of the optional modules, and their credit weighting, offered at Local and Global at part of the LLB degree. The modules are mapped to show the areas of similarity and difference between the areas of specialism at the two universities.

Local	Global
Advanced Legal Studies (40 credits)	Dissertation (30 credits)
Advanced Legal Professional Legal Studies (40 credits)	Legal Research Project (5/10 credits)
Applied Legal Studies (40 credits)	
Applied Legal Professional Studies (40 credits)	
Clinic (20 credits)	
Combined Legal Studies (40 credits)	
Combined Professional Legal Studies (40 credits)	
	Advanced Tort (15 credits)
Commercial and Consumer Law (20 credits)	Consumer Law (15 credits)
	Principles of Commercial Law (30 credits)
	Commercial Conflict of Laws (15 credits)
	Principles of Corporate Insolvency Law (15 credits)
Company Law (20 credits)	Issues in Company Law (15 credits)
	Tax Law A/B (15 credits)
	The Law of Restitution (15 credits)
	Law and Regulation of Foreign Investment (15 credits)
Comparative Law (20 credits)	
Criminal Justice Law (20 credits)	Criminal Justice and the Penal System (15 credits)
	Foundations of International Criminal Law (15 credits)
Employment Law (20 credits)	Employment Law (15 credits)
Environmental Law (20 credits)	

	International Wildlife Law (15 credits)
Evidence (20 credits)	Principles of Criminal Evidence (30 credits)
Family Law and Practice (20 credits)	Family Law (15 credits)
	Child Law (15 credits)
	Social Welfare and the law (15 credits)
Independent Studies (20 credits)	Independent Study A/B (15 credits)
Intellectual Property Law (20 credits)	Intellectual Property (15 credits)
	Industrial Property (15 credits)
International Human Rights Law (20 credits)	International Human Rights (15 credits)
	UK Human Rights Law (15 credits)
	European Convention on Human Rights (15 credits)
	International Humanitarian Law (15 credits)
Medical Law and Ethics (20 credits)	Legal Issues in Health Care (15 credits)
	Mental Health Law and Policy (15 credits)
	Maritime Law (15 credits)
Public International Law (20 credits)	Foundations of Public International Law (15 credits)
Sustainable Development and International Business Law (20 credits)	
	Modern Issues in Legal Theory (15 credits)
21 choices (6 x 40 credit and 15 x 20 credit)	32 choices (3 x 30 credit, 28 x 15 credit, 1 x 5/10 credit)

The content of the modules offered by each university is partially dictated by the Joint Academic Stage Board (see Chapter 6) who specify that the 'key elements and general principles' of the seven foundations of legal knowledge must be included. However, how the knowledge is included in the curriculum is left to the interpretation of the academic tutors. Tutors' selection of material for the curriculum will be influenced by their educational, academic and/or professional career. The dichotomy of tutors' background between the professional careers of tutors at Local and the academic careers of tutors at Global is reflected in the curriculum at the two universities, as illustrated above. This indicates that students at Global are receiving an academic-focused curriculum which projects

identities of students as legal scholars compared to the vocational curriculum being received by students at Local where the students identity projected is one of future lawyers. This was discussed in greater detail in the previous chapter.

Conclusion: classification of curriculum

A key dichotomy emerges from the classification of the curriculum at Local and Global: vocational and academic. This dichotomy is reflected in the curriculum content and also mirrors the professional backgrounds of the tutors (detailed in Chapter 6). The result is that students at Global are exposed to a greater depth and breadth of academic legal knowledge than the students at Local who are exposed to more opportunity for the application of legal knowledge to practical scenarios such as moots and negotiations. The relative size of the two law departments also influences the range of optional modules that are offered to students with Global offering over double the range of modules than Local. This is a further example of the greater breadth of knowledge that Global's students have access to. I conclude this section with a summary of the classification of the curriculum with empirical examples from Local and Global in Table 7.6. This highlights the dichotomy between everyday and academic knowledge, and the difference in strength of the boundary of the discipline of law, at the two universities.

Table 7.6: Examples of Classification at Local and Global

Classification		
Concept demonstrated by the strength of the boundaries between	Indicators	Empirical examples
Everyday and academic knowledge	Personal experience is weakly valued in the law department (C+)	Global – the curriculum content is related to case law/text books/articles
	Personal experience is highly valued in the law department (C-)	Local – the curriculum content is related to lecturers' professional experiences
Different types of academic knowledge within the curriculum	Knowledge gained in other subjects has little relevance to the learning of the law curriculum (C+)	Global – the discipline of law is taught as a singular
	Knowledge gained in other subjects has great relevance to the learning of the law curriculum (C-)	Local – the discipline of law is taught as a region or a generic subject

Framing of pedagogy

In this section, I first compare the module Handbooks to draw out differences in the 'regulative discourse' at Global and Local. Regulative discourse is a Bernsteinian concept that conveys the rules of social practices and customs that are transmitted to learners (Bernstein, 2000). I then compare the module handouts to explore differences in the instructional discourse which show that students at Local are constructed as requiring a higher level of support than the students at Global. Instructional discourse is the rules relating to the specific curriculum content (Bernstein, 2000).

I have chosen to analyse the module Handbooks and module handouts separately because the purpose of the two groups of documents is different: the module Handbooks are provided to students in the first taught session of each module and provide practical information such as the timetable, the teaching methods, the assessment methods, the module content, any recommended textbooks and the amount of personal study which is recommended for that module. The module handouts contain the curriculum content, pacing and assessment.

Analysis of course Handbooks: regulatory discourse

The framing of relationships in module Handbook

At Local the module Handbook uses an informal lexis which reflects the friendly and informal relationship between the tutors and students. For example, in the Criminal law module Handbook one of the module leaders writes 'If you want me I am here' and gives the students his personal mobile number, the module leaders end the document by saying: 'We love it and hope you do as well' (Criminal law Handbook, 2012, Local). This informal and supportive message demonstrates weak framing because the students are able to seek assistance from the staff outside of office hours rather than working independently. The informal language used in the module Handbook closes the distance between the tutor and the students and is explicitly inclusive, often referring to 'we' rather than 'you', the student: 'We will all sail on this voyage of discovery; indeed, we are in this together.' (Criminal law Handbook, 2012, Local). This use of the collective pronoun denotes a sense of community and togetherness within the law module. The informal tone is evident throughout students' degree courses in all kinds of texts. For example, in response to student questions about an assignment, the criminal law tutor sent out an email to all second year students:

'Dear all, I would just like to say that there is no such thing as the 10% rule regarding word counts in any assessment ever, it's quite simply student fiction so I'd advise you to drop all such talk for your own sanity as well as mine. To eradicate any lack of direction I have said it is not the voire dire, and you should not write about section 76 and section 78 in any great detail, short of writing it for you I don't know what else that I can do. Nuff said. I realise that not everybody falls into this category as illustrated in this email but if you do bugger off. Thanks Smithy'.

As well as confirming the content of the assignment, the use of his nickname and the phrase 'nuff said' indicates a weakly classified relationship between tutor and students - like a peer, rather than a strongly classified hierarchical relationship.

In direct contrast to the written style of the Handbooks at Local, the language used in Global's module Handbook uses a formal lexis and direct address. This denotes a stronger separation between the students and tutors who are not discussed as a unified body of academics as they are at Local. For example, the use of titles rather than first names, references to the students body as 'you' and the academic staff as 'we', and discussions about restricted office hours when students can see tutors rather than an open door policy.

The difference in tone between the documents at Local and Global demonstrates the contrasting relationships and student identities. Local demonstrate an inclusive community where the students are heavily supported and encouraged by the staff. This atmosphere encourages participation and a desire to succeed from the students. This is in stark contrast to the independence and hierarchy demonstrated by the formal tone and instructions given to the students at Global. This atmosphere leaves students reluctant to seek help from staff, preferring instead to be selective in their learning and can lead to disengagement.

Constructing the difficulty of the discipline of law

In both departments the message about the discipline of Law is that it requires a great deal of hard work. Both departments explicitly prepare students for this but in different ways.

Several of the module Handbooks at Local start by emphasising the level of difficulty of the module content while offering assistance:

‘This is not an easy peasy subject and it will require effort on your part but together we will come through this.’

(Land law Handbook, 2012, Local)

‘Criminal Law and Criminal Practice is a very complex subject which is fascinating, fun, and fabulous.’

(Criminal law Handbook, 2012, Local)

Within the first 10 pages of the land law Handbook, the lecturer reiterates three times that if students are struggling with the module they should seek help, for example:

‘If for any reason you feel you are falling behind with your land law studies for whatever reason, speak to me straightaway, together we can sort it out. Do not let a small problem become a large one which may prevent you achieving your best’

(Land law Handbook, 2012, Local)

As well as discussing the relative difficulty of the curriculum content, the tutors at Local give strongly framed, explicit advice about how their students can overcome difficulties that they may face:

‘Play an active part in the learning process, enjoy it, and we are sure you will do very well.’

(Criminal law Handbook, 2012, Local)

‘It is my aim in this module that all students will pass this module and achieve good marks’

(Land law Handbook, 2012, Local)

‘[Trusts] is, however, a subject that requires time and effort and you should not try to “cram” knowledge shortly before assessments. This is essentially impossible for these modules. Instead, work steadily through the modules, reading as topics are addressed in lectures and tutorials. Build your knowledge up and overcome difficult areas gradually.’

(Equity and Trusts Handbook, 2012, Local)

This is all regulatory discourse which constructs the students at Local as being in need of strong, clear guidance. It contradicts the informal and weakly-framed relationship depicted in Local’s module Handbooks.

Like the Handbooks at Local, several of the Handbooks at Global discuss the level of difficulty of the modules:

‘Constitutional Law is a demanding subject. Some students experience difficulty in grasping some of the complexities of the British constitution and the British system of government. Others find some of the basic concepts and ideas of constitutional law hard to understand.’

(Public law Handbook, 2012, Global)

‘Contract is as “hard” as anything you will ever do in your degree and you will probably agree with that view quite early on. The following points may help to put this on context, though they will not necessarily bring comfort.’

(Contract law Handbook, 2012, Global)

At Global, tutors expect a greater degree of independence from their students than is expected at Local. They do not offer the students comfort and are blunt in their advice. When discussing the ability of their students to achieve highly in their degrees, staff at Global encourage students to work hard, act autonomously and use their initiative:

‘Statistically you are unlikely to get a first, but most of you have the capacity to get a 2/1. Certainly if you work hard and consistently it is unlikely that you will fail. You have to work. Many people do not or do not until it is too late.’

(Contract law Handbook, 2012, Global)

‘One of the biggest shocks you will have is the extent to which you are left to look after yourself. That is what the rest of your life will be like (only more so) so think of this as a bridge between school and work.’

(Contract law Handbook, 2012, Global)

‘People will help you within reason if you ask but it is up to you to take the initiative first to find things out for yourself. Cultivate a bit of self-reliance.’

(Contract law Handbook, 2012, Global)

This is all regulatory discourse which constructs the students at Global as being independent, hard-working individuals.

Global also provide advice to students about how to overcome any difficulties; however, in contrast to Local, the focus of the advice is on students being independent, proactive, and overcoming their difficulties alone, and only contacting tutors as a last resort, unlike at Local where contacting the tutor is encouraged:

- Step 1: Find a textbook (or textbooks) that make sense to you. Read (and re-read) the relevant passages carefully until the matter becomes comprehensible.
- Step 2: If that fails, search for other sources of information to help you out of your difficulty (See Resources below).
- Step 3: Discuss the matter with your fellow students.
- Step 4: If you are still in doubt, consult your tutor during the next tutorial.’

(Public law Handbook, 2012, Global)

‘Students should use the Discussion Board as their primary method of raising substantive questions outside of scheduled lectures and tutorials.’

(Land law Handbook, 2012, Global)

As well as the differences in advice and tone illustrated above, the two departments also differ in the approach that they advise students to take in order to succeed academically. Local advise students to do no reading prior to lectures and Global advise students that they will benefit from their lectures only if they have read around the topic prior to attending:

‘Lectures are delivered on the basis that you have no prior knowledge of the subject material and you are not expected to read before the lectures occur. Instead, you should read after the lectures and before the tutorials.’

(Equity and Trusts Handbook, 2012, Local)

‘The[se] are in effect a basic set of lecture notes as the basis for your study. However, this will only work if you read the notes in advance before each class and bring them to the class.’

(Contract Law Handbook, 2012, Global)

These respective assumptions result in a more equitable approach at Local; all students are able to engage with the lectures because everyone is learning from the beginning of the topic. At Global, any students without a basic level of understanding are disadvantaged because they will struggle to understand the lecture. This results in extra work or potentially disengagement for those students.

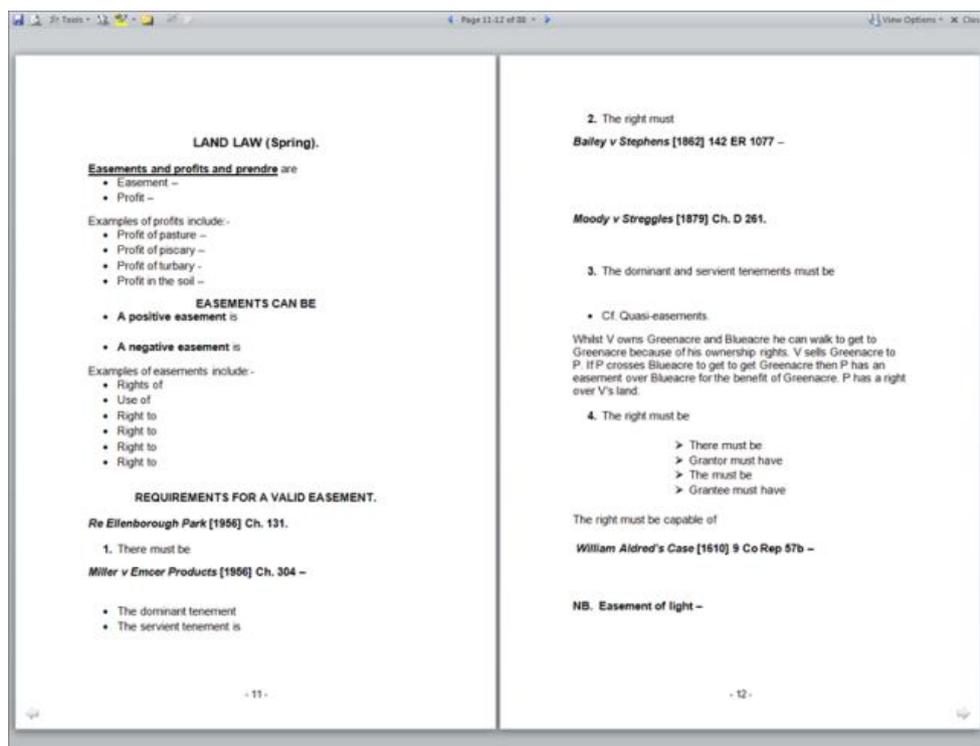
Analysis of teaching handouts: instructional discourse

Instructional discourse is the rules about the specific curriculum content (such as the content, sequencing, pacing and evaluative criteria). The lecture handouts at Local are structured into headings and subheadings that break down the modules content into bite-size portions. A large font is used and the layout of includes lots of space for students to make their own annotations (see Figure 7.1). In the Land law handout there are incomplete sentences for students to complete throughout the handout and there are also prompts and case names to encourage students to extract the key information. These materials are formatted in a style designed to ease the students’ learning through the use of manageable sections of work. The inclusion of space for the students to make their own

notes indicates that they are not required to provide their own paper for their lectures and further that all of the students' notes for a particular topic will be in one document. This indicates a strongly-classified hierarchy between the tutors and the students: tutors make decisions for the students about their note taking and organisation rather than letting them organise their own notes.

In contrast to this, students at Global are required to listen to their lecturer and make independent decisions about key information on which to take notes. The information provided on the handouts at Global is far denser and contains large sections of judicial statements from which students are required to extract the key information (see Figure 7.2). This indicates a weaker hierarchy between the tutors and students. Although the tutors are transmitting the knowledge, the students are required to recognise the important knowledge and record it in a way that they find helpful: the students are constructed as needing little guidance, contradicting the formal and hierarchical relationship depicted in Global's module Handbooks.

Figure 7-i: Local lecture handout.



Most of the lecture materials at Local are written using sustained prose when not using sentences to complete, rather than a list of relevant cases and legislation. For example:

‘We turn first to the free movement of goods. The purpose of the law in this area is to create an internal market within which there are no fiscal, physical or technical barriers to the free movement of goods.’

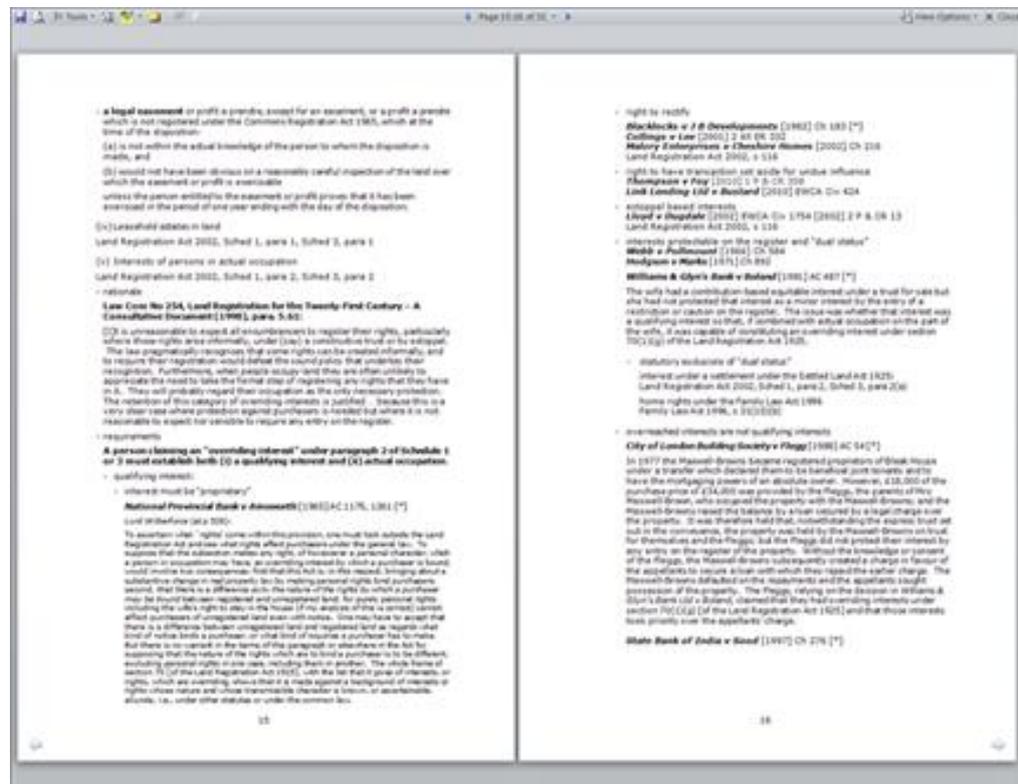
(Law of the European Union Handbook, Second year module, 2013, Local)

‘If an inferior court is bound by a superior court it is important for the inferior court to know exactly what it is bound by. When a case is decided, a judge will deliver his judgment made up of 3 distinct parts:

1. A statement of facts as found by the judge;
2. An account of the judge's reasoning and a review of the relevant law;
3. The actual decision between the parties.’

(Legal research methods Handbook, First year module, 2013, Local)

Figure 7-ii: Global lecture handout.



This approach to transmitting knowledge further demonstrates a strong classification between the tutors and the students because the tutors are

not giving the students the opportunity to interpret and select the important information for themselves, it is handed down to them by their tutors throughout the three years of the degree. This practice is likely intended to minimise the opportunity for any misinterpretation by the students of the information on the module handouts. The facts of many cases are written out for the students on the handouts which mean that they are not having to research and read full case transcripts in order to ascertain the key information from the judgements. Local include a 'terminology checklist' within the Equity and Trusts module handout so that students can complete the checklist by inserting the correct definitions. It appears that this practice is intended to assist the students to acquire a basic understanding of the key terminologies for the topics. It is further evidence of the strongly classified relationship between the tutors and students; the tutors are providing a high level of selection of valid knowledge and structure for the students. Arguably the students are deprived of the opportunity to develop autonomy in their learning. Some handouts at Local also highlight revision tips, key information from cases judgements, and reiterate important legal facts intended to ensure that the students have a thorough, and correct, understanding of the case law. The handouts also stress the importance of certain areas of law which direct students' attention to particular elements in their preparation for assessments:

'Have a look first at s.78 PACE - the judicial discretion to exclude evidence. YOU MUST UNDERSTAND THIS SECTION.'

(Criminal law handout, 2013, Local)

'REVISION TIP: this is a difficult area and needs to be studied carefully. Students who do well understand the intricate details and depth of the subject.'

(Contract law handout, 2012, Local)

A further demonstration of the high degree of guidance and support offered to students at Local are the formative tasks which are included within the module handouts for students to complete. These test students'

understanding of each topic during the module so that any misunderstandings or gaps in students' knowledge are highlighted before they complete their summative assessments. This allows students to test their understanding without impacting on their degree classification. For example:

Task: Look at the following Acts of parliament and see if you can locate any offence of strict liability

Food Safety Act 1990

Sexual offence Act 2003 Weights and Measure Act 1985

Children and Young Persons Act 1991

(Criminal law handout, 2013, Local)

Task: What is the actus reus for murder?

(Criminal law handout, 2013, Local)

These handouts also include relevant cases within the tasks to reiterate their importance and encourage students to read them:

Task: read R v Gore. What was the effect of this decision?

(Criminal law handout, 2013, Local)

Task: Read the cases Dica and Konzani. How was consent relevant in these cases?

(Criminal law hand out, 2013, Local)

The module handouts at Global are much denser with text than that at Local (see figures 7.1 and 7.2) and there are more case names, subheadings and sections of case judgements provided. Global's students are getting a more authentic, unfiltered experience of law knowledge. Despite the volume of text, little other detail is given, meaning the students must conduct their own independent study to gain a full understanding of topics. For example, in land law and law of the European Union students are expected to research each case independently in order to learn their facts, outcomes and significance; that is, they are only provided with the topic heading and a list of relevant cases:

Article 267 grants discretion to refer to 'any court or tribunal of a Member State'.

The Court has interpreted this provision broadly:

Case 246/80 Broeckmeulen [1981] ECR 2311 – medical appeal committee

Case 102/81 Nordsee [1982] ECR 1095 – arbitration body - not a court or tribunal

Case C-134/97 Victoria Film [1998] ECR I-7023 – revenue board performed an essentially administrative not judicial function

(Law of the European Union handout, 2013, Global)

(2) OWNERSHIP OF LAND

(a) Doctrine of TENURES

- the continuing theoretical basis of land holding

- the demise of the practical significance of the doctrine

Statute Quia Emptores 1290

Tenures Abolition Act 1660

Law of Property Act 1925

(b) Doctrine of ESTATES

concept of the estate

freehold estates

(c) Ownership, possession and title

relativity of ownership

(Land law handout, 2013, Global)

This weakly framed, independent approach can result in students' misunderstanding case judgements and legislation and wrongly applying the law in assessments. The process of testing students' understanding is also more weakly framed at Global than it is at Local; that is, the only formative tasks set for the students at Global are the tutorial questions (see below) which focus on topics covered in the lectures and an optional assessed essay which can be completed during the autumn semester.

Conclusion: Framing of Curriculum

I have analysed the module Handbooks in terms of: the framing of the relationship between tutor and student, that is formal at Global and informal at Local; the construction of the discipline, that it is a challenging discipline with a vocational focus at Local and an academic focus at Global, and the conceptualisation of the student, that is dependent learners with

no prior knowledge at Local, and independent learners with a basic understanding of the discipline at Global.

In the module Handbooks at both Local and Global the discipline of law is constructed as academically challenging. The differences occur in the relationships between the tutors and students, and the construction of the student identities.

Local's module Handbooks denote a strongly framed and weakly classified relationship between tutors and students by way of the friendly tone and informal language and the messages that the students and tutors work collaboratively to ensure the students' academic success. Tutors offer face-to-face, email and telephone assistance to the students before the teaching has even started in order to help them succeed in their modules. Global's module Handbooks denote, on the other hand a weakly framed and strongly classified relationship between tutors and students; that is, there is a clear hierarchy.

Another dichotomy emerged between the construction of the learners at Local and Global. At Local, regulatory discourse explicitly constructs students as being dependant learners who require high levels of support with their studies. At Global, students are told from the outset that initiative and independence are required of them during their degree: regulatory discourse explicitly constructs students as being autonomous learners. I conclude this section with a summary of the framing of the curriculum and pedagogy with examples from Local and Global.

Table 7.7: Examples of framing at Local and Global

Framing		
Concept demonstrated by the degree of teacher control in:	Indicators	Empirical examples
Selecting the curriculum content (Distributive rules)	The lecturer selects the content of the law curriculum (F+)	Local – The work is delivered in manageable bite size chunks
	Students are encouraged to select the content themselves (F-)	Global – The work contains large quotes and students are required to select the key information from these
The sequencing and pacing of the teaching	The pace and sequencing of the work is decided by the lecturer (F+)	Global - Students are expected to do pre-reading before taught sessions. They should know the content of the previous lectures before coming to next one Local – Although they are not expected to complete any pre-reading, the students have more contact time with tutors and are led through the curriculum in these taught sessions
	Students work at their own pace and sequence to work themselves (F-)	Students at both universities are required to manage their independent study, however this is occurs

		more at Global
Making the evaluation criteria explicit (Evaluative rules)	The evaluation criteria is specific and is clearly communicated to the learners by the lecturer (F+)	Local – Evaluations contains multiple choice questions and questions with right or wrong answers
	The evaluation criteria is not specific (F-)	Both – The evaluation criteria is open to interpretation. It includes words such as ‘discuss’ and ‘evaluate’
Regulating the behaviour of the learners in the student: staff relationship	There is a strong hierarchy between lecturer and student (F+)	Global – There are formal relationships between tutors and students
	There is a weak hierarchy between lecturer and student (F-)	Local – There are informal relationships between tutors and students. They call tutors by their first name and tutors operate an open door policy

Framing of teaching methods

This section compares the teaching methods, the tutorial teaching and the assessment practices at Local and Global to draw out differences in pedagogical framing. I draw on four tutorial observations from two different modules and eight tutor interviews which focus upon these tutorials and the tutors’ expectations of the students. I will also draw upon the tutorial and assessment questions to make comparisons between the style used by the two universities. This will show that Local uses a more focused and specific questioning technique that leaves students little room for interpretation whereas the technique used at Global allows for more interpretation and independent thought by the students.

Comparative variety of teaching methods

The different teaching methods used at Local and Global include:

- Lectures – An oral presentation by a tutor to a large group of students. This can be up to 200 students.
- Seminars – A discussion based group session. This usually includes one tutor and around twenty students.
- Tutorials – A discussion based group session where students are required to have completed pre-set reading and questions prior to attending. They usually include one tutor and no more than 10 students.
- Group work – A preparation session where students are given a case to prepare in groups of no more than five students. They must prepare their argument and present them to the opposing party and a tutor.

The teaching methods used at Global are limited. A more traditional and strongly framed approach is used: the majority of compulsory modules are taught by lectures and tutorials. Only one compulsory module is taught by seminars and lectures (Legal research training). In contrast, Local use a variety of teaching methods across all modules. These include tutorials, seminars, lectures and group work. Three modules at Local require attendance at seminars (Public Law, Criminal Law, Legal research training) and the Public Law and Legal research training seminars are run as practical workshops.

Global operated a formulaic timetable where all of the year-long compulsory modules are allocated the same amount of teaching time: 40 hours for lectures and 8 hours for tutorials. This standardisation contrasts with the variation in time allocated to year-long modules at Local, where tutorial time ranges from 5 to 10 hours and lecture time ranges from 40 to 60 hours. Overall, students at Local get more contact time than the students at Global in all modules. An overview of the teaching allocation is illustrated in Table 7.8 (below).

Table 7.8: Teaching timetable for the compulsory modules

Compulsory Module	Global			Local		
	Lectures	Tutorials	Seminars	Lectures	Tutorials	Seminars and workshops
Year Long Module						
Obligations 1 (Contract)	40 hours	8 x 1 hour		48 hours	8 x 1 hour	
Obligations 2 (Tort)	40 hours	8 x 1 hour		46 hours	10 x 1 hour	
Public Law (Constitutional, Administrative and Human Rights Law)	40 hours	8 x 1 hour		60 hours	5 x 1 hour	20 hours
Criminal Law	40 hours	8 x 1 hour		54 hours	10 x 1 hour	5 hours
Law of the European Union	40 hours	8 x 1 hour		40 hours	10 x 1 hour	
Property/Land Law	40 hours	8 x 1 hour		48 hours	10 x 1 hour	
Equity and Trusts	40 hours	8 x 1 hour		44 hours	8 x 1 hour	
One Semester Module						
Legal Research Training	26 hours		8 x 2 hours	43 hours	5 x 1 hour	1 hour

The lectures at Global were strongly framed: the lecturer presented the relevant information to a group of over one hundred students in a lecture theatre. The lecturer remained at the front of the lecture theatre and students were not encouraged to ask questions. There was a strong regulation about recording: students were not permitted to make recordings unless they had gained permission from the individual lecturer. However there was a weakly framed aspect to the lectures because

attendance was at the choice of the students, it was not compulsory and no attendance monitoring took place.

At Local the lectures included more dialogue between the tutor and the students; they were much more weakly framed. Although the lectures also took place in a lecture theatre, the group of students was slightly smaller, usually around 80 students, and there was a greater level of student interaction with the lecturer through them asking and answering questions. At Local, the lecturer recorded each lecture themselves and these were uploaded to the university intranet for further use by the students if needed. This is another example of the regulatory discourse constructing students as requiring additional support. Attendance at lectures was more strongly framed at Local than at Global because attendance was compulsory and students were required to scan their student ID card to register their attendance at each taught session. This illustrates the greater degree of regulation at Local compared to Global and the resulting restriction on students' autonomy at Local.

At both universities, the pacing of the teaching was strongly framed; that is, it was decided by the tutors and structured through the lectures and tutorials. The only variation to this was at Local for their legal research training module. Here students were required to complete a portfolio of work during semester one of their second year. Although the deadline for this work was set by the tutors, the day-to-day organisation of their work was decided by the students themselves. There was a greater degree of student engagement within the lectures at Local compared to the stronger framed teaching demonstrated at Global. The degree of regulation was higher at Local than at Global where students' attendance at lectures was compulsory and monitored.

Within the teaching sessions, students at both universities were provided with materials to support the session. These often took the form of handouts which were provided in hard copies at the session and online on

each universities intranet. The differences in the teaching materials lie in the content which was discussed above.

One method of teaching that was used at both Local and Global, and involves student participation is tutorial sessions.

Comparative approach to tutorial teaching

This section will compare the tutorial provision at Local and Global. I compare this teaching method because it is the only interactive method used for core modules by both Local and Global. Tutorials are small group teaching sessions that complement the lectures and provide students with the opportunity to discuss the curriculum with tutors and other students, something that the lectures at Global do not provide. I observed four hour-long tutorials: a second year tutorial (Criminal law) and a third year (Trusts) tutorial at each university.

Table 7.9: The dates and student attendance for the four observed tutorials

	Date of observation	Number of students at the observed tutorial
Criminal law tutorial at Local (second year module)	28/02/13	5 (4 female, 1 male)
Criminal law tutorial at Global (second year module)	20/11/12	5 (3 female, 2 male)
Trusts tutorial at Local (final year module)	18/04/13	5 (all female)
Trusts tutorial at Global (final year module)	25/01/13	3 (2 female, 1 male)

The observations were preceded and concluded with a tutor interview to discuss their expectations and opinions about their tutees. Through these observations and tutor interviews I demonstrate that the tutorials at Local are comparatively weakly framed; there was more student interaction and

a more informal atmosphere than those at Global where the tutorials are tutor-led with a formal atmosphere.

Setting the scene

Tutorials at Global take place in the tutors' offices, surrounded by their textbooks and books in shelves that are evidence of their personal research. The observed tutorials at Global started promptly, within one minute of the scheduled start time. Tutorials at Local take place in classrooms throughout the university buildings. During my tutorial observations at Local the sessions started with a lot of friendly and personal conversations:

- 'Tutor: My car is paid for, I don't have a mortgage nor any personal loans or credit that I have to pay off and um, you know and at the end of each month I often put like a good bet on something so yeah I know I have money in all that sense but I've got no bloody real money that's the problem you know why can't I win like 45 million quid do you see, did you see on the news he won 45 million quid and he's building uh like a space house did you see
- Female student: What else is wrong?
- Tutor: What apart from my knee?
- First female student: Yeah
- Tutor: Alright I'm old
- First female student: No you're not
- Tutor: I am, I've missed the boat. I was walking as well, cause I'm trying to get fit, I'm following Arnold Swarzeneger's diet plan and muscles
- Second female student: Sorry I'm late Mr Smith
- Tutor: That's alright I don't believe you anyway. We're just talking. I had an arm problem so I want to get, I want a six pack

(Criminal law tutorial, Local, Second year module, 28/02/13)

These personal discussions meant that substantive content was not addressed in either until at least five minutes after their scheduled start time, a contrast to the prompt start observed at Global.

During each observed tutorial at Local, the students were highly vocal and had a greater degree of control over the session than the students at Global. They asked and answered lots of questions and debated issues with each other. This sometimes meant that the discussion was not about the subject of the tutorial but the tutor allowed these digressions.

Tutor	Yeah, psychiatrists if they're medically trained, surely the psychiatrist is akin to doctor you know as in you do presumably pour out all your troubles, is there a sort of step down to say Counsellor?
Second female student	Therapist (unclear)
Third female student	What's the difference between psychiatrist and therapist?
Second female student	Therapist I think you have to have a psychology degree but you don't have to be medically trained whereas a Counsellor can be anyone, I'm pretty sure that's the way round it is
Tutor	Therapists burn candles
Third female student	Maybe I should go [laughs]
Tutor	So what about Counsellors then, do you think they're, they own duties of loyalty and all that sort of stuff? Why not?
Third female student	Yeah what's different? What's the difference between them and the other two?
Tutor	I don't know the answer to this by the way
Second female student	Counsellors can't deal with things so big, they can't prescribe things and they don't have the capacity to deal with serious mental illness, that's the, they are there to talk to you about your relationship problems or something
First female student	But because clients tell everything to them about their problems
Third female student	Wouldn't you say that's loyalty as well
First female student	So they should keep quiet and not tell anyone

Third female student But they should, they're not allowed to, isn't it just like
solicitor and a client is
(Trusts tutorial, Third year module, Local, 18/04/13)

Even though all five students in the observed Trusts tutorial contributed to the discussions, one student was openly completing a Sudoku puzzle for the first twenty minutes of the session. The tutor drew everyone's attention to this in an amused manner and allowed the student to continue her Sudoku. The relaxed attitude by the tutor may illustrate that they prioritised the rapport between themselves and the students, and the informal atmosphere of the tutorials over time spent on the specific task for the tutorial. Further, it demonstrates the lack of hierarchy in the tutor and student relationship, and the weak framing of the tutorial; the control over the pace of the tutorial was with the students.

Tutor Yeah but that's the purpose of the tutorial isn't it, you know to
go off on things, on tangents, places, Sudoku...
Female student I'm almost finished, I'm almost finished
(Trusts tutorial, Third year module, Local, 18/04/13)

Attendance

Tutorials are compulsory at both Local and Global. Over the course of their degree, students at Local are required to attend 66 hour long tutorials and at Global are required to attend 56 hour long tutorials for their core modules. Tutorials are compulsory for all students at both universities and everyone is allocated a tutorial group, with a set time and location which they must attend. At Local, all of the teaching sessions are compulsory and students have to scan their identity cards to register their attendance; however at Global lectures are not compulsory. This indicates that tutorials are a more valued element of the degree at Global than lectures.

Academic expectations of students in tutorials

Tutors at both universities expect students to have completed the pre-set work before they attend the tutorial.

'If they haven't done it [the work] I'll just go. That's it I don't do it for them ever, I tell them I do the lectures they do the tutorials so my expectation is, initial expectation is that they've done it.'

(Criminal law Tutor, Local, 2012)

'They are expected to have done the reading, to have read the questions in advance and to have attempted an answer to them and to come in prepared to talk'

(Trusts Tutor, Global, 25/01/13)

As well as being prepared for the tutorial, the criminal law tutor at Local likes students to be engaged with the tutorial discussions and to debate the issues between themselves:

'What I really liked about that was what I got from it is that um, Adam and Eve with regards to the, was it the burglary point? it was good fun, he was justifying why it was in and she was saying 'no its not cause of such and such', I liked that, that's why I let them roll with that just for a few minutes.'

(Criminal law Tutor, Local, 2012)

At Global, the tutor assumed that all students have a basic understanding of the tutorial topic and that they contribute to the tutorial; however the tutor interviews revealed a difference in the approach taken. The trusts law tutor relied on their students to say what they need; the criminal law tutor takes responsibility for making sure that students understand the topic:

'I always tell my groups the first time I meet them that the tutorials are for their benefit so I'm quite happy to do what they want. What I assume, unless they tell me otherwise, is that they know the basics of the topic that we're discussing so that the aim of the tutorial is to test how well they understand it by making them either apply it to a set of facts or to criticise it, or hopefully a combination of both, so that we kind of get into it in a bit more depth and I get them to start thinking, giving their opinion but also using the material. Now obviously I do say to them if they are lost then we'll start with the basics, I'm quite happy to do that but it's up to them ... If the tutorial is flowing even if everyone isn't contributing I'll just let it go um, it's only if the tutorial kind of keeps coming to a halt because nobody's saying anything

that I will them directly ask somebody who hasn't said anything or has said very little'.

(Trusts Tutor, Global, 2013)

'Generally speaking I'm trying to ensure that they've got their heads around the key aspects of the material, that they're all working at a level where, for the exam in January they'll be able to take it with confidence, so I'm testing their understanding but I'm trying to do it by getting them to discuss one with another their, uh, appreciation of some of the finer points and through that if there are misapprehensions we can clear them up together, um, and then there's the question of whether they are confident in applying those principles that they've discovered to a completely new and unseen set of facts on the tutorial sheets.'

(Criminal law Tutor, Global, 2013)

However at Global the students within the tutorials appeared reluctant to contribute to the discussion. The tutor repeatedly asked questions to coax answers from the students. These were followed by long pauses until she asked another question:

'Does anybody have any preference as to what we start with *today*? (6 second pause) No? I mean we won't get through everything today; shall we look at the problem question and while doing it if we come across any areas that need criticising, deal with that? Yeah? (10 second pause) Right so we've got five dispositions and we need to consider their effect. So um, is there anything you want to say by way of general introduction? (10 second pause) What's noticeable about all these dispositions? What are they for? (10 second pause) Are they for people? Or are they for purposes? (5 second pause).'

(Trusts tutorial, Third year module, Global, 25/01/13)

The students responded to the tutor after 50 seconds of questioning and when they did contribute, it was only by way of a delayed response to the tutor's questions, rather than debating the topic with each other.

Tutor

Yes so we've got public benefit in the sense it has to be a benefit to the public, public benefit in the second sense it needs to be provided to the public as a whole or a sufficient section of the public. Ok so this disposition

then what Charitable purpose might it fall within? (9 second pause)

First female student It could come within the advancement of education possibly the advancement of amateur sport

Tutor Ok so take me first of all advancement of education, in what circumstances will provision of sport or sporting facilities fall under the heading of advancement of education? (7 second pause)

Second female student (unclear) so I thought maybe sport would be physical education

Tutor Yes but will sport on its own fall under the heading of advancement of education?

Second female student Um, not really unless it's under the amateur sport category

(Trusts tutorial, Third year module, Global, 25/01/13)

Students at Global are provided with a reading list and several questions which they should complete before attending the tutorials but there is variety in tutor pedagogical approach with some tutors preferring to let the students select their own reading for tutorials.

'I mean I've even refused to give them pages for textbook reading I've just said 'here's your textbook look up the bits you think are helpful', they hate it, they hate having to decide what to read but if they're going into practice nobody's going to say 'Here's your brief for tomorrow morning and you need to read these pages of Smith and Hogan' they're going to have to learn to find their own way with that so I want them to befriend their textbook and use it to look at bits they don't understand and really get to grips with it and their textbook is written by David Ormrod who's a very respected academic and a law commissioner so there's lots in there.' (Criminal Law Tutor, Global, 2013)

Tutors at Global thus endeavour to encourage autonomous and independent learning by the students; they are required to recognise and select important information for their personal study.

Content and format of the tutorials

Within each compulsory module at Global and Local, every tutorial focuses upon a different topic. In order to compare the curriculum content of the tutorials at the two universities I will now focus upon one Land Law tutorial at both Local and Global, and one Public Law tutorial at both Local and Global.

At Local, the final tutorial for Land Law (tutorial five of the second year) focused upon leases. There was no required reading on the tutorial worksheets and there were four questions for students to complete, each requiring students to recite legal requirements for different elements of the topic rather than applying this knowledge.

- 1) What are the characteristics of a lease?
 - a.
 - b.
- 2) What is a service occupancy
- 3) For a lease to be legal it must be created by deed. What is the execution to this and what is its statutory authority?
- 4) If a lease is not created by deed what type of lease is it?

The inclusion of a) and b) under question one indicates to the students that there are two characteristics of a lease that they must include. Tutorial four (the final tutorial for semester one of the second year) at Global also focused upon leases. The tutorial worksheet specified that the minimum required reading expected of the students was 10 cases, 5 sections from different Acts of Parliament, 170 pages of three different text books and optional reading of four journal articles and further five cases. There were four questions for students to complete, two required students to apply their legal knowledge to the facts of a problem question and two required students to discuss the law relating to leases:

- 1) *Prudential Assurance Co Ltd v London Residuary Body, Street v Mountford and Bruton v London and Quadrant Housing Trust* are clear examples of the courts refusing to give legal effect to the agreement between the parties. Are these decisions justifiable?

- 2) "The law relating to forfeiture of leases is unduly complicated and inconsistent and it is in urgent need of reform."
Discuss.' (Land law hand-out, 2012, Global)

Students are asked to consider the relevant law and develop a critical and balanced argument, providing case law as examples that support the argument they present. For example, question 2 (above) requires students to understand the legislation and case law relating to leases, decide if they believe it to be unduly complicated or not and present their argument. This requires a greater depth of knowledge, and skills of critical analysis, which are not needed for questions where student are asked to apply a piece of legislation to a set of facts.

In their Public law tutorial the questions require students to analyse cases and critically discuss different elements of the law. For example:

1. 'Write a discussion of the importance of Parliamentary sovereignty in the UK today. Reference the source materials you use in your piece.
 2. Use case law to analyse the impact of the Human Rights Act 1998.'
- (Public law handout, 2012, Local)

Students at Local are given a tutorial booklet for this module. This contains all tutorial reading and questions along with information about the tutors' expectations of students. The booklet states:

‘Tutorials are ESSENTIAL learning activities which draw and expand upon the concepts introduced in lectures.

ATTENDANCE at tutorials forms part of the assessment for Learning Outcome 2.

In order to gain the most from your tutorials, and to ensure that you meet the learning outcome, you will need to PREPARE for tutorials and to ACTIVELY CONTRIBUTE TO DISCUSSION’

(Public law handout, 2012, Local)

The explicit requirements of the students are strongly framed however the learning outcome of the tutorials is more weakly framed:

‘Students are expected to evidence and communicate an *effective* understanding and appreciation of selective aspects of tortious liability.’

(Public law handout, 2012, Local)

The lack of definition of ‘effective understanding and appreciation’, means the students and tutors are able to interpret this requirement themselves which may result in disparity between their interpretations.

As preparatory reading for tutorial one, students at Local are given the choice of two textbooks of which they must read two chapters. They are not instructed to read any case transcripts and they are also advised about the length of time this reading should take them (six hours). This instruction illustrates strong framing for the students at Local.

The public Law tutorials at Global include a reading list and seven or eight questions to be answered by the students. The tutorial questions ask about specific elements of the topic being studied, requiring the students to have read the recommended reading materials in order to give full answers. For example, tutorial 2 focused upon Parliamentary sovereignty before and after the *Factortame* case. The questions all focus upon specific areas of the case and the impact it had:

1. 'What is the traditional view of parliamentary sovereignty?
2. What are the facts of the Factortame saga? What problem were the judges trying to resolve?
3. How was the problem in Factortame resolved in Factortame (No. 2)?
4. How did Lord Bridge justify the approach taken in Factortame (No. 2)?
5. What is the impact of Factortame on the orthodox view of parliamentary sovereignty? Explain the case of Thoburn and how it demonstrates the impact of Factortame.
6. Did Factortame signal a 'constitutional revolution' (Wade) or simply an 'evolution' (Allan) of the British constitution?
7. Is the orthodox view of parliamentary sovereignty still relevant in the modern British constitution? Why (not)?'

(Public law handout, 2012, Global)

There are similarities between the question asked in Local's public law tutorial (above) and the final question asked in tutorial two at Global (above), however at Global, students also have to answer six other questions and students at Local have to answer only this one question. This resulted in students at Local having a deeper, more detailed discussion about this one question and students at Global giving less detailed answers but covering a greater area of the topic.

Summary

Overall, I observed students to be more engaged with the tutorials at Local than at Global. The tutorials at Global took place in a formal learning environment, the tutor's office, and had a more formal atmosphere than the tutorials at Local. The volume of work covered by the tutorials was higher at Global than at Local and students were often required to select their own preparatory reading rather than being told explicitly what to cover, as was done at Local. In Chapter 8 I will discuss the difference between the university's expectations of workload and what the students actually completed.

Comparative assessment practices

The assessments for each of the core modules also differ between the two universities. These are detailed in Table 7.10 and will be discussed in greater detail below.

Table 7.10: Overview of assessment methods for the core module at Local and Global.

Foundation of Legal Knowledge	Local Assessment methods				Global Assessment methods			
		Written Coursework	Practical Coursework	Exam		Written Coursework	Practical Coursework	Exam
Obligations 1 (Contract)	Contract Law: Theory and Practice (20 credits)	50% - group work		50% - January exam	Law of Contract (30 credits)			100% ²⁵
Obligations 2 (Tort)	Tortious Liability and Negligence (20 credits, semester)	100%			Foundations of Tort (30 credits)			100%
	Specific Torts and Remedies (20 credits, semester)	50%		50% - online exam				
Public Law (Constitutional, Administrative and Human Rights Law)	Constitutional Law and Civil Liberties (20 credits)	100% - tutorial tasks, e-learning tasks, essay			Public Law (30 credits)			100% ¹
	Administrative Law and Human Rights (20 credits)	50% - essay		50% - open book exam				

²⁵ For all core modules at Global, the exam constitutes 100% of the students mark. However, students are required to submit an assessed essay at the end of semester one. Their overall mark for the module is calculated using either 100% of their exam mark or is calculated so that their essay mark constitutes 25% and their exam mark constitutes 75% of the overall mark.

Legal Research Training	Legal Context, Skills and Ethics (20 credits)	50% - essay	50% - prepare skeleton argument and moot		Understanding Law (30 credits)	100% - essay and case analysis		
	Advanced Legal Skills and Ethics (20 credits)	50% - portfolio of work	50% - court advocacy and group negotiation					
	Criminal Law: Principles and Application (20 credits)	60% - portfolio of work		40% - online exam	Criminal Law (30 credits)			
	Criminal Property Offences and Practice (20 credits)	50% - indictment advising client	50% - crown court hearing					
Law of the European Union	European Union Law (20 credits)	50%		50% - online exam	Law of the European Union (30 credits)			
	European Union Trade Law and its International Context (20 credits)		10% - advise a client	90%				
Property/ Land Law	Land Law (20 credits)	50% - written portfolio		50% - one seen and one unseen question	Land Law (30 credits)			100% ¹
Equity and Trusts	Equity and Succession (20 credits)		50% - a mock high court hearing	50%	Law of Trusts (30 credits)			100% ¹

Local

Assessment practices

Local employed a variety of assessment methods (18) and several assessments contribute to the overall result for one module. This means that if a student fails to achieve highly in one assessment, the impact of this on her/his overall module mark will be limited. The assessments are staggered throughout the academic year rather than taking place only at

the end of each semester (as occurs at Global). This results in less focus being on 'exam time' and more on a continual assessment. The assessment methods used at Local include: unseen written exams, online multiple choice exams, day-long open book exams, e-learning activities, assessed tutorial questions, a portfolio of group work, a portfolio of individual work, pre-seen exams and reflective diaries. They also include a variety of vocationally focussed assessments such as: mooting, giving legal advice to fictional clients, a group negotiation, advocacy, CPD, a professional audit, a mock crown court hearing, a mock high court hearing, and a written indictment.

For all of the compulsory modules at Local, students are required to complete an examination as part of their assessment. These differ from the exams set at Global because they include pre-seen questions (Land Law), an all-day exam (Public Law) and a multiple choice exam (Criminal law). For the multiple-choice exam students are given 2 hours to answer 59 questions online. They are advised about which topics are included in the exam and tutors negatively mark for incorrect answers. These questions require students to remember facts about cases and legislation rather than test their skills of applying and critically evaluating the law, as are assessed at Global in this module. The questions include:

- 1) Which of the following are NOT elements for the offence of unlawful act manslaughter
 - The base unlawful act must be proven
 - The defendant must have been aware of the risk of harm
 - The act must be dangerous
 - There must be a duty owed to the victim

(Criminal law exam, Local, 2012)

For practical assessments, such as mooting, advocacy, court hearings and negotiation, students are assessed on their understanding and application of the law to the fictional situation that they are provided with and also their 'court etiquette'. They are advised to wear appropriate court dress

(Equity Handbook), make eye contact and address the court appropriately, for example:

‘May it please your Lordships, my name is...’

‘Are your Lordships familiar with the case of?’

‘It will be argued that...’

‘I am appearing with Mr A for the appellant’

(Legal context, skills and ethics Handbook, Local, 2012)

This illustrates the vocational element of the course: students are expected to ‘role play’ as solicitors and barristers for their assessments as well as have knowledge of the module topic, which is not the case for Global students (see below).

Within the first semester of the Public Law module at Local, tutorial work is classed as a continuous piece of assessment. Students are required to complete and submit a tutorial exercise to their subject tutor before attending the tutorial and feedback is given to them during the tutorial. Their answers are also used as the basis for discussion within the tutorial. These assessments replace the tutorial worksheets, reading and questions that are used in other modules. There is only one question per tutorial and tutors specify that each answer should be no longer than 1500 words. Tutors also include instructions regarding referencing in some questions which act as a prompt, reminding students about the correct way to present their answer. The format of this assessment constructs students as needing high levels of support demonstrated by the explicit instructions, and limited autonomy demonstrated by the compulsory element of the tutorial work.

The course at Local explicitly trains their students to engage in academic study. As part of the Legal Research Training module, students at Local are required to see their personal tutor once a fortnight and complete a reflective diary. The diary is submitted as part of their assessment for this module. The diary requires students to monitor their independent

learning and keep a record of the number of hours spent working on each module whilst also asking students to reflect on different aspects of the course and university experience. For example:

- 'Getting settled in
- Managing time and workloads
- Lectures and Tutorials'

(Legal research training Handbook, Local, 2012)

When this module progresses into the second year of the course students are required to conduct a negotiation for their client, act as an advocate for their client and keep a professional audit of their work for the module. The audit involves students conducting their work as if they were solicitors, keeping timesheets, billing for the hours that they have worked, keeping records of communications with their clients and accruing a minimum of 16 Continuing Professional Development points (CPD points). These CPD points can be accrued through a variety of activities. For example:

'LEGAL KNOWLEDGE

- Watching or listening to legal documentaries, Attendance at legal courses, law conferences or talks or listening to law podcasts, Reading of articles in a new area of law, Online law courses

NON-LEGAL KNOWLEDGE

- Watching or listening to relevant documentaries, Attendance at non-legal courses, conferences or talks or listening to relevant podcasts, Reading of articles outside the field of law, Relevant online courses, Relevant debates

LEGAL SKILLS

- Legal work experience, Attendance at court or tribunals, Written legal work (not including coursework), Voluntary legal work, Legal competitions, Organising your own client interviews, moots or negotiations, Workshops which develop your legal skills

CAREERS AND EMPLOYABILITY

- Non-legal/legal work experience, Non-legal/legal voluntary work, Developing interviewing skills, Attendance at careers' talks, Meetings with a Legal Careers officer, Professional courses, Training for voluntary work'

(Legal research training Handbook, Local, 2012)

In each compulsory module, students are given detailed advice about how to proceed when answering an assessed question. This demonstrates the high level of support provided by the tutors and the dependence of the students on the tutors at Local. For example in the criminal law Handbook the advice about answering a question is:

'In answering any criminal law problem question ensure that you follow the simple process of establishing the offence. Break it down: -

- state the actus reus and mens rea of the offence and any defences
- you must not only identify the essential elements of the offence but also state the relevant legal principles in defining these
- you must apply the principles stated to the facts given in the scenario

(Criminal law Handbook, Local, 2012)

In other modules at Local students are advised in their module handouts about the topics that are included in their exam (Contract Law) and are not included in their exam (Criminal Law), a high level of direction that is not given at Global. This focuses students' revision and makes sure that they are not spending time revising non-assessed topics.

I have demonstrated the wide variety of assessment methods offered at Local and the high level of support that students receive in preparing for these assessments. I will now turn to the approach asked for in the assessments.

Approach asked for in assessments

As seen in the module handouts a theme which runs through the majority of assessments at Local is the practical and vocational side of legal

practice; an area of legal education referred to by Shulman (2005) as the 'implicit structure' of the subject:

'We're focused on preparation for the workplace. The academic side is important but academic ability and practical ability do kind of tend to go together quite a lot you know, if somebody's got some understanding of the legal issues then it's all to do with the performance, they need to seem confident, it's all to do with prepping it and knowing how to present the case'

(Criminal law Tutor, Local, 2013)

Local ask their students to liaise with clients and start legal proceedings for different fictional situations. For example, the criminal assessments consist of three different elements all relating to the same fictional situation where students are required to act as legal counsel for the prosecution of Damien Domino:

- 1) Draft an indictment for the possible offences alleged against Damien
- 2) Write an advice on evidence identifying the key areas of law and the likelihood of conviction at trial
- 3) Deliver a Crown Court 'Voir Dire' Hearing as to the admissibility of the confession evidence against Damien Domino.

(Criminal law exam, Local, 2012)

These vocational assessments contrast with the more academic style of assessment found at Global, discussed further below.

Global

Assessment practices

Of the eight compulsory modules of the LLB, Global assesses seven using a strongly framed, teacher-directed approach: a three-hour, summative written examination, during which students are required to answer three questions chosen freely from a choice of seven or eight. The questions are a mixture of problem-based questions which require students to apply the relevant law to a fictional situation, something that they have practiced during their tutorials, but not had marked:

Marcel was the owner of the Everley Estate, title to which was unregistered at all material times. In 1922 Marcel sold part of the Estate, The Dower House, to Stanley. The conveyance –

- (i) Granted a right of way to The Dower House over a road on the Estate
- (ii) Contained a covenant to the effect that The Dower House should be used for residential purposes only

Quixano has told Stanley that he cannot use the Dower House as for his business. Advise Stanley.

(Land law exam, Global, 2012)

Each of these seven modules also requires each student to complete a formative assessed essay. These are submitted at the end of semester one. If the student achieves a higher mark in their coursework than their summer exam, then an overall composite mark is awarded, comprising 25% of their coursework mark and 75% of their exam mark. Otherwise their mark for the module is awarded based solely on their exam performance. This provides students with an insurance mark if they achieve a low mark in their written exam.

The students' module Handbooks declare that the learning outcomes for these modules, and the purpose of the module assessments is to test students' legal reasoning skills, problem solving skills, analysis and critique, and skills of legal interpretation and application. The loose framing of questions like 'discuss', 'evaluate' and 'analyse' signals the independence of the learner. Students are required to think for themselves; they must select pieces of information that *they* think are relevant to the topic and present them as their answer. This may result in a greater margin for error than with a right or wrong answer as found in the online exams offered by Local (discussed below). This greater margin of error is reflected in the marks awarded by Local and Global, with Local awarding a greater proportion of higher marks.

The eighth compulsory module, '*Understanding Law*', is assessed by coursework only. A case study and an essay are submitted after semester

one of their first year, and they are each worth a maximum of 50% of the students' overall module mark. This module's assessment only aims to test students' written communication skills, legal research and critical analysis skills, not their oral communication skills or group work as at Local.

Overall, the assessment approach taken by Global is traditional (primarily exams) with minimal variety in assessments (only two different methods of assessment are used). This signifies a high level of tutor control which focuses upon academic skills and knowledge.

At Global students are required to critically assess and discuss the law. An example of the assessment questions used at Global is:

'The concepts of intention and recklessness underpin the proudly subjectivist doctrine 'actus non facit reum nisi mens sit rea'. However the doctrine only works in relation to offences of injury to the person, including homicide, if the mens rea requirement is modified so that the defendant need not intend or foresee the actual result that the actus reus requires. This so-called 'constructive' criminal liability is unacceptable. Discuss.'

(Criminal law exam, Global, 2012)

Even when given a problem-based question, students at Global are required to discuss the law relating to all parties rather than advising their 'client'. For example: 'Consider the criminal liability of Arsene and Bella. Comment critically on the law you have applied.' (Extract from a criminal law exam, Global, 2012). In this question, students are required to consider Arsene and Bella's liability holistically rather than advising them of their specific, individual legal position. The additional requirement of 'comment critically on the law' reintroduces an 'academic' focus to the question rather than a 'vocational' focus, something that is not asked of students at Local.

In contrast to the self-reflection and practical assessments that assess the legal research skills foundation of legal knowledge at Local (their legal

research training module), the same module at Global (titled understanding law) assesses students' critical understanding of the law and their ability to read and interpret legislation and judicial precedents. For example:

'Read R (E) v Governing Body of JFS [2009] EWCA Civ 626, and answer the following questions:

1. What, in your own words, is the ratio decidendi of the case? (10%)
2. How did the Court of Appeal reach its decision in the case? (50%)
3. Do you find the Court of Appeal's decision to be convincing? Give reasons for your answer. (40%)

Answer ONE of the following:

1. Choose TWO cases from the seminar reading: one to represent an example of justice accomplished; and the other to represent an example of injustice. Compare the two cases. Reflecting on the points you have made, provide your own definition of just adjudication.
2. Identify and describe three ways in which criminalisation challenges the argument that law is best seen as a system of rules. Reflecting on the points you have made, provide your own definition of law.'

(Understanding law exam, Global, 2012)

As in the module handouts, the emphasis of the tutorials and assessments at Global is the academic study of law more than the vocational application of law. Tutors expect students to use skills such as critical analysis and legal reasoning to gain higher marks in their assessments:

'The skill to take a critical approach to the law and particularly on areas of controversy but it may be that we're saying 'is the whole law in this area justifiable?' or we might be saying 'is this particular aspect of the area justifiable? What is the reasoning behind it?' so it's looking behind what the law is to say why is the law that way? Can we justify it? Should we have exceptions? Would we change it altogether? And then the other thing is the ability to use the law to be given a set of facts and usually in a problem question obviously the set of facts are such that the law doesn't give you a precise answer so that to be able to use what law there is, decide what to apply, if there is nothing directly on point to be able to bring up other statutory provisions or cases by analogy

and to argue whether they think they would apply the same approach or if there is a distinguishing feature.'

(Trusts law Tutor, Global, 2013)

Summary

The specific evaluation criteria at Local suggest strongly framed evaluative rules which indicate dependence on the tutors by the students. They contrast to the weakly framed evaluative rules at Global, where students demonstrate a comparatively high level of independence in their learning. In stark contrast to the minimal assessment methods offered by Global, Local offers students a wide range of assessment methods which evaluate their knowledge of the law as well as practical skills such as mooting or negotiating. As discussed above, these vocational skills test students everyday knowledge rather than focusing upon sacred academic knowledge.

The case of 'negligence': different approaches to classification of curriculum and framing of pedagogy

In this section, to clarify themes and the similarities and differences in curriculum and pedagogy in the two departments, I will make direct comparisons between the curriculum for negligence at Local and Global. I will highlight the two universities' interpretation of the specified content of the topic; that is, their interpretation of the guidance provided by the Joint Statement of the Law Society and Bar Council (see Chapter 6). My analysis reinforces earlier analysis and shows that Local delivers a more vocationally focused curriculum with greater levels of tutor support whereas Global focuses upon the academic study of law and expect high levels of student independence and autonomy.

A Tort is a civil wrong which causes loss or harm to the claimant and results in legal liability for the tortfeasor (or defendant). Negligence is a substantial topic taught within both Tort modules.

For all modules, textbooks, tutorials and handouts frame the law degree course at both Local and Global. At Local the handouts are organised by

lecture with the content for each lecture clearly defined. This is an example of strong classification and strong framing: it enables the students and tutors to know what content will be covered in each lecture and it creates boundaries between the different lectures. At Global the handouts are organised by topic, there is no specific time line and no defined content for individual lectures. This is an example of strong framing; that is, it provides flexibility in the timetable and gives the tutors greater freedom to spend more or less time on topics as they deem necessary.

Both universities teach negligence in three hours of lectures however the volume of material is considerably greater at Global than at Local. At Local, the topic has been broken down into 7 sub-topics with a total of 33 cases included in the lecture materials. In contrast to this, in the Global lecture materials, negligence has been broken down into 10 sub-topics with a total of 6 statutes, 3 journal articles and 214 cases. Table 7.11 illustrates the sub-topics and how they compare at Local and Global.

Table 7.11: Table 6: An illustration of the distribution of knowledge within the Negligence curriculum at Local and Global. Equatable topics are alongside one another.

Global	Local
	The elements of the Tort of negligence
Duty of Care formulae (4 cases)	The Duty of Care (2 cases)
Proximity or neighbourhood (5 cases)	The 'neighbour' test and the expansion of liability in negligence (9 cases)
Guiding principles? (13 cases)	
Wrongful conception, birth, life (7 cases)	The present test (1 case)
Mental injury (43 cases, 2 journal articles)	Policy considerations (22 cases)
Omissions (44 cases, 2 statutes)	The future: the impact of the Human Rights Act 1998 (1 case)
Public authorities (38 cases, 1 statute)	Duty of care and the unforeseeable claimant (1 case)
Statements (29 cases, 2 statutes)	
Financial loss (25 cases, 1 statute)	
Defective buildings (18 cases, 1 journal article)	

Table 7.12: Illustration of the different framings within the tort module at Local and Global

	Global	Local
Contact hours (per fortnight)	6 hours for the first two weeks of each semester, 7 hours for the remainder of the semester	7 hours each fortnight
Modes of teaching	Lecture and tutorial	Lecture and tutorial
Assessment methods	Written exam (75% or 100%) Formative essay (25% or 0%)	Two pieces of coursework (75%) Online exam (25%)
Number of tutorials	8	10

I will now analyse the curriculum content of the negligence materials, demonstrating the dichotomy between the two universities in terms of the level of support that they provide, the level of independence that is required of the students and the access to knowledge.

Local start the topic stating the basic elements of negligence: ‘The elements of the tort of negligence: A legal duty on the part of the defendant to take care, Breach of that duty, Consequential damage to the claimant’ (Introductory module handout, tort module, Local, 2012). This start is strongly-framed because it clarifies the three basic elements of a negligence case.

The only handout for the module at Local uses clear and specific language throughout, signalling what is important, presumably to mitigate against the chances of students misunderstanding. For example, where describing the case of *Donoghue and Stevenson* [1932] the handout states that it is ‘the most important case of recent years and the one which sets of the current test for a duty of care’. The lecture handout then highlights the importance of the case and the reasons for this importance:

‘This was a landmark in legal history because, in ascending order of importance:

- It dealt with the ‘privity of contract’ fallacy
- It created a new duty of care, that of manufacturers’ liability to consumers for defective products
- Lord Atkin’s ‘neighbour’ test as a general test for determination of whether a duty of care existed.’

In contrast to this, the handout at Global provides little guidance to the students therefore creating a comparatively weak framing. The only information provided on the lecture materials alongside the topic headings and subheadings are lists of relevant cases and sections of relevant judicial quotes, there are neither comments nor guidance from the lecturer:

‘Donoghue v Stevenson [1932] AC 562 (HL)

Lord Atkin -

"The rule that you are to love your neighbour becomes in law, you must not injure your neighbour; and the lawyer's question, Who is my neighbour? You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour. Who, then, in law is my neighbour? The answer seems to be - persons who are so closely and directly affected by my act that I ought reasonably to have them in contemplation as being so affected when I am directing my mind to the acts or omissions which are called in question".’

(Tort, handout, 2012, Global)

Global’s students must read this quotation, alongside the relevant recommended text book chapter, and identify what they believe to be the key pieces of information. For example, key information in this quote would include: taking reasonable care, an act or omission, you should reasonably foresee, cause injury to your neighbour, someone close and directly affected that they should be in your mind. Students can then apply this key information to their tutorial and exam questions. These skills are learned through personal study and a process of trial and error throughout the year.

The lecture materials at Local guide the student through the evolving case law and go into less depth than the materials at Global. As cases are introduced in the materials, an explanation about the importance of the case or the events that followed the case are provided. For example:

‘Hedley Byrne & Co v Heller & Partners [1964]

Then came an elaboration of the neighbour test: the two stage test

Anns v London Borough of Merton [1978]

The expansion of liability continued to its 1983 high water mark’

When discussing different elements of the tort of negligence at Local, each element is accompanied by no more than two cases which illustrate the point. For example, issues that arise due to criminal activities is highlighted by one case (Ashton v Turner [1981]) and issues that arise when there is an alternative remedy available to the courts is highlighted by two cases (Jones v Department of Employment [1989] and Phelps v Hillingdon LBC [2000]). This is an example of strong framing: first, tutors try to ensure that students are not overwhelmed with cases and have limited the amount of reading and information that students need to cover in their independent studies. They also act to show the students explicitly the significance of the information- it might be argued that they are doing the work of turning information into knowledge for the students, instead of letting them do it for themselves. Global take a more weakly framed approach where students are provided with a greater breadth of information than those at Local: there are at least two cases for each issue with many being highlighted by more cases. Students are then expected to transform cases into knowledge about law for themselves, something that is modelled in the lectures.

Summary

Following the guidance about qualifying law degrees, the curriculum for negligence should contain the ‘key elements and general principles’ of the topic. This curriculum comparison highlights the different interpretations of this guidance offered by Local and Global. Local’s curriculum

demonstrates a narrower interpretation of the topic with less depth and with greater guidance than the curriculum at Global. The discipline at both universities is projected as being difficult and one that requires students to work hard in order to achieve highly. However, students at Local are constructed as requiring a higher level of support than the students at Global, who are constructed as independent learners who should only contact their tutors for assistance as a last resort.

Conclusion

Despite core similarities between the two universities, the framing of the curriculum is weaker at Global than at Local by which I mean that, although students are given more material, they are also given less guidance. Students at Global are required to complete more independent study to complement their lectures and are asked to read texts and judgements, selecting for themselves the key pieces of information and working out its legal significance. At Local, tutors guide the students through less curriculum material, clearly identifying key information and highlighting important cases, as if pre-empting students' misunderstandings.

The classification of the curriculum is stronger at Global; that is optional modules are distinct specialisms of the tutors as opposed to the core module extensions offered by Local.

Three main dichotomies have emerged from the curriculum and pedagogy at Local and Global:

- 1) At Local the students are constructed as relatively dependent on the tutor compared with Global where students are expected to make many independent judgments about the material given to them. The dependence at Local restricts the students' opportunity to develop recognition and realisation rules. This is because they are not given the opportunity to identify and select relevant information; the course handouts only contain the necessary, relevant information.

- 2) The informal and friendly relationship tutors and student relationship that is visible at Local compared to the informal and hierarchical relationship visible at Global. This illustrates a contrast in framing of the tutor and student relationship (weak at Local and strong at Global). These relationships contribute to the depiction of the students as independent (at Global) and dependent (at Local) because the relative ease with which students at Local can seek tutor support may result in them not developing their independence as the course progresses: if they have a problem they are likely to seek assistance rather than try to resolve it themselves. At Global, the opposite is true, students are more likely to try and solve their own problems before seeking help because of the hierarchical relationship. In Chapter 8 I will discuss the effect of these respective student and tutor relationships.
- 3) The vocational focus of the curriculum at Local compared to the academic focus of the curriculum at Global. The academic approach taken in the curriculum and pedagogy at Global favours sacred, powerful knowledge. As a high status university, this approach confirms Bernstein's (2000) prediction. The mundane, everyday knowledge favoured by the vocational approach taken at Local denies students access to powerful knowledge and also confirms predictions because it is a lower status university.

What remains is a consideration of how these two different realisations of law as a discipline, representing two very different interpretations of the Law Society and Bar Standards Board's guidelines, impacts on student experience.

The next chapter will discuss the students' perspectives of their experiences of the law degree and will discuss their formed specialised disciplinary identities. I draw upon the 18 student interviews that were conducted throughout the students' three years of study at university. This will allow to comparisons to be made between the students identities

being projected by the two law departments as discussed in this chapter, and the specialised identities formed by the students themselves, as discussed in the following chapter.

Chapter 8 : The different formation of a specialised pedagogic identity

In this chapter I unpack the student's perceptions of their law education to show how different experiences in the two universities resulted in the formation of different specialised pedagogic identities. The perceptions I discuss are: tutors' expectations, including of workload; the difficulty of work; the vocational and academic aspects of the curriculum; skills gained during the course; staff-student relations; the personal tutorial system; and, assessment and feedback. I summarise these perceptions in terms of the three aspects of a specialised disciplinary identity: retrospective, prospective and performative, and I show how they are different in each university.

Perceptions of Education

Perceptions of tutors' expectations

This section will explore the students' perceptions about what their tutors expect of them in terms of independent study and preparation for their taught sessions. Chapter 6 revealed the department expectations of the students at Local and this section provides the opportunity to compare these two view points and see if any differences occur. I will argue that, despite being given clear guidance about the amount of personal study and preparation that was expected of them, students at both universities were unclear.

Local

For each module, Local provided students with an introduction handbook which outlined the topics to be covered in that module, the staff who would be teaching the module and the teaching methods that would be used. The Handbooks provided students with a breakdown of the module learning methods, for example:

Lectures	24 hours
Tutorial	5 hours
Guided Independent Study	121 hours
TOTAL	150 hours

Local's module Handbooks all specified that tutorial attendance was compulsory and attendance and contribution to the tutorials would be assessed as one of the modules' learning outcomes (Learning Outcome 2: Students can communicate an effective understanding and appreciation of selective aspects of the module). Students were monitored throughout the series of tutorials and their subject tutor must have been satisfied that the student 'demonstrated a sufficient level of participation, preparation and understanding' (Student module Handbook). Failure to achieve this resulted in the student failing the module. The module Handbook also specified that the lectures introduced topics that would be covered in greater depth by the series of tutorials, stating that students would 'be required both to read and research in depth and to apply what you have learnt to hypothetical problem situations.' (Module Handbook).

The staff at Local communicated their expectations to the students in all module Handbooks. This guidance may be helpful to students [if they read it] because it offers them a framework of time and learning outcomes within which they can work. Yet, as Lockwood (1999) points out this communication could also be detrimental to the students because students' work at differing paces. So if a student rigidly follows the timings specified by the staff they might leave work uncompleted. Interviewing students has allowed me to see whether this communication was clearly understood, whether it was helpful, and to explore students perceptions of their academic workload.

In the first instance the students at Local appeared clear that the department staff held an expectation of them that they would come to lectures and tutorials prepared with an understanding of the topic.

However, when asked about the volume of work that was expected of them, the students all guessed but were unable to give a precise answer:

‘Probably a lot, well they want us to read all the chapters of the book and then all the cases, usually there’s about ten relevant cases, they want us to read all of them but it’s too much, usually I just read the summaries’

(Leah. First year interview, Local, 2012)

‘The standard stuff, that’s 150 hour isn’t it, per subject ... but I don’t think lecturers are stupid, they probably realistically expect a lot less than that’

(Lauren. First year interview, Local, 2012)

These responses changed as the students entered their second and final year, with all students being aware that they were expected to complete 200 hours of work per module. The students also discussed the staff expectation that they develop ‘more independence’ (Laura, 2013) in their learning. Lucy and Laurence also believed that the staff expectations went further than merely being prepared for the lectures. They felt that the staff wanted students to gain a deep understanding of the topic which came through additional reading.

‘I think that they want us to show a deep knowledge in certain areas, that we know stuff from lectures and then that we have extra reading and just show our knowledge and understanding of this area’

(Lucy. Second year interview, Local, 2013)

Laurence was the only participant who believed that the staff expected the students to be able to apply the knowledge they had gained through lectures and tutorials.

‘What you are expected of from here [Local] is a bit more practical; so you have to apply the knowledge to the scenarios you are given during exams or coursework or even moot that we’ve done recently so it’s more practicality’

(Laurence. Final year interview, Local, 2014)

As well as independent study, students were also expected to attend taught sessions. Luke believed that the staff would not be too concerned if students missed their lectures

'I don't believe they feel it's the end of the world if we don't turn up simply because it's our own fault ... at the end of the day we're doing the exam, we're adults ... it's no skin off their back.'

(Luke. First year interview, Local, 2012)

However, Leah revealed the penalty that students faced if they did not meet the expectations of their subject tutors. She stated that students would have to face an additional module exam if they did not attend and contribute to their tutorial sessions to the satisfaction of their subject tutor.

'We had a checklist ... if we hadn't attended and brought work to a certain amount of tutorials we had an extra exam to do at the end ... I think we'd had to attend five out of six [tutorials] and have brought work and contributed vocally in the session ... [The tutor would] come round at the end and if they thought you had done enough they'd tick it and sign it off, if not they wouldn't.'

(Leah. First year interview, Local, 2012)

In summary, the information provided in the module Handbooks regarding the staff expectations and student' workload, and the checklist used in the tutorial sessions are explicit and strongly framed. Control is firmly with the department staff. This may support student learning by ensuring the students are aware of their responsibilities and workload, however the interviews reveal that this is not necessarily true. Students are provided with work to complete (reading and writing) as well as a recommended number of hours for independent study. This ensures that the students complete the work that has been set rather than focus purely on the amount of time they have worked for. Although the strongly framed sanction for non-attendance or unsatisfactory participation in tutorials means that students receive the maximum number of staff contact hours, it might also be seen as removing some of the personal responsibility that

students have for their own learning. This projects a student identity where the students are dependent upon the tutors and lack autonomy or independence because they are not taking responsibility for their own attendance but, rather, the decision is being made for them.

Global

At the beginning of each academic year, Global provides all undergraduate students with a student Handbook. This details the expectations and responsibilities of the students in terms of attendance and independent learning. The university regulations state that 'students must attend all teaching activities necessary for the pursuit of their studies'. Students are also told that attendance at tutorials and seminars is compulsory. Any unauthorised absences are reported to the Undergraduate Programmes Manager who decides upon a course of action, the most serious being failure of the module.

Students are additionally provided with a module Handbook for each module that they enrol on. This Handbook specifies the staff who will be teaching the module, the assessment format and teaching methods that will be used for the module, and an overview of the topics to be covered in the module. However students are given no guidance about the number of hours of independent study expected for each module. The Handbook also details the specific expectations and responsibilities of the students regarding that particular module, such as pre-reading before lectures. An extract from the contract law Handbook summarises the expectation of students as independent learners, which appears in all module booklets.

'One of the biggest shocks you will have is the extent to which you are left to look after yourself. That is what the rest of your life will be like (only more so) so think of this as a bridge between school and work. People will help you within reason if you ask but it is up to you to take the initiative first to find things out for yourself. Cultivate a bit of self-reliance.'

(Contract law module Handbook).

The module Handbooks specify that the lecture handouts are to provide basic information and structure for the module enabling lectures ‘to be conducted at a rather higher level than would otherwise be the case’ (Contract law module Handbook, Global, 2012). Students are also advised to read the handouts before attending the lectures.

The communication about staff expectations and student work load is comparatively less informative than the communication at Local. Although students are told about their teaching hours, module content, attendance requirements and assessment format they are given no guidance about learning outcomes for modules or the recommended number of hours of independent study that they should achieve for each module. A high level of autonomy is expected of the students, as is indicated by the Contract Law Handbook’s instruction to ‘look after themselves’ and ‘use their initiative’.

Despite the information provided in the undergraduate students’ Handbook, the interviewed students seemed unclear about the expectations that the department staff held of them. Only one of the students was clear about how long they were expected to prepare for each tutorial, although he believed that the staff accepted that first year students would not actually complete the work:

‘I think it’s about twelve hours of preparation for a tutorial ... I find that in the first semester I’d do about three hours, which was bad, I’d spend longer thinking about it than I would doing it. But this semester I’m finding I’m doing ... maybe ten hours... I think the lecturers want you to really engage ... and do all the work and the reading... in the first semester [staff] seemed to accept that students aren’t going to do anything but they were telling you ‘this is all the stuff ... but you don’t need to do all of it.’

(George. First year interview, Global, 2012)

As the students entered their second and final year they were more confident about staff expectations of them: they discussed the expectation

that they should attend all taught sessions (Gavin, 2013) and complete the tutorial reading (Grace, George, Gemma, Gabby and Gina, 2013). Gina also felt that the most realistic expectations were her own because she was the only person who knew how much work she had done and what her understanding of the subject was:

'I think it's not knowing what the staff expects, I think it's what I've worked out that I need to do, like, I don't feel that the staff has expectations and you're going to fail or they're going to even know if you're not doing what you're supposed to be doing ... I just know this year, I know what I need to do like I wish I knew this in first year cause I feel I could have got much better grades.'

(Gina, Final year interview, Global, 2014)

In summary, the information provided at Global was comparatively weakly framed and implicit; some information was provided but student autonomy and control was promoted. Although tutorial attendance was compulsory there was no sanction for low levels of participation within the tutorials. This means that students could attend without having done any, or having done minimal amounts of work, reinforcing the view that the students should take responsibility for their own learning and projecting an identity of students as autonomous, independent learners, a sharp contrast to the identity projected at Local.

Perceptions of workload

Defining and assessing the workload of a higher education student is not easy (Chambers, 1992; Lockwood, 1999). When attempting to define 'student workload', previous research has included factors such as volume of work, level of difficulty of the course, pace of the course and number of hours of independent study by the students (Marsh, 2001). A perceived excessive workload can lead students to take short cuts leading to surface approaches to learning rather than deeper learning (Entwistle and Ramsden, 1982; Kember, 2004) although some research argues that there is no direct link between workload and learning (Diseth et al, 2006; Karangiannopoulou and Christodoulides, 2005; Lizzio et al, 2002). A

surface approach to learning is when students take a rote learning approach (Marton and Säljö, 1984). This indicates that the student is not making the disciplinary knowledge their own and this impacts upon their specialised disciplinary identity.

Students' perceptions of the learning environment can also affect the quality of their learning and their perception of workload (Kember et al, 1996). The learning environment includes assessment methods, relevance of the course content and the level of formality of the teaching methods used (Ramsden, 1992). As discussed in Chapter 6, although the core content of the two degrees is the same, there is great variety in the modes of delivery and assessment. Any differences in students' perceptions about workload may indicate differences in depth of knowledge that is covered by the teaching, prior knowledge of the students, levels of additional study skills held by the students, the level of student engagement within the department or the differences in the learning environment.

All students at both universities found the volume of their workload to be challenging. Grace and Laura believed that this was something many students were unprepared for when they begin their law degree. All students at both universities also perceived their workload to be high throughout their degree courses, especially when compared to non-law students: 'I would say they [non-law students] don't do half as much work as we [law students] do' (Luke, Local, Second year interview); 'I feel like with law you could always be doing a bit more [laughs] but I think I've got, once I've done that I've got a good enough knowledge and then with the tutorials they kind of solidify that really' (Grace, Global, Second year interview). Based upon her personal experience of the law degree, Grace advised potential students to take control of their own learning, something she was unprepared for when she started her degree. She stated that providing potential law students with specific information about the

volume of work required by the law degree would stop them from underestimating what was ahead of them:

'I'd say be prepared to try and understand and learn yourself and take charge of your own learning and actually try and draw home to them that there is a lot of reading because everyone was like 'oh there's a lot of reading' and I was like 'oh there's some reading' but like if you actually tell people you have to read like, I don't know a chapter of a thick book for one tutorial it kind of puts it into perspective more whereas I didn't really think about it before I came'.

(Grace, Second year interview, Global, 2013)

As well as these similarities between the two universities, several differences regarding the students' workload also emerged. At Local, the timetable in semester one of each year included the Legal Skills module which required students to account for the 200 hours of work that they had completed for the module on an audit sheet. This increased the workload for the students. At Global the workload remained high through each academic year. As a result of this, five of the students reported becoming selective about the material that they read in preparation for tutorials and assessments, rather than including the whole syllabus. They said that this made the workload more manageable and resulted in increased understanding and confidence in the material:

'I've stopped doing the textbook reading cause it didn't help me and that just used to take up time so I just read the journals and um for the tutorial work I don't read all the cases, I don't read any of the cases apart from the summaries in the text book and then in tutorials I feel really confident and so I'm talking a lot more...yeah so that makes a really big different.'

(Gina, Final year interview, Global, 2014)

Although the students reported increased levels of confidence in their work, in reality this only constituted a limited amount of the legal knowledge that they have been given, thus limiting their personal access to knowledge. This suggests that the workload proposed by the departments, especially at Global, is unachievable for the students. At a micro-level, students like Gina prioritise covering a greater breadth of

knowledge horizontally, rather than depth vertically. This is because she perceives it as an either/or situation, she feels unable to achieve both.

In summary, although students at both Local and Global felt that their workload was high, especially when compared to non-law students, the students at Local found it to be manageable. In contrast, the students at Global felt that the high workload led to them taking a selective, surface approach to their work. This difference in perceptions may be due to the difference in the physical volume of work given by the tutors. As demonstrated in Chapter 7, the volume of reading and personal preparation expected of students at Global is higher than that expected at Local where the tutors act as gatekeepers, limiting the students' workload. Despite possible reasons for the difference in perceived workload, students at the two universities are projecting different specialised pedagogic identities; students at Local are managing their workload, completing what is expected of them and searching for meaning in the work they complete whereas students at Global are only managing their workload by being selective regarding the knowledge that they access.

Perceptions of difficulty

In Chapter 7, the course Handbooks at both Local and Global made reference to the fact that law is a challenging, difficult subject. This section will explore whether the students agreed with this.

Several of the students at both universities had studied law as an A Level subject. They felt that this had provided them with a foundation of knowledge for their degree which made some modules easier to understand. Despite this, all of the students at Local and Global found the step from A Levels to degree to be greater than they expected, possibly due to the increase in difficulty and volume of university work:

'Um, level is definitely higher, ah, not only in terms of numbers of subjects I do because at A Level we only had one subject such as criminal law, here you have five

and also in college you weren't expected to do uh, academic writing such as referencing and all that, we were required to produce a written piece of work for every topic from the module we did but it wasn't as highly academic as in university so I'd say the level is much higher.'

(Laurence, First year interview, Local, 2012)

'I think getting into it [the work] was difficult like I remember trying to work, I spent a lot of hours trying to work but it was so different from what I was expecting or from what I was trying, from what I thought I was doing like reading stuff and not really getting it and it think the transition was quite hard... I was used to reasonably independent learning, I think A Levels you aren't spoon fed, but someone's shown you where the buffet is where as I think when you're doing law [at university] you know they point you out a supermarket and tell you to go, you know, you spend a lot of time eating toothpaste before you find where the bananas are'.

(George, Global, Final year interview)

Local

Over the course of their degree the students at Local reported that the level of difficulty of their work was manageable throughout, gradually increasing in difficulty as the course progressed.

The students all thought that the Tort and Land law modules were the most difficult and least enjoyable. This was because they contained too much history (Lucy), were not very relevant to their lives (Laura) and were quite boring topic (Luke, Laurence and Lauren).

'Land. It's very dry, very dull. It really doesn't stimulate brain activity, really doesn't stimulate thought ... if you can't grasp it in lectures or you really don't want to grasp it in lectures because it's just so monotonous its going to be hard to revise for exams and it's very all over the show in the sense it's not very codified There's too many 'what ifs'.'

(Luke, Second year interview. Local, 2013)

Instead they all preferred the Contract law and Law of the European Union modules because they were relatable to everyday life and because the

tutor used a variety of methods to aid students' understanding of the subject.

'It's so like you can relate everything to real life and I think it makes you stop and think about things you're doing and how the law affects you cause I don't think you really think about it until you start learning about it'.

(Laura, Second year interview, Local, 2013)

This demonstrates the personal/social aspect of the students' pedagogic identity, where Laura is starting to see her own life through a legal lens and relate the discipline to everyday life: she is connecting sacred knowledge to everyday, mundane knowledge.

Global

At Global, the students felt that they had been 'thrown in at the deep end' (Gemma, final year interview, Global, 2014) when they began their course and that they were having to work harder to develop a basic understanding of the subject and then catch up with the content of the lectures and tutorials. Although all of the students at Global described the material as difficult, three of them reported that it became easier as they progressed through their degree course due to having a grounding in the subject (Grace), having worked out the best methods of studying (Gemma) and finding the staff, modules and timetable more enjoyable (Gabby): For example,

'Um, at the beginning it was very much thrown in at the deep end but just because it was all so hard, not because it was, it wasn't like it was completely unreasonable or I didn't understand why we were doing all of this it was just the subject matter we were doing was really quite dense. I think they could have done some more introductory, um, introductory things, they start talking about detailed cases about a topic and it's like 'wait I need to pan out and try and figure out what this topic is and how it fits in with the whole law', I feel like they expect you to do that yourself there's quite a lot of 'you need to study this by yourself' but that's university it's not like they can spoon feed you I suppose.'

(Gemma, Global, First year interview)

In contrast to Local, Law of the European Union and Contract law were the two modules that the students at Global found to be the most difficult and least enjoyable. They were hard to engage with because they could not relate the topic to their lives and they found the lectures conceptually difficult to follow:

'I feel that there's loads of different tests [in EU Law] and also last semester there was quite a lot of philosophical stuff like primacy and who has supremacy and I don't really like law in theory ... also I don't think it was taught the best out of all four [modules] ... the lecturers ... they seemed a lot more confusing and a lot less structured and they go really really fast ... the lectures were a lot more harder to keep up with.'

(Grace, Second year interview, Global, 2013)

'There's only ever one lecturer that, well there was two lecturers, they were both EU-y kind of ones, one of them you could tell she knew what she was talking about but she wasn't a very good lecturer, she used to speak really fast and she was a bit scary and the other one just seemed, I know cause I read her book, she was obviously very intelligent, good at what she does but she couldn't lecture.'

(Gina, Final year interview, Global, 2014)

In summary, a link between difficulty and enjoyment emerged at both Local and Global with students disliking, and disengaging from the modules that they found difficult. However the modules that were found to be difficult were different at the two universities (Land Law and Tort at Local, Law of the European Union and Contract Law at Global). Students at both universities cited relatability and the teaching style of the lecturer as reasons for enjoying and understanding a subject. This reveals a difference in the students' pedagogic identity where, unlike the students at Global, the students at Local felt able to relate modules, such as contract law and law of the European Union to their everyday lives. The difference in difficulty perceived by the students may also be attributed to the framing of the distributive rules by the tutors. That is, as discussed in Chapter 6, the curriculum at Local is strongly framed with students receiving explicit guidance about key pieces of information whereas the curriculum at

Global is comparatively weakly framed and students are required to recognise and select the key information for themselves.

Perceptions of the vocational/academic aspects of the curriculum

This section will examine students' perceptions to the academic or vocational approach of the curriculum taken by their university. As well as their influence on the curriculum and assessment methods, this section will also explore the students' perceptions about the professional background of their departmental tutors. As discussed in Chapter 6, the tutors' backgrounds impact upon the content of the curriculum because it is they who select the content, teaching methods and assessment methods: they are the recontextualising agents (Bernstein, 2000). This section will demonstrate an academic vocational dichotomy between Local and Global; Local favours a more vocational approach using everyday language and examples which is strongly influenced by the legal practitioner background of its tutors and Global favours an sacred, academic approach influenced by the academic background of its tutors.

At Local , as well as offering practical assessment methods (discussed below) students are taught law in everyday language as opposed to the more sacred approach favoured by Global. The course at Local is designed to link closely with everyday legal situations, as highlighted by the use of the work placement clinic module. The staff at Local also link the course content to cases that they have worked on as legal professionals. These experiences appear to illuminate the subject for the students at Local. For example:

'I think the way they're being taught because um for example law, company law are being taught by professionals, they've been solicitors before and the woman who was teaching employment law she is still a practising solicitor, she is doing it part time so, and they were able to like tell it to us more practically than theoretically so it made it really interested because it was like real situations and real like scenarios it's not like just reading from the book and they were able to say how it is in reality and how it differs from theory so it made me, like I really enjoyed this aspect of them'.

(Lucy, Final year interview, Local, 2014)

'She [the coroner's court lecturer] literally comes from the coroner's office straight here yeah, so I think it helps and it helps us in the lectures like when she's talking to us and trying to explain something she'll go back to a case she's done like two days ago and for me I think that's the really interesting thing.'

(Laura, Final year interview, Local, 2014)

Lucy discusses her tutors highlighting the differences between theoretical and applied law. This indicates that the tutors are providing students with access to sacred legal knowledge; however, the extent to which this happens is unclear. Contrastingly, students at Global experience a far more academic, sacred curriculum providing them access to powerful knowledge. Students indicate that this can hinder their understanding and engagement with the subject.

'I do think [EU's] a difficult topic as well because it's like Public Law, it's your, like they talk about sovereignty and democratic legitimacy and they're all quite fluffy subjects, you know, quite you can't quite pin them down as ideas so you can't say 'this is the law that says this' and I don't like that as much'.

(George, Second year interview, Global, 2013)

The student identities being formed at Local are of legal practitioners, future lawyers who are learning about how the law relates to their own lives and the lives of the world around them. This relatability and the use of mundane language encourages interest and understanding in the subject which, in turn, increases students' access to knowledge. In contrast, the student identities being formed at Global are of legal minds, students struggle to see the relevance of the sacred aspects of the curriculum resulting in disengagement and reduced access to knowledge. This problematizes Bernstein's theory because access to sacred knowledge (at Global) appears to be resulting in disengagement and access to mundane knowledge (at Local) appears to result in increased student engagement.

Perceptions of the skills gained during their course

This section discusses the skills that the students gained during their degree and illustrates the performative aspect of their specialised pedagogic identity. This aspect relates to the underlying features of performance required by students at Local and Global. As discussed in Chapters 6 and 7, the content of the curriculum and assessments differ at the two universities and this section will argue that the skills gained, and the identities formed, reflect the academic or vocational approach of the curriculum.

All students discussed an improvement in their generic organisation and time management skills as well as increased personal confidence and maturity. Other skills that the students discussed reflect the teaching and assessment of their respective degree course, for example mooting, negotiation skills and independent learning. These skills increased throughout their degree courses.

Local

The students at Local discussed their improved practical skills such as communication, presentation and research skills and vocational skills such as investigation skills. These all feature highly in the practical assessments used at Local.

Global

The students at Global discussed skills they gained and improved from lectures, tutorials and independent study. These included listening, concentrating, note taking, case analysis, the confidence to speak in tutorials, essay writing and personal skills such as independence, cooking, and cleaning and money management.

‘Being able to verbalise a thought process or being able to verbalise how you come to a conclusion is quite, and justify, like a tutor won’t often tell you if you’re right or wrong they’ll say ‘and why do you think that?’ and you’ll be like ‘oh crap I might be wrong’ but you still have to go ‘I think this because of this’ ... you always have to have a reason.’

(Gemma, second year interview, Global, 2013)

The students’ pedagogic identities, and skills gained are heavily influenced by the approach taken by the two universities in their curriculum, pedagogy and assessment; that is, the three rules of the pedagogic device. Students at Local have formed a ‘prospective market’ identity (McLean et al, 2015), gaining practical skills that will prepare them for a professional legal career. Students at Global have formed identities as legal scholars, with academic skills necessary for the study of this academic discipline.

Perceptions of staff- student relationships

This section will examine the different levels of support received by the students at Local and Global as a result of the relationship between the department’s respective staff and students. I will show that the students-staff relationship at Local are much more informal and friendly than that at Global; there is less hierarchy between staff and students and students feel more supported by the staff as a result. The support that students feel impacts upon their access to knowledge: if students feel that they are unable to seek assistance with their studies then they are left to navigate the discipline alone. If students feel able to ask for help, however, they can be guided by those with knowledge. If a student is unsupported and struggling academically they may withdraw from the teaching environment and possibly withdraw from the course, as indeed happened with one student in this study, Gavin at Global, who withdrew from his law degree after two years and re-enrolled on a computer science degree.

The level of support provided may also indicate how the academic departments view their students; if the department believes that the students should be autonomous, independent learners then tutorial and

staff support may be offered as an additional services rather than a part of the curriculum.

Overall, the students at Local reported a much closer, informal and more supportive relationship with staff than the students at Global. This dichotomy began to emerge during their second year interviews.

Local

Laura, Luke and Lucy discussed the open door policy in operation at Local. The staff encouraged them to ask for assistance if needed and they were comfortable doing this:

‘They’re always saying it and its written in all our module books that if you are having any problems please come and talk with us because it can become worse if you don’t solve the problem so they always helping us’.

(Lucy, Second year interview, Local, 2013)

‘You can make appointments to go and see them if you’re having problems with the modules and you can um, email them, if you see them in the atrium or anything like that you can just grab them and talk to them, they are really good to talk to if you need them’.

(Laura, Second year interview, 2013)

‘Yeah, there’s very much an open door policy when it comes to talking to them and if there’s a topic area that you haven’t really got the grasp of I’d say you can always go along and that sort of thing, I’d say there’s no um division between students and lecturer which is very good’.

(Luke, Second year interview, Local, 2013)

Lauren’s relationship with the staff developed through her position as student programme representative. The close relationship she experienced with the staff added positively to her experience at university and she viewed that as a strength of Local’s law department because it encouraged open discussion in tutorials rather than a quiet, stilted environment:

'I love the staff, I'm programme rep so I go to all, the meetings... it's fairly relaxed and you get to meet them as people more than lecturers and its really nice actually. I think the law department here, they have a reputation for doing things like working well together as a team, they don't necessarily all get along but they a quite a really good team, in fact I think they're one of the best departments here, um, from an academic studies point of view'.

(Lauren, Second year interview, Local, 2013)

'If you had a dry academic staff member who, really, their entire intention is to get the information out to you, um, and then their job is done, I don't think that would leave an open forum for talking really ... it's nice that it's a bit more relaxed... I've not really come across a tutorial where I've felt that the lecturer has hindered any discussion or openness of talking if you like, even if you are wrong.'

(Lauren, Final year interview, Local, 2014)

Global

None of the students at Global saw their lecturers outside of the teaching sessions and despite feeling like an equal to the staff in his first year, Gavin told me:

'I don't think you have too much of a relationship with staff, I think it's more you know, you work, they give you the knowledge and they help you out but it's really you're working for you and it's up to you to do all the, even with um even with other students its less like it was at school where you're kind of pulling together and doing stuff together it's, I think everyone's working to, they're working for themselves and it's all up to you to get the degree like people will give you work but they're not going to force you to do stuff so I think with the staff it's a bit, yeah last year they were a bit more helpful probably and kind of pushing you to do stuff and if you didn't turn up to a tutorial or something then they would get annoyed at you and call you whereas now it's less like that they're just kind of thinking if you don't want to do it then you don't want to do it'.

(Gavin, Second year interview, Global, 2013)

Five of the students at Global were unsure whether it was possible to contact the staff for help outside of their lectures and tutorials. Gabby clarified this point based upon her experience in her first lectures however

she understood that assistance could only be sought by email, not face to face:

‘Yeah, uh I think all of them kind of at the beginning of the first lecture put their email address on the board so it kind of implied that you could email them if you had a problem’.

(Gabby, Second year interview, Global, 2013)

The students’ perceptions about the relationship with staff is markedly different at the two universities. While the students at Local enjoy an informal and supportive relationship, the students at Global perceived themselves to be independent and unsure about if and how they could elicit additional guidance from their tutors. This results in students at Local being supported, and potentially having greater access to knowledge because they are guided through any difficulties they may encounter by the tutors. However the greater level of support may also disadvantage these students because they are not gaining skills in respect of independent learning and problem solving; that is, the increased level of support restricts students’ ability to become independent thinkers. Conversely, the students at Global may be disadvantaged by their perceived lack of support, which may detrimentally affect their access to knowledge. Alternatively they may flourish as independent learners who gain the skills necessary to succeed in their degree without additional support from the tutors. I argue that support is beneficial to students however it can restrict their ability to become independent thinkers.

The differing levels of tutor support that the students experience at university is further demonstrated by the departments’ respective personal tutorial systems. I will now explore these systems further.

Perceptions of the Personal Tutorial system

As explored in the previous section, students’ who feel more supported in their academic studies may have a greater level of engagement and, as a result, a greater access to knowledge. This section will show that the

strongly framed personal tutor system that operates at Local provides continual support for the students throughout their degree, however it limits their opportunity to develop as independent learners. In contrast, the system that operates at Global results in a more impersonal relationship between the tutors and students. Students are less supported but have a greater opportunity to develop as independent learners.

Local and Global both operate a personal tutorial system, intended to provide students with support and guidance complimentary to, and supportive of, their academic education. Such systems are important because links have been identified between an effective personal tutorial system, a positive relationship between a personal tutor and their tutee and the progression, increased access to knowledge and positive experience of higher education students (Hixenbaugh 2008; McLean, 2012, Palmer, 2006).

Johnston (1997) suggests that some academic tutors do not view pastoral work as part of their role. If this is true, it has arguably been shaped by an increase in staff-student ratios over the years and will become more prevalent if resources remain the same while student numbers increase, and in a climate in which, it could be said, an academic's research conflicts with their teaching responsibilities. This research remonstrates that the personal tutorial experience differs significantly between Global and Local.

Local

Students at Local appear to have a more intensive and structured personal tutorial system than the students at Global. At Local, students' attendance at personal tutorial sessions is monitored and forms part of a compulsory module. To pass this module, students must attend their personal tutorial sessions and complete, to their tutor's satisfaction, their reflective diaries. Local students complete a Professional Development Programme (PDP) as part of their Legal Context and Skills Module throughout their first year at university. This system continues throughout their second and final years

of the course as part of the Advanced Legal Skills and Ethics module (year two) and Advanced Legal Studies module (final year). All three of these modules are compulsory for the students. One of the three learning outcomes for the Legal Context and Skills module is to 'demonstrate engagement with PDP' (LLB Handbook 2011-12) and the assessment for this learning outcome is that 'students will be required to maintain, and have regularly signed off as satisfactory (by the designated member of staff), a Reflective Diary. This represents an essential learning activity.' The students' Handbook continues by specifying that students should attend twelve hours of tutorials per academic year and spend another twelve hours per academic year completing their reflective diaries. The interviewed students confirmed this requirement by stating that they attend a personal tutorial meeting every fortnight during term time.

The system at Local, then, is highly regulated: the students have little choice but to engage by completing diaries and meeting their tutors. Theoretically, this engagement, forced as it is, carries pedagogical benefits. Regular meetings, based on students' writing, should allow tutors to gain a greater knowledge about and understanding of their tutees' achievements and personal goals for their futures, which, in turn, should allow them to give useful advice and guidance (Stevenson 2006). The benefits of the 'curriculum model' that links academic learning and personal support have been demonstrated by previous research (Solomonides et al, 2006; Strivens 2006). The students' perspectives demonstrate the benefits of these links.

In the first instance, the students at Local were clear that the role of their personal tutor was someone who could advise them and offer them guidance with any problems that they may have.

'They give you advice if you've got any problems like outside of uni or inside of uni really ... she'll basically give it to us to sort of lead us in the right direction'

(Laura, First year interview, Local, 2012)

Students were also clear about the purpose of their reflective diaries. They viewed the diaries as a tool for personal reflection which would provide the basis for discussion in personal tutorial meetings.

‘You write everything, your problems and then you come to the tutor and he reads it and then he tells his opinion how to solve them, he helps to solve them’.

(Lucy, First year interview, Local, 2012)

‘You have to reflect on what you’ve done during those [the past] two weeks and he [the tutor] will ask you questions, [such as] how are you feeling?’

(Phillip, First year interview, Local, 2012)

‘It’s your reflections and experiences of what you’ve been doing and um, what your opinions on certain things’.

(Luke, First year interview, Local, 2012)

Of the six students interviewed at Local four were positive about the reflective diaries and personal tutor system and were satisfied with the level of support they had received throughout the year. For example, Laurence and Leah spoke about the benefits of discussing issues with their personal tutor as a way of identifying any academic weaknesses or problems they may have and finding ways to improve them, and Lucy discussed the benefits of being able to write her problems down in her reflective diary to then discuss with her tutor.

Of those not as satisfied, Luke, perceived the reflective diaries and the personal tutorial system to only be of benefit to students if they were having problems (which he was not):

‘If you were to have lots of problems and you had lots of grievances about the course and the subject the it would be a very good way to air them but I, if you don’t have any problems and you’re really enjoying it, it does seem a bit like you know ..., you have to think of something for each box,you’ve got to write something.’

(Luke, First year interview, Local, 2012)

Laurence discussed how fortunate he was to have received such high levels of support from his department. After discussing the levels of support he had received at Local with friends who attended other institutions, Laurence revealed that he knew that Local students received a lot of support from tutors because his friends had told him: 'Oh you are given so much help and we're just left on our own....' (Laurence, First year interview, Local, 2012).

The highly regulated personal tutorial system for first year students at Local allows for very limited student autonomy. As part of a compulsory module with specified assessment methods, contact hours and learning outcomes the personal tutorial system at Local is strongly framed and is associated with visible pedagogy; the power relations and control between the student and their tutor are explicit. Students have regular meetings with their tutors which are structured around the contents of their reflective diaries. The reflective diary can be seen as a 'realisation' that is constantly viewed by the students and their tutor. All tutors and students use the same diary structure and tutorial format meaning there is little variation between the tutorials held by different members of staff. Although the strong framing of the personal tutorial system and the informal relationship between the staff and students may provide continual support for students throughout their degree, it limits their opportunity to act as independent learners.

Global

Global provides students with a comprehensive written guide to the personal tutorial system that is in place within the law school. This guide is found within the student Handbook and is issued to all students at the start of each academic year.

Students are required to attend several scheduled meetings with their personal tutor throughout the academic year. This system is an example of the 'pastoral module' of personal tutoring, as detailed above. The

scheduled meetings between tutor and tutee are during the induction week at the start of each academic year; when they receive their semester one assessment results; and, when they receive their end of year assessment results. First year students also have a compulsory meeting at the end of their first term. These are the minimum tutorials that students should attend and extra meetings may be arranged by the students if needed. It is the student's responsibility to arrange the meetings with their personal tutor and to attend these meetings. If the student does not make or attend a tutorial the action taken depends upon the tutor to whom they have been allocated. Some tutors will contact the students to remind them about the need to have a personal tutor meeting, other tutors will not enforce the minimum tutorial requirements. The meetings are recorded and these records form part of the students Personal Academic Record (PAR) or higher education progression file. The role of the personal tutor includes monitoring and reviewing academic progress, providing support with any issues that may affect a student's study, providing support for career progression and acting as a referee for further study or employment applications.

The system at Global is comparatively unregulated: the students are advised that they must attend a minimum number of tutorial meetings but this is not always enforced. This contrasts to the highly regulative nature of the system at Local. The limited engagement that Global students have with their personal tutors may leave some struggling with personal or academic problems and result in them leaving their course without graduating. The small amount of contact between personal tutors and tutees results in a more impersonal relationship between them where advice and guidance is likely to be general, rather than individualised to the student.

Despite the written information about the role of the personal tutor provided by the department in the student Handbook, four students of five

at Global appear to be unclear about the role of their personal tutors.

George summarises this view

'I've not found the personal tutor system particularly useful for me but I've not taken advantage of it. ... I'm not really sure what you're allowed to do with a personal tutor'.

(George, First year interview, Global, 2012)

Instead he has elected to approach subject tutors for help with his academic work instead of his personal tutor. In contrast to this view, Gina describes her personal tutor as being someone she could approach if she was having problems during her course

'If I thought I was having some serious problems I'd go to my personal tutor'.

(Gina, First year interview, Global, 2012)

When discussing the way in which the personal tutorial system works, I asked about the level of support received by the students and the frequency of meetings that they have had with their personal tutors. There was a common uncertainty among all five students about how many meetings they are expected to attend and how many meetings they are allowed to attend with their personal tutors.

'[How often do you meet with your personal tutor?] When I'm told to'.

(George, First year interview, Global, 2012)

Gemma also revealed the possibility of acting autonomously in the personal tutorial system where students could elect to book additional, non-compulsory meetings with their personal tutor. However she also reveals a level of uncertainty about whether this is actually possible.

'I can elect to meet with him [her personal tutor] more if I want to, I think'.

(Gemma, First year interview, Global, 2012)

All five students reported that they had attended two or three meetings during their first academic year at university, less than the four first-year meetings that are meant to be compulsory.

When I asked about the students' level of satisfaction with the personal tutorial system, Gemma felt that the level of support she had received was dissatisfyingly low. She thought academic staff expected her to learn independently rather than ask for help and so she acted on this assumption. Despite feeling as if she had been 'thrown in at the deep end' at the start of her first year at university, Gemma did not seek extra support for herself, choosing instead to struggle through the workload alone until she had a greater understanding of the topics being covered in her lectures. Gavin did not find the personal tutorial system helpful, although he did reveal some understanding about the role of the personal tutors as those who could provide assistance to students.

[Have you found the tutorial system helpful?] Not particularly, I think it's someone you can go to if you really need to, but I haven't really done much'.

(Gavin. First year interview, Global, 2012)

Nevertheless, of the six students who were interviewed, four students mentioned that they could ask their personal tutor questions about the course and go to them if they had a serious problem. Two students also talked about asking their personal tutors to write references for their employment applications. However Gina, Gavin and George all revealed that they had not really engaged with the personal tutorial system and George discussed engaging more with the system throughout the rest of his degree course. These students appear to engage with their tutors as much as they are required to and have not taken advantage of the option to meet their tutors any further.

'I don't know if I've used it [the personal tutorial system] properly'.

(Gina. First year interview, Global, 2012)

'I think next semester I'm going to make an attempt to use him more cause if I don't understand something then I should go and talk to him or if I've got an essay question that I've written and I'm not sure if its right then I suppose I should go and see him and ask him if It's alright.'

(George, First year interview, Global, 2012)

In stark contrast to the tutorial system at Local, the system at Global is weakly framed and could be described as invisible pedagogy; the power relations and control between the students and tutor are implicit. The lack of consequences if a student chooses not to see their personal tutors indicates a high level of autonomy for the student. Even if the student attends all three of their annual compulsory tutorials, they will only be spending a maximum of 3 hours with their tutor per year. The tutorial sessions are unstructured, although their content is recorded on the students' personal achievement record, and the content is dictated by the current needs of the student, if the students feels that their course is going well and they are not having any difficulties then the session may be very short. Each session is unique and the success of the tutorial depends on the student, the tutor and their relationship. This system appears to be underpinned by the notion of an independent learner. The department provides support for the students but the onus is on the individual student to seek out that support. This may reduce access to knowledge for some, by isolating students who lack the confidence to ask for help or those who are academically underperforming.

In summary, Local's students receive a high level of support (12 hours per academic year) in a system very closely allied to their curriculum. This system is proactive and ensures that all students benefit from advice and guidance that they may, or may not, be aware that they need (Thomas and Hixenbaugh 2006). The students feel supported, are aware of what the institution expects of them regarding attendance and contribution to the system, and have developed solid working relationships with their tutors. Global's students receive a much lower level of support (3 hours per academic year) in a pastoral system. This type of system is largely

unstructured and is reactive to the needs of the students. This can result in students being unsupported due to a lack of confidence about approaching their personal tutor (Thomas and Hixenbaugh, 2006). Students at Global also indicate feeling unsupported during their course because some are unaware that they may arrange extra meetings with their tutor or not.

At Global, the number of compulsory meetings between the students and their personal tutor is only one per term and is not integrated into the undergraduate curriculum. The infrequency of the personal tutorial meetings result in the system being a less visible part of the students' time at university and therefore viewed as less important than other timetabled sessions. Conversely, at Local the personal tutorial meetings are fortnightly and form part of the assessment for a 20 credit Legal Context and Skills module (there are a total of 120 credits per academic year). By incorporating the personal tutorial system into the students' timetable and curriculum in this way makes the personal tutorial system more visible to the students and results in a greater level of understanding about the role and purpose of the personal tutors, and increases the level of student engagement with the system.

The personal tutorial meetings at Local are all compulsory and failure to attend the meetings can result in a student failing their Legal Context and Skills Module. This approach ensures that students attend the meetings and view the system as an important part of their course. At Global the personal tutorial meetings are classed as compulsory in the student undergraduate Handbook. In reality, if a student does not arrange or attend a personal tutorial meeting it is the tutor who decides on which course of action to take; some tutors may take no action and others may remind students about arranging a meeting with them. This individual approach means that there is no blanket enforceability across the department for students' attendance at the three 'compulsory' personal tutorial meetings each year. This may diminish the importance of the personal tutorial system in the views of the students'.

The weakly framed personal tutorial system at Global contrasts with the comparatively strongly framed personal tutorial system at Local. This contrast may be as a result of the perceived differing needs of the student population at the two universities and highlights social hierarchies within higher education.

Both universities have responded to the widening participation agenda through their personal tutorial systems. These systems aim to ease transition in and through higher education, especially for those students with low levels of cultural capital (Thomas 2006). Local has lower entry requirements, a higher percentage of state school students, a higher HEFCE benchmark for widening participation. It provides students with a more structured personal tutorial system that forms part of their first and second year curriculum. Global has higher entry requirements, a higher percentage of private school students, a lower HEFCE benchmark for widening participation and although it provides a personal tutorial system for its students, the system requires a proactive attitude from the students.

Perceptions of assessment

This section explores the students' perspectives about their assessments, and the feedback they received throughout their degree. It will reveal that the differences in evaluative rules at Local and Global follow hierarchical lines, and these practices form contrasting student identities.

The evaluative rules regulate the standards which students are required to meet during their degree course. The evaluative rules may be regulative (referring to the conduct and manner of the students) or instructional (referring to the disciplinary content of the degree). Explicit evaluative criteria means that students are given the 'possibility of learning the legitimate text' (Bernstein, 1990) and specifically of learning 'how to give the correct answer in the future' (Morais, 2002. p. 562).

As discussed in Chapter 6, the assessments for the law degree differ at Local and Global. These differences are summarised in table 8.1 (below).

Table 8.1: Summary of assessments at Local and Global

Local	Global
Formative and summative assessments used	Only summative assessments used
Varied assessment methods	Exam with optional essay based coursework
Assess vocational/practical skills	Assess legal knowledge and academic skills

Local

Overall, students at Local preferred to answer problem based questions in their exams, engaged with their practical assessments and struggled with the volume of work required for their multiple assessments, in particular their Legal Skills assessments.

A vocational element of the course at Local was the assessment criteria for the Legal Skills module. These assessments involved elements of group work and role play where the students were required to take on the role of solicitors or barristers. The students had to negotiate a settlement for their 'client', keep a time sheet of their working hours and bill their client. The marking of the assessment was based on students' skills of negotiation rather than any legal knowledge. These assessment criteria were also applied in the students advocacy and mooting assessments. Laura noted that during their criminal advocacy assessment students were assessed on their skills as an advocate rather than their legal knowledge:

'It was more like being an advocate so how you presented yourself, how you talked, um, they did look at like the work you'd done but it was focused more on how you advocated.'

(Laura, Second year interview, Local, 2013)

Laurence noted that physical appearance affected your advocacy and mooting marks as well:

‘Take a pen in your hand you will be brought down on that because you were not allowed to have anything in your hands because otherwise you start waving it around all over the place.’

(Laurence, Second year interview, Local, 2013)

The students were also required to complete multiple choice exams. Luke believed that these tested the students’ grammar rather than legal knowledge:

‘I’m not a fan of um, online examinations where the only difference between two answers is grammar ... we had an online exam for EU sorry not for EU for Criminal and the questions, the answers were very similar so they’d all be on a topic area and maybe one word would mean that this answer is incorrect and this answer is correct... they’d just be trying to catch you out.’

(Luke, Second year interview, Local, 2013)

The criterion to act like lawyers and demonstrate good grammar rather than have any sacred legal knowledge limits students’ access to legal knowledge. This is because they are being assessed on everyday and legal skills and rather than theoretical knowledge.

For their assessments Local provide students with a choice of questions for their written exams comprising a combination of problem based questions and essay based questions.

Luke and Laura preferred the problem questions because they had previous experience of answering problem questions, because the questions provided a structure to the students answer (Laura), and the questions included all of the topics from the modules (Luke). However Laurence found that there was not enough detail in the problem questions which meant he struggled with to give an exact answer:

‘The biggest issue with those problem questions is you can never know what the exact answer unless you go and ask the person themselves so of course you will not be given all the necessary information because the answer will be 100 words because would say yes on the facts, this is what the law says, this is the outcome but the facts were structured in such a way so you will not be certain so it requires you to write a lot it requires you to research a lot which sometimes I think it’s just pointing your finger in a sky ‘yeah I think it’s that’ so you cannot be very certain that’s what I kind of find difficult’.

(Laurence, Second year interview, Local, 2013)

Laura was the only student who discussed struggling with essay based questions and she felt that she lacked confidence when answering them:

‘I don’t know whether it’s the way they’re worded or what it is about them I just don’t like them, I always feel like I’m doing it wrong when I’m writing it so I’m just not confident in doing them [with a problem question] I know what I’m writing I can see it in my head, it goes like this whereas ‘discuss’ you can do it anyway you like and I think I prefer like having a structure’

(Laura, Second year interview, Local, 2013)

The structure provided by the problem based scenario questions meant that students were able to replicate this in their answers. The question also acted as a prompt for the areas of law that the students should include in their answer. These were not present in essay based questions which often have a wide scope for answering.

All of the students noted that the summative assessments were time consuming, often resulting in them neglecting other pieces of work and four of the students also found the exam timetable challenging (Luke, Laurence, Lucy and Laura). This was due to the short amount of time devoted to exams resulting in insufficient time to revise for each exam. The intense exam timetable was also because the majority of modules had multiple assessments which were timetabled in two blocks at the end of each semester:

'It was harder because we had legal skills module and it was advanced legal skills so it happened that all assessments were at the same time and there were like four coursework in one module. We had negotiation assessment, Advocacy assessment then coursework just like you portfolio and you had to go to an interview with your lecturer and have a job interview... it was really hard because well, I thought on the day 'I will not be able to pass all the modules properly' because it was all about legal skills and other modules were, I just had no time to do it but like I passed'.

(Lucy, Second year interview, Local, 2013)

Although multiple assessments may be seen as a benefit to students because the weighting of each assessment is lower thus reducing its impact on their overall mark, the students actually found the volume of assessments to be a negative factor. They felt that it limited the time they could spend preparing for each exam, often causing them to neglect other work.

Global

Three of the students discussed their recent assessments and indicated the problems that they encountered. These included not answering the set question (George), not revising enough for exams (Gabby and Gemma) and not managing their time effectively.

Gina felt that there needed to be more guidance for assessments and more chances to complete assessments throughout the year. She was concerned that having a poor module tutor would impact her results:

'Um, I think their needs to be more guidance towards exams, I think they should have more assessed pieces of work throughout the work still cause I still don't feel prepared when I comes to exams to be answering questions, I think they need to be careful about the different tutorial leaders they have cause if you have one bad one or one bad lecturer then you've literally potentially lost your module then you do badly in that'.

(Gina, Second year interview, Global, 2013)

Global offered students the chance to complete optional formative coursework for all year long modules. This gave students the chance to receive feedback on a piece of work which they could use to assist their revision for the summative assessments in the summer. However, none of the students completed these during their first year and only four (Grace, George, Gemma and Gina) chose to complete them in their second and final years, despite seeing their benefit.

'Yeah I always try to do them cause then you know where you're at, whether you're on the right track and whether, cause each subject the structure is different... how you apply the legal principles is a bit different I find sometimes ... what you focus on would differ really depending on whether the case law's developed it [the law] or whether the statute law's developed it [the law]... and it helps where you need to focus on for the different kinds of exam questions... I feel so it helps you with that as well.'

(Grace, Second year interview, Global, 2013)

The students who did not complete the optional assessments cited a lack of time as the reason for this.

All of the students liked having a choice of questions in the exam with several of them preferring problem based questions, as opposed to essay based questions. As at Local, this was because the questions provided students with a structure for their answer (Grace and Gina).

When discussing her exam experiences, Gina highlighted that, even in her final year, she was still unsure about the meaning of certain questions. She did not understand the meaning of terms such as 'discuss' and 'critically analyse' which resulted in her answering questions in a manner that was based on her understanding of the question rather than the actual intention of the question:

'With the discuss things I just kind of take that to say 'oh there's not really a particular emphasis, do what you want' kind of thing and then with the critically analyse I see that as a kind of an add on at the end that I've got to quickly think about, I don't see that as part of my structured answer, it's something you've got to put in for the extra marks.'

(Gina, Final year interview, Global, 2014)

To summarise, students at Local felt that their multiple assessments had a negative impact on their learning because they were so time consuming. As a result, other work was neglected and students resorted to a surface and selective approach to other aspects of their work. This approach indicates that the students are not searching for meaning in the work that they have been set and as a result are not making that knowledge their own. Although the students at Local had previously discussed the benefits of their vocational, practical curriculum in terms of their lecturers' professional experiences and the applicability of the course to everyday life, they believed that the practical assessments did not test their legal knowledge and focused upon generic skills, appearances and behaviours. These practical assessments provided them with explicit evaluative criteria, but many of these criteria were not focused upon legal knowledge, rather they were focused upon a student's physical appearance and presentation skills. The multiple choice assessments at Local demonstrated explicit and everyday realisations where students were required to use non-legal knowledge in order to answer the questions.

At Global, students struggled with the wording of exam questions and although they discussed needing extra guidance from lecturers they did not take advantage of the opportunity to complete optional coursework and receive valuable feedback. They attributed this to a lack of time due to their heavy workload. This demonstrates that, although the students were able to recognise the relevant aspects of law, they often lacked the realisations necessary to answer the assessment questions correctly. This was attributed to a lack of training in how to answer the questions (an

academic skill) rather than the legal content (disciplinary knowledge), especially in essay based questions.

Students at both Local and Global are being disadvantaged by their assessments. At Local the students receive explicit evaluative criteria which makes it easier for them to recognise and realise the necessary knowledge to complete their assessments. They are disadvantaged because the knowledge they are utilising is not disciplinary legal knowledge, but is everyday mundane knowledge. Contrastingly, the knowledge that students at Global are required to access to complete their assessments is academic, disciplinary knowledge. They are disadvantaged because they receive implicit evaluative criteria which, without the necessary instruction from tutors, means that they are unable to demonstrate the necessary realisations to answer their assessment questions.

Perceptions of Feedback

Effective feedback is a key part of teaching and learning (Ramsden, 1991, 1998). Feedback has been defined as information which allows comparisons to be made between a students' result and their desired result (Mory, 2004), is appropriate in its method and to the learner, and is given promptly after the assessment (Ramsden, 2003; Mory, 2004). Yorke and Knight (2003) believe feedback to be indicative of how students can develop in their future.

Both universities provided students with feedback for their assessments. Although the feedback varied between modules, overall the feedback provided by Local was much greater and more detailed than that provided by Global. Students at Local found their feedback to be helpful when preparing for subsequent assessments. In contrast, students at Global were dissatisfied with the feedback they received. This section reveals another dichotomy between the students at Local and Global; students felt supported in their assessments at Local and unsupported at Global.

Local

For each exam students at Local were provided with a numerical mark, for their other assessments the students were provided with a numerical mark, a script of written feedback and, for their criminal law and legal skills modules, they were also provided with a three minute podcast of verbal feedback.

All of the students at Local found the feedback that they received on their assessments to be helpful despite the, sometimes, illegible handwriting of the marker (Laura, Leah and Lauren). The feedback included areas for improvement (Lucy), where the students could have gained extra marks (Laura), general praise (Luke) and common mistakes across the year group (Laurence) so that students were able to use the feedback to chart their improvements (Luke).

The students were also provided with revision lectures which teach them how to structure their answers, how to approach exam questions and, in some modules, the lecturer told the students about which topics would be included in the exams (Lauren).

Students at Local were only provided with a numerical mark on their exams, no written feedback, although they could ask a member of staff for feedback if they wished. For their practical assessments students were provided with feedback immediately after the assessment.

Global

The students at Global became more aware of the marking criteria as their degree progressed and Gemma reported to taking her first degree assessments 'kind of blind' (2012). Staff provided feedback lectures and past papers on the school intranet however it was the responsibility of the students to research this information and use it to inform their revision. For each assessment students at Global were provided with a numerical mark and varying amounts of written feedback. Students were provided

with a mark scheme in their student Handbook, although some students were unaware of this:

'I don't think one exists [laughs] I think, no I honestly don't think one exists, I think they just mark what they see fit'

(Gemma, Second year interview, Global, 2013)

In addition to the mark schemes, their criminal lecturer delivered an exam lecture about how to tackle the different types of questions. George found this to be quite vague and unhelpful for his own assessments:

'In criminal the lecturer gave us a lecture on um how to answer problem questions and essay questions and that was really useful, she went through and she said 'these were the things that you want' and a lot of the time they talk in academic speak and they say 'oh a good first class answer doesn't just skim over the top it dips and dives through the information' and your thinking 'great' and you have these images of skimming and dipping and diving, it doesn't actually say 'highlight all of the issues, pick a particularly pertinent issue and say everything you know down to the most complex point that you've been taught' cause that's what they were saying but you've just got these lovely images of you know birds fishing [laughs]'

(George, Second year interview, Global, 2013)

Grace and Gavin were also vague about what they needed to write to achieve particular marks in their assessments:

'With the problem questions its generally, they tell you what they want and you have to cover all these points and I think generally if you've covered everything you can expect to get a 2:2 or a 2:1 um, obviously if you're critical of it and then put in some extra sort of, you know, judgements and you know, why the decisions were made then that'll get you a first I suppose'.

(Gavin, Second year interview, Global, 2012)

'[For a first] I think it needs to be um, obviously very good knowledge of the law and how you apply it and then um, relate it well to the question not just writing down what the law is you have to do it in relation to the question and the people in the question and then also probably for a first you probably need to show evidence of wider reading so for example write the name of the judge and quote them or then name of someone who's written an article which for criminal in January I tried to do a bit more, I read a few articles and tried to memorise the names of the people who had written them but I think in summer I probably just won't have enough time to do that [laughs]'

(Grace, Second year interview, Global, 2013)

Department staff provide past papers and answers and revision tips for students on the university intranet. George, Gavin and Gemma thought this was particularly helpful, especially in the first year when the students had no experience of university or law exams:

'I think it is helpful cause most of us don't know how to write cause law is a very new subject and we've been doing like essays for years and years but problem questions were like this totally new thing, I think most people don't know how to answer them properly and that's why, you know, even if you know all the information you miss out on marks cause you don't really know how to answer it and so the feedback you know, on exam technique even if it's not about points of law is you know, really helpful'

(Gavin, Second year interview, Global, 2013)

'George: I looked at the past paper questions for tort and realised that over the past eight years they'd all been basically the same which was very nice

Interviewer: Were they the same when you came to your exam?

George: They were, fortunately enough. It would have been really irritating had they not been'

(George, Second year interview, Global, 2013)

Four of the students (Gemma, Gabby, Gavin and Gina) had not looked at their feedback at the time of their first year interview but they believed that it would help them when they came to revise for their next exams. George, Gavin and Gina were unimpressed with the feedback they had

received. George was particularly displeased with his coursework feedback from his first year:

'Um, the feedback on the Understanding Law essay was useless frankly, um, you know, I may as well, you know, it jus, yeah, it stuck a bit in your teeth to read it cause you got a page of A4 with big boxes on and then there's, you know, three lines of writing on it and, you know, the feedback was essentially 'it wasn't a very good essay, your referencing wasn't perfect' and that was, you know, great, so, you know, I go to the special thing where they say, you know, 'we're going to release your exam, your papers that you submitted and you'll be able to see what the markers written' and he'd underlined 'were' twice because I'd written 'were' with an 'h' where it was meant to be without an 'h'. That was the only ink that was on my paper so that, that was a little irritating'.

(George, First year interview, Global, 2012)

Because the exam marker had provided feedback indicating where he could have improved his answer and where he had made errors, George visited the disability support office who provided additional feedback and assessment support on his writing style and approach to assessments. Global also provide students with generic exam feedback with the common mistakes made by the whole year group.

In contrast, Grace found her exam feedback to be confusing:

'It's usually, I don't think they're very good at all cause there's often like a lot of ticks which is obviously is quite useful but then, but often it's just I find then just underline or put question marks and you're like 'is that underlining something I've done well or something I haven't done well, what does the question mark refer to?' and then it's usually, the feedback is usually just if they write it its usually specific things about how you applied the law wrongly or rightly as the case may be'.

(Grace, Second year interview, Global, 2013)

As the Global students progressed through their degree their dissatisfaction with their feedback became more apparent.

'Yeah, I found some of my stuff last year, the comments were literally useless because they would be 'a good piece of work' or 'a bad piece of work' and you think 'well you've told me the same thing three times, had I done that in my essay you'd have written in a snide comment saying you've told me the same thing three times' [laughs].'

(George, Second year interview, Global, 2013)

'It's useless, often you can't read what they've written it's just a scrawl and I just, yeah, I think there should be, I think it must just depend on who marks it um, so we'll see'

(Gabby, Second year interview, Global, 2013)

Gemma commented that because she was not continuing any topics into the next academic year she did not pay much attention to what feedback she had been provided with.

'I sound really bad and I probably shouldn't have but I was like 'that's ok I'm not studying that topic again' and I scanned over it all and it was all quite topic based like it wasn't a general criticism on your essay writing style or anything so I kind of scanned it and I was like 'well I'm not doing public again so I'll not really...' I probably should've cared a bit more about it but, I don't know, once I got my score that's what I was after um.'

(Gemma, Second year interview, Global, 2013)

Although she then qualified this comment by saying she would use any feedback on formative assessments to aid her revision for the summative assessments:

'Yes, I will give that a lot of attention yes, because you've still got room to improve, like once it's a final it's like yeah, don't really need to know why I got what I got.'

(Gemma, Second year interview, Global, 2013)

Gina was the only student to attend workshops with the Legal Skills Advisor in the department. The advisor was able to provide additional assessment feedback to students, something that Gina found to particularly helpful:

'[Her feedback] was more about the structure of the answers; she wasn't looking at whether you got stuff right or wrong. It was like my use of cases and legislation and if I wasn't putting enough of either of those in and maybe how to structure using headings and what I could have done to make that answer better using the information I'd put down, yeah I did find it useful'.

(Gina, Second year interview, Global, 2013)

To summarise, the strongly framed range of feedback methods used at Local provided students with explicit guidance about their assessments and how to improve in the future. The feedback is a further example of the explicit evaluative rules demonstrated at Local. At Global, the weakly framed feedback provides students with little, if any, guidance about how to improve their assessments results. This is further evidence of how the students at Global are responsible for developing their own ability to realise without the support of their tutors. The teaching and assessment model exhibited at Global potentially discriminates against students from lower socio-economic backgrounds. This is because there is an expectation that all students enter university as independent learners with the skills and experiences to navigate higher education successfully. Students who have no family history of university to rely on for advice and support are at a greater disadvantage than those students with siblings or parents who can offer informed guidance.

Case Analysis Question: Year 3 interview

The findings that arose from the analysis of perceptions of education were confirmed by a case analysis question. This was intended to test the participants knowledge and was only introduced in the third year interviews.

Local

The students at Local approached the case in a personal and investigative manner. They all discussed speaking to the boys and their families in order to ascertain the facts of the case from all parties.

'It wasn't the right thing to do by any stretch of the imagination but you need to find out why it happened I think that's one of the fundamental things ... it would be my first reaction'.

(Lauren, Local, Final year interview, 2014)

'Firstly I would speak with them and ask them why did they want to run, maybe there was domestic violence or anything like that, um, I would firstly explore the situation, ask everyone involved, ask their mother, ask their father not their step father but their real father, yeah so I would first explore everything and analyse and then I would make any conclusions cause well I don't know, why would they want to run away in the first place?'

(Lucy, Local, Final year interview, 2014)

The Local students explored the possibility of coercion, bullying or domestic abuse as a reason for the boys' actions:

'Was there any sort of forcing was there any force involved, did he say 'right I'm going to beat you up if you don't shoot him?'

(Luke, Local, Final year interview, 2014)

'I would probably send the 15 year old to a psychiatrist to get a measure of what's going on there um there might have been something bigger like some level of bullying or abuse that triggered that sort of thing um the 12 year olds'.

(Lauren, Local, Final year interview, 2014)

Their vocational approach and use of everyday language reflects the mundane knowledge contained in Local's curriculum, and the practical teaching and learning that the students experienced at Local; they used their skills of questioning and problem solving gained through their advocacy and mooting practical work. Mirroring the career of their tutors, they took on the role of the legal professional in order to ascertain the facts of the case.

Global

The students at Global approached the case in an impersonal and more theoretical manner; as though it were a problem question on an exam. They all considered the legal age of responsibility and the legal test for this

(Gillick competence test) and then concentrated upon defences that may be available to the boys and the possible verdicts.

‘Try to see if any defences are open to them, are they intoxicated or anything like that um, yeah, that’s a very strange situation obviously, 12 and 15 though they’re still of age of responsibility though aren’t they yeah’.

(Grace, Global, Final year interview, 2014)

‘For the 12 year old you look at like joint enterprise and um direct and indirect intent cause obviously you don’t know if the 12 year old was going to shoot, did the 12 year old shoot? So you probably look at duress and like defences for the 12 year old then for the 12 year old who stood outside I men if they’re the only facts we’ve got if he was on guard then you’d look at duress and indirect intent um regarding murder’.

(George, Global, Final year interview, 2014)

‘The age of criminal responsibility is 11 potentially so they’re over it I think they should be have some sort of like juvenile uh reform’.

(Gemma, Global, Final year interview, 2014)

‘The age of criminal liability’s over 10 if the two of them were aware of what they were doing, you know they wanted to kill him, I mean I’d say the two of them would be going to a young offender’s institution’.

(Gabby, Global. Final year interview, 2014)

Their approach reflects the sacred knowledge of their curriculum and the problem solving skills that the students are taught to use in their tutorial sessions and written exams; discuss the liability of the defendant. Rather than questioning the detail I presented to them, as the students at Local did, the students at Global took these details as fact and proceeded to discuss the legal defences and then convict the boys. This academic approach to my question mirrors the approach taken by the department in their teaching, the professional academic careers of the staff and the style of assessment used in the degree.

This question highlighted several differences between the students at Local and Global. Firstly, their responses reflected the teaching and

assessment methods that they had experienced during their degree courses; Local chose a more vocational approach to their answer rather than the more theoretical approach used by Global. Secondly, the students at Local had the confidence to question the details I had provided; they wanted to interview the boys and their families to gain a full and holistic picture of the crime. The students at Global were satisfied to accept my details as the truth. Finally, their responses reflected their identities; the students at Local discussed feeling like lawyers and their answers here demonstrated that identity through the use of questioning and analysing the facts. The students at Global discussed feeling like law students and again, their answers demonstrated that; the approach taken by all mimicked the approach used to answer their tutorial or exam questions.

Specialised pedagogic identities

This section discusses how students' perceptions of their education have resulted in different specialised pedagogic identities.

The disciplinary aspect of students' specialised pedagogic identity

The disciplinary aspect is characteristically strongly classified and strongly framed. Bernstein (2000) argued that the hierarchy of the higher education sector influences the relationship between the knowledge, curriculum, and assessment they offer. He predicted that higher status universities would focus upon singulars rather than regions. My findings support this prediction; Global offers law as a singular and, despite containing the same core modules, Local teaches law as a region, incorporating elements of legal practice, criminology and sociology. However, it is important to question whether one type of knowledge is more powerful than the other. Students at Local were more engaged with the curriculum and their tutors throughout their degree.

'I'm loving this year so much. I really glad I came here. The other day we had a seminar actually at the Coroner's Court. We got to see her in action and then have a seminar about the case we had just seen. It's so exciting to be part of it all and know that this could be us in a few years. Next week I'm advising clients in the citizen's advice bureau on immigration issues and next semester I'm involved in a group negotiation for one of my modules. None of this really feels like learning, it's not a chore it's really fun'.

(Lucy, Final year interview, Local, 2014)

In contrast, students at Global found the 'pure' discipline of law difficult to engage with.

'I find it really hard to stay focused. The topics are really dry and most of it is not relevant to anything I've ever done or will do. It's hard to sit and listen, and then go home and read a text book written by the lecturer, especially when I've heard it all before because the lecture was just him reading his text book. Even when I manage to do that, I have to get up and do the same thing the next day, and the next, it's going to be a long few years'.

(Gemma, Second year interview, Global, 2013)

The levels of engagement at the two universities reflect the final career choices of the students: four of the graduating students at Local chose to pursue a career in law compared to only one of the graduating students at Global.

The personal/social aspect of students' specialised pedagogic identity

The personal/social aspect requires students to connect their legal knowledge to their everyday lives and issues. Students at Global formed identities of legal minds. They discussed struggling to connect the sacred knowledge contained in the curriculum to their lives and society around them. This often resulted in disengagement and reduced access to knowledge.

'We've been studying EU law for over a semester now and it still makes very little sense. I don't see the point of it to be honest so I don't really do it; we'll probably leave the EU soon anyway. Learning all the history and rules and regulations seems like a waste of time to me, we'd be better off learning about the rules of this country'.

(Gavin, Second year interview, Global. 2013)

Contrastingly, students at Local formed identities as legal practitioners. During their degree they learned about the law and its applicability to their lives and society, and gained practical skills which prepared them for a legal career. Tutors made reference to their legal careers, and cases that they had worked on, to illuminate their teaching. These factors resulted in higher levels of student engagement than at Global.

The performative aspect of students' specialised pedagogic identity

As discussed in Chapter 3, the performative aspect of a specialised pedagogic identity comprises two elements: students are required to demonstrate competence in the written, oral and research aspects of the discipline; and students are required to develop the dispositions necessary for a legal disciplinary identity. The pedagogical framing offered to the students provides them with the opportunity develop these competencies and dispositions. I found the pedagogical framings echoed the hierarchy of the universities; Students at Local had more contact time, fewer law degree courses, fewer optional modules, more variety in teaching and assessment methods, and closer relationships with their tutors and their peers. Contrastingly, students at Global had less contact time, a greater degree of choice of law degree, restricted teaching and assessment methods, and a formal, hierarchical relationship with the tutors and minimal relationships with their law peers, often preferring to socialise with their non-law friends.

Conclusion

Within this section several dichotomies have emerged in framing of the students perceptions of their education. Students at Local discussed being

more engaged and experiencing a strongly framed education (more personal, supported, and dependant) than the students at Global, who discussed experiencing a comparatively weakly framed education (impersonal, unsupported, independent with a greater volume of material).

Both institutions provide their students with information relating to their workload and the department's expectations of them. However the content of that information varies considerably. Local provides students with a comprehensive and prescriptive booklet for each module which details the teaching methods, assessment methods, learning outcomes and an hourly breakdown of the work required for that module. Students are penalised for not attending or participating in their tutorials, resulting in an increased need for the students to be well prepared for their tutorials.

Conversely, at Global the content of the information provided does not cover learning outcomes or the hourly breakdown of work. Instead the documents focus upon independent learning and students being proactive and taking responsibility for their academic learning. Although students must attend all tutorials, their participation is not assessed. This means that students who are underprepared for the tutorial will not be penalised and the choice of whether to do the preparation work is one for the student themselves.

The students revealed other differences between the two institutions. Local students revealed a practical element to their learning and a way of cutting corners in order to complete the work they had been set. Global students were divided in their perceptions of the staff expectations with two believing that the staff had low expectations of first year students and two believing that the staff held higher expectations than staff in other disciplines. Students at Global were vague about what staff actually expected of them with students hedging their responses with 'I think' and 'I don't know'. This strongly contrasts to the understanding demonstrated

by the students at Local, possibly as a result of the detailed information provided in their Handbooks. However one similarity also emerged. Students felt that staff expected them to be engaged with the degree content; however this is not mentioned in either university's Handbook.

Overall, the weakly framed guidance at Global contrasts with the more strongly framed guidance at Local. This difference may be to accommodate the needs of the differing student populations at the two institutions and may also be reflective of social hierarchies.

Overall I found strong specialised pedagogic identities being formed at both universities. Students at Local projected specialised identities as future lawyers, they engaged with their interdisciplinary, applied curriculum and were able to apply the law to everyday situations they encountered. Local projected Bernstein's (2000) 'prospective market' identity with a focus upon student employability and the vocational aspect of law. Contrastingly, students at Global projected specialised pedagogic identities as legal scholars. They were comparatively less engaged with their 'pure' curriculum, often reporting that they found the abstract theories hard to relate to their lives. Global projected Bernstein's (2000) 'retrospective pedagogic identity' which focused upon the sacred, single discipline of law.

Chapter 9 : Access to undergraduate law knowledge

This chapter reflects on the findings of this project and discusses the implications of this research.

This research has compared students' access to knowledge through the curriculum and teaching in Law undergraduate degrees at two UK universities of different status. The project has employed a Bernsteinian framework to explore whether social inequalities played out in students' access to knowledge.

I recruited twelve participants during their first year of their law undergraduate degree. I collaboratively completed a life grid with each participant followed by an interview during each year of their degree. I observed two tutorial sessions at each university which began and ended with tutor interviews and I analysed the documents for the law degree at Local and Global.

Research questions:

Before discussing my findings, here is a recap of the research questions which underpinned this research project:

- What are students' experiences of curriculum, teaching and learning of the LLB Law degree at two different universities, throughout the years of their degree?
- How does teaching and curriculum differ at different institutions? For example different teaching methods, different assessment methods or different curriculum content? How do these differences impact upon student retention and success?
- Do the educational and vocational outcomes differ at the different universities?

Rather than answering each question in turn, I will discuss my conclusions, drawing on the Bernsteinian framework. This will avoid any duplication in my responses.

This research presented two, strongly classified universities. They had contrasting reputations, status within the higher education sector, and wealth and resources available to them. Global ranked highly in league tables, was the wealthier university, had landscaped gardens and period buildings, and recruited highly achieving students who were taught by legal scholars and researchers. Local was a lower-status university, with an industrial appearance. They recruited students with lower levels of prior academic achievement who were taught by legal practitioners.

Despite the core curriculum which is common to all qualifying law degrees, there was a surprising amount of variation between the law degrees at Local and Global. The curriculum and pedagogy at Global appeared to be driven by the traditional, academic and prestigious reputation of the department and was inflexible to the needs of the students. In contrast, local were a relatively new department whose identity had been shaped around a perceived gap in the higher education market; a friendly and supportive place to study law in a vocational manner. The department was much smaller, had a greater sense of community and was more flexible to the needs of their students in terms of academic, pastoral and careers support and guidance.

The findings in relation to the pedagogic device

Overall, the framing of the law degree follows hierarchical lines. Local, the lower-status university offered fewer degree choices and fewer optional modules, they provided students with more contact hours and the students all reported close, informal relationships with their tutors. Contrastingly, Global, the higher-status university offered a wide variety of degree courses and optional modules. Students had limited contact time with tutors and students also reported formal, hierarchical relationships

with their tutors. These findings concur with the findings of the ESRC project (McLean et al, 2012, 2013).

There are clear differences in the distributive rules at Global and Local. At Global there were greater numbers of academic staff who taught and conducted their own research. They were specialists in their field and often taught their own texts. All of the academic staff had research qualifications and the majority were professors in their specialism. At Local, the number of department staff was much smaller with several staff working part time alongside their career as a legal professional and less than half of the staff had research qualifications.

The classification of the law degree was also along hierarchical lines: Global offered a single discipline and Local offer a region. These findings support Bernstein's (2000) prediction that the higher-status university would offer a single discipline, but they differ from the findings of the ESRC project who challenged Bernstein's prediction. A key dichotomy which emerged from the classification of the two curricula was the academic and vocational focus. Bernstein (2000) predicted that the background of the tutors (the recontextualising agents) would be reproduced into the curriculum; the staff who selects the curriculum content, teaching materials and teaching and assessment methods would be influenced in these decisions by their academic and professional backgrounds. This research supports Bernstein's prediction. The curriculum at Global contained more sacred knowledge than Local and focused more on the academic study of the law. Tutors at Local presented their curriculum as a vocational and practical course; they used personal anecdotes to make aspects of the law more relevant to everyday life, and drew on their previous experience as legal practitioners to teach students practical elements of the legal profession such as drafting a *voir dire* in criminal law, drafting a contract in contract law and conducting a negotiation for Legal Skills. Although Bernstein (1999) was suspicious of this practice believing it to be a method of turning vertical discourse into

'a set of strategies' to improve functioning in the everyday world of work and home' (p. 169) for students with lower academic abilities, students at Local found it illuminated the curriculum. This echoes Young (2009), Case (2011) and Wolff (2010) who argued that pedagogy and curriculum could benefit from the inclusion of everyday knowledge and experiences, alongside sacred knowledge. This is what I observed at Local.

In terms of the evaluation rules, Local offered a wide variety of assessment methods which tested students' sacred and mundane knowledge. This is a sharp contrast to Global who preferred exams and, occasionally coursework, to assess students' sacred knowledge.

Bernstein (2000) predicted that the three rules of the pedagogic device (distributive, recontextualising and evaluative) always operated hierarchically. The ESRC project challenged this prediction, however my findings echo Bernstein. I have shown that there are differences between the higher and lower status universities at all three levels of the pedagogic device.

Overall, there are very clear differences between Local and Global in the distribution, recontextualising and evaluative rules. These are reflected in the different specialised pedagogic identities which were formed by students at Local and Global.

Findings in relation to pedagogic identities

This research highlighted a dichotomy which exists between the students' identities projected by the two law departments: regulatory discourse at Local depicts students as dependent learners who have no prior legal knowledge, whilst the regulatory discourse at Global depicts students as independent learners with a basic level of legal knowledge. The students at Global began their course being told that they should approach staff for assistance with their work as a last resort. This is in sharp contrast to the

compulsory fortnightly tutorials and frequent reassurances from tutors that they are there to help the students that took place at Local.

The high levels of support exhibited at Local could result in dependence and autonomy; however my findings reveal that this was not the case: a discrepancy emerged between the identities formed by the students and those projected by the departments.

Although students at Local approached staff for assistance when needed, they flourished under the informal, community spirit within the department and wanted to please the tutors by achieving high marks. The high levels of independence required by the students at Global appears to have result in what the participants viewed as unproductive independent study: they read copious amounts to try to gain an understanding of their course which resulted in many feeling like they were left little time to experiences other aspects of university life. As their course progressed, these students resorted to a surface and selective approach to their learning in order to manage their workload (Marton & Säljö, 1976).

Participants at Local demonstrated increased levels of personal confidence, integration and participation in the university and law department as their degree progressed. Although the participants at Global did demonstrate some levels of increased confidence and participation in the university and department, these were mitigated by their perceived high workload and lower results than they had originally expected. Students at Local formed a 'prospective market' identity (Bernstein, 2000): their identities were those of future lawyers focused upon their career path. Students at Global formed a 'retrospective pedagogic' identity (Bernstein, 2000): their identities were those of legal scholars. This research supports Shay's (2010) findings that there is a link between identity and curriculum: Global's theoretical curriculum produced students with identities of legal scholars compared to the

vocational curriculum at Local which produced students with identities of future lawyers.

Contributions to knowledge

Primarily, this research contributes to the Widening Participation literature, discussed in Chapter two. Going beyond the recruitment of students from under-represented groups into higher education, this research focuses upon the retention, and more specifically the experiences and successes of students in different higher education institutions. At the heart of this thesis is whether the inequalities of the higher education sector, illustrated by higher education league tables, are reproduced and reflected by the experiences and successes of the students at universities of different statuses, and whether the high proportion of students from under-represented groups who study at post-1992 universities are disadvantaged by these inequalities. My findings show marked differences that can be interpreted as inequalities. My findings also highlight that judgements need to be made about what counts as equal and unequal regarding students' university experiences and epistemic access. These findings are limited to the duration of the students' degree course; the students may also experience inequalities in their careers due to the status of the university that awarded their degree.

The Widening Participation agenda has evolved over the past three decades from a notion of broadening access to higher education for those students from underrepresented groups, to discussions about social mobility and equality of opportunity. Policy documents (BIS, 2011) no longer depict students as disadvantaged, focusing instead upon fairness in the system. The stratified system of universities and polytechnics may have been dissolved in 1992, but it has been replaced by a system of pre-1992 and post-1992 universities, where students from lower socio-economic groups are more likely to study at post-1992 universities and league tables depict pre-1992 universities as highly scoring, 'elite' institutions. This research has demonstrated that despite being the lower-

status university, students at Local believed that they benefited from high quality teaching which prepared them for their legal careers. I have also shown students at Global, the higher-status university, became disenchanted with their degree and prospective careers, despite making reference to the knowledgeable, highly regarded academic staff and reputation of the university.

Chapter 4 discussed how the focus of powerful knowledge is knowledge itself; its structure, organisation and potential to lead to change (Young, 2008). It offers an alternative to outcome-based education: it focuses upon equipping students with the tools to engage in 'political, moral and other kinds of debates (Young, 2008. p.14). The identities as legal practitioners formed by the students at Local, resulted from the high skills content of the curriculum at Local, combined with the limited knowledge content. These factors have encouraged the students, because it gave them the opportunity to envisage their future:

'I mean this is what we would do, negotiate, moot, liaise with clients. It seems really daft to learn stuff without knowing how it works in practice. This way means when you start your job [as a solicitor] you already know what it's like and you know you want to do it.'

(Lucy, Final year interview, Local, 2014)

This project has challenged the hierarchy of the higher education sector and the legal profession. Students at Local demonstrated access to powerful knowledge and formed identities as legal practitioners: they were able to envisage a life beyond their degree, using the knowledge and skills they gained to engage in the legal world and to contribute to society and all of the students at Local (the 'new' university) chose to pursue legal careers. This is stark contrast to the majority of the students at Global (the 'elite' institution) who dismissed pursuing a legal career, choosing instead to travel (Gabby) or graduate with an undecided career path. The curriculum at Local supported the students in their pursuit of a legal career through networking events, work experience and a vocational

curriculum. As discussed above, the students at Local reported a closer relationship with their tutors and peers, and benefited from the transformatory potential of the discipline. This research demonstrates that a balance of sacred and mundane knowledge is required to give students access to powerful knowledge. Making sacred knowledge relevant to the lives of the students illuminates the discipline and fosters students' continued interest and enjoyment. Access to sacred knowledge alone, does not appear to retain students' interest.

Despite access to powerful knowledge, at first glance it appeared that the students at Local were disadvantaged by two factors: the high levels of support they received, and the carefully selected and minimal sacred legal knowledge that they were given access to. This research indicates that although both factors had the potential to disadvantage students, in practice neither had that effect.

High levels of support deny students the chance to become independent learners. However, this research indicates that the tutor support nurtured confidence in the students which resulted in more student autonomy as the degree progressed: there was a gradual transition from supportive staff in year 1 (supporting students through the transition of further and higher education) to student autonomy in year 3. This was demonstrated by the high levels of involvement in extra-curricular law activity, such as competitions, independently organised work experience and places secured for professional legal courses.

The second factor is that the curriculum only contained information that students were required to know, there was not a plethora of cases to illustrate each legal point (as seen at Global) and topics that were not included in assessments were clearly marked. This denied the students to develop skills of recognition and realisation, because staff had done this for them. However, at Local, these skills were developed during legal skills

training or the clinic module, where students researched and argued cases on behalf of their clients.

Students at Global were advantaged firstly by the reputation of the university, an 'elite' pre-1992 institution which is favoured by employers (Sexton, 2014). Secondly, these students were arguably being advantaged by the quantity of sacred knowledge that was included in the curriculum: they had access to a broad range of specialist modules and were taught by legal scholars and researchers. However, these advantages were constrained. This research has demonstrated that the vast quantity of information given to students could be overwhelming, often resulting in surface learning and disengagement. Atherton (2013) argues that surface learning is more likely when study is academic and no practical element is included, as seen at Global.

Thirdly, the formal, hierarchical relationship between students and tutors encouraged students at Global to become independent learners. This relationship could also be a disadvantage because the students reported feeling unable to seek assistance. Further, this formal relationship inequitably disadvantages students from lower socio-economic groups: students who enter higher education as confident individuals, who are supported by a family with experience of university, and convey an elaborated code (Bernstein, 1992) are more able to navigate these difficulties than a student without this family support, who conveys a restricted code (Bernstein, 1992).

Table 9.1 Different strengths of classification and framing at Local and Global

	Local		Global	
	Strength of Classification	Strength of Framing	Strength of Classification	Strength of Framing
The School of Law	C-		C+	
Entry requirements for the LLB	C-		C+	
LLB curriculum	C-		C+	
LLB course structure		F+		F-
Introductory course handouts	C-	F+	C+	F-
Module teaching handouts		F+		F-
Theoretical law knowledge	C-	F+	C+	F-
Vocational law skills	C-	F+	C+	F-
Assessment of law knowledge	C-	F+	C+	F-
Assessment of law skills	C-	F+	C-	F-
Relations with tutors	C-	F-	C+	F-
Expectations of hard work	C+	F+	C+	F-
Attendance at lectures		F+		F-
Taught sessions	C+	F-	C+	F+
Tutorial sessions	C+	F-	C+	F+

Pace of learning		F+		F+
Preparatory work for tutorials	C+	F+	C+	F-
Evaluation criteria		F+		F-

Table 9.1 illustrates the different levels of classification and framing for different elements of the law degrees at Local and Global. If the purpose of a law degree is to prepare students for a legal career then I believe that the law degree at Local would be most beneficial to students. Students at Local are advantaged by their close relationship to their peers and tutors. The community environment demonstrated at Local encourages engagement with the course and students are comfortable seeking assistance when needed. The inclusion of a vocational element to the curriculum at Local gives students an insight into the legal profession and provides them with access to 'knowledge as practice' as well as 'knowledge as theory' (Muller, 2013. p.264). However, if the purpose of the law degree is to learn about the academic discipline of law (for example, the history, legislation, common law and the constitution) then elements from both curricula would most benefit students. The sacred knowledge provided by Global enhanced with the personal, everyday examples provided by Local. The identity, size and resources of the law school at Global elevated by the sense of community and close relationships experienced at Local.

The ESRC project found that the differences in the quality of teaching and learning at the four universities were not reflective of higher education league tables. As discussed above, my research concurs with this finding. Students at Local were more engaged with the subject and others in the department than their counterparts at Global. The ESRC project also found that overall, students in the four universities were advantaged and disadvantaged in different ways through the curriculum and pedagogy. This concurs with the findings of my research in the context of law degrees.

I began this thesis by situating myself in this research project. I will begin to conclude with my personal experiences of studying law and the parallels I drew between my own degree and those of the participants.

Personal Experience

As a law graduate, I found that some of the participants' university experiences echoed my own. I enjoyed the subject and had previously studied it at college. As my degree progressed, my enjoyment of the subject decreased and I found myself questioning my career options having decided against working within the legal profession.

My father had completed his PhD at a local polytechnic, now a post-1992 university, and in our house this institution was referred to as 'the poly' or 'the ex-poly' even after it had been awarded university status. I applied here as well as a Russell Group institution; however I was only really interested in attending the latter. I was incredibly proud to be accepted at a Russell Group university; the university's position in higher education league tables, and its reputation as a 'good' university were my main reasons for enrolling. I didn't really give much thought to their teaching and assessment methods or curriculum content, something I later regretted.

As my degree progressed I increasingly struggled with the volume of work. I found it difficult to complete all work set for tutorials and felt as though I was failing to meet staff expectations of me. Although we were being given access to a wide variety of sacred knowledge, the road to that knowledge was too long and filled with too many obstacles. Towards the end of my second year I revised using revision guides and a list of the key topics for each module, rather than my lectures notes and textbooks. By reducing the volume of work I was able to learn some of the curriculum well and apply this knowledge successfully in exams.

Despite struggling academically, I didn't ask for help. I felt that there was an atmosphere of a 'stiff upper lip' within the department; as students within that department we should expect a law degree to be hard, it merely meant that we had to work harder. By asking for help we were somehow shirking that hard work. Hearing accounts of the personal relationship between staff and students at Local I felt somewhat jealous, this was something I had not experienced but think would have been of great benefit to me during my degree.

Throughout my degree I was assessed by a written exam for all modules bar one. I struggled to achieve highly in exams and this had a great impact on my final degree classification. The result achieved in my dissertation (over 10% higher than the results for my exams) and my subsequent presentations at conferences indicates that a variety of assessments methods may have better suited me.

The volume of work we were given also impacted on my wider experience of university; I was not a member of any clubs or societies because I felt that I didn't have the time for them, my friendship circle was limited to other students from my previous college and I became disengaged with university choosing to work at home and socialise with non-university friends. I didn't even want to attend my graduation because I felt that I didn't fit in with the other law students (although now I'm very glad that I did go!).

I believe that if I had studied for a law degree at an institution that offered non-exam assessments and used a more vocational approach to their curriculum, I would have graduated with a higher classification of degree; my snobbery, ill-informed decision making and my initial reluctance to seek help prevented this from happening. My subsequent post-graduate studies and time in employment has also made me question whether a university's reputation is worth more than a student's degree classification, to my detriment I believed it did; now I am not so sure.

Things I would do differently if I started this research again

Reflecting upon the limitations of this research and the extent to which it has been able to answer my research questions (outlined in Chapter one), there are a couple of elements that I would adjust. These relate to the Destination of leavers of higher education data (HESA, 2015b) and my objectivity as a researcher.

Destination of leavers of higher education data (HESA, 2015b) records the number of students who complete further study after their degree. Because all students who wish to pursue a legal career are required to complete professional courses after their degree they fall within this category along with students who undertake other postgraduate qualifications. This means that the destination of leavers data does not distinguish between those who choose to pursue a legal career and those who do not and therefore restricts the conclusions of this thesis and my ability to fully answer research question 3 (How do these identities relate to students' success?). Without extending the length of this research and maintaining contact with the participants through their first five years as law graduates it is impossible to know what, if any, impact their degree, university, or experiences had on their careers.

As discussed in Chapter one I studied for a law degree at a Global-style university. When conducting fieldwork I emphasised with participants at Global when they discussed the hierarchy of the department, the high levels of independence that were expected of them and the high volume of sacred knowledge that they were expected to navigate. I was also surprised by the supportive environment, strongly framed curriculum and inclusive teaching methods used at Local because they were such a marked contrast to my own experiences. By discussing my findings and conclusions with my supervisor I tried hard to remain objective rather than letting my interpretations and conclusions become biased or skewed in favour of Local and overly critical of Global. Because Global and Local are such different universities, it was hard not to draw polemic

conclusions from my findings, something which may have been reduced if I had engaged a wider range of universities from various league table positions.

Suggestions for future research

This research has focused upon law degrees, and builds upon the earlier ESRC project which focused upon sociology-related social science degrees. Possibly the most obvious development for this research would be an expansion of the number of participating universities, staff and students. This would provide a greater breadth of experience and practice from which to draw conclusions about the quality of teaching and learning at different institutions. Another area for expansion would be research into degrees in other disciplines, notably non-social sciences disciplines such as sciences or engineering. These are subjects where women are historically underrepresented and where a dichotomy between theory and practical learning exists. This gender imbalance, and pedagogical dichotomy raises questions about why women do not choose to study these disciplines, is this choice related to the curriculum and pedagogy of the discipline? and does the pedagogical dichotomy affect students' access to knowledge?

Final words

Legal professionals play an important role in society, and recent policy indicates a shift towards the need for a less exclusive profession. Education is the start of that process and this study has shone light upon the challenges that students, universities and policy makers face to ensure this need is met.

Legal professional bodies specify the education and training requirements for solicitors and barristers. In these specifications the law degree comprises the academic stage of education and training. The course at Local encourages students to pursue a legal career through work experience and vocational pedagogical arrangements. However, the

curriculum and pedagogy at Local pre-empts the professional courses that legal professionals need to complete as the vocational stage of their education and training. Although the course at Global does focus upon the academic study of law, the curriculum and pedagogical experience overwhelms students with the volume and difficulty of the workload, and the level of independence required of them. I found that these factors resulted in five of the participant's at Global choosing not to pursue a career in law.

There is a reported need for diversity and social mobility in the legal profession (LETR, 2014). As shown in this project, and as recommended by legal professionals in the Legal Education and Training Review (discussed in Chapter 6), a course which includes legal skills alongside an academic core may retain students' interest in a legal career whilst providing them with access to powerful, esoteric knowledge which students can reflect and assimilate in a deep approach to learning, rather than regurgitate in a surface approach.

Historically, legal education has been approached from a professional rather than academic viewpoint (Flood, 2011) and there remains 'an underlying epistemic uncertainty about the nature of the English legal education' (Boon and Webb, 2008. p.79). The findings and conclusions of this research highlight the need for the purpose of the law degree to be determined. This will enable universities and tutors to design and deliver a curriculum which will best satisfy this purpose.

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Appendix 1: Participant information sheet

Researcher: Hannah Ordoyno, ttxho3@nottingham.ac.uk

Supervisors: Professor Monica Mclean, Dr Peter Gates

Study title

An investigation into students' access to knowledge, within the Law departments at two different universities, throughout the years of their degree.

You are invited to take part in a research project. Before deciding whether or not to participate, it is important that you clearly understand why the research is being done and the requirements of the research. Please read the following information carefully.

What is the purpose of the study?

The background and the aim of the study should be given here. You should say how long the study will run and outline the overall design of the study.

Why have I been invited to participate?

This research focuses upon undergraduate law students. You have been invited to participate because you are currently a first year LLB Law student. Eight students will be recruited from this institution to take part in this research project alongside eight first year students from another institution.

Do I have to take part?

Participation in this research project is entirely voluntary. If you do decide to participate you will be asked to sign a consent form and will be free to withdraw from the research at any time and without giving a reason. Participation or withdrawal from this research will have no impact upon your current or future studies.

What will happen to me if I take part?

You will be asked to participate in one interview for each of the three years of your undergraduate degree. This will last approximately one hour and will be held in a private room on campus. You will also be asked to complete a life grid with the researcher before your first year interview.

This will provide background information for the purposes of the interviews. This will also last approximately one hour. All interviews will be tape recorded.

During the academic year, a taught session will be audio recorded. You will only be asked to participate in this session if it is part of your usual timetable.

What are the possible benefits of taking part?

Although there may be no personal benefits to you for participating, this study will further our understanding of the student experience of learning and teaching within undergraduate law degrees.

Will what I say in this study be kept confidential?

All information collected during this research will be kept strictly confidential (subject to legal limitations) and will comply with the Data Protection Act 1998. All files (electronic and hard copy) will be password protected and kept in a secure place. Access to these files will be restricted to the researcher and their supervisors for the purpose of this research only. During publication of this research all institutions and individuals will be anonymised.

What should I do if I want to take part?

If you wish to take part in this research please contact the researcher, Hannah Ordoyno at txho3@nottingham.ac.uk

What will happen to the results of the research study?

The results of this research will be use in the researcher's thesis for a PhD Education. If you wish to gain a copy of the final research please contact the researcher.

Contact for Further Information

For further information please contact the researcher, their supervisors or School of Education Research Ethics Coordinator.

Researcher: Hannah Ordoyno, txho3@nottingham.ac.uk

Supervisors:

Professor Monica Mclean, monica.mclean@nottingham.ac.uk

Dr Peter Gates, peter.gates@nottingham.ac.uk

School of Education Research Ethics Coordinator:

educationresearchethics@nottingham.ac.uk

Thank you for taking the time to read this information sheet.

Appendix 2: Participant consent form

For completion by all research students

Project title: An investigation into students' access to knowledge, within the Law departments at two different universities, throughout the years of their degree.

Researcher's name Hannah Ordoyno

Supervisor's name Professor Monica Mclean, Dr Peter Gates

- I have read the Participant Information Sheet. The nature and purpose of the research project, and my involvement in it, have all been explained to me. I understand and agree to take part.
- I understand that I may withdraw from the research project at any stage and that this will not affect my status now or in the future.
- I understand that while information gained during the study may be published, I will not be identified and my personal results will remain confidential.
- I understand that the interview will be audio recorded and the taught session will be audio recorded.
- I understand that data will be stored electronically or in hard copy. Access to these files will be password protected and any recordings will be kept in a secure cabinet. Access to these files and recordings will be only for the purposes of this research project and will be restricted to the researcher and their supervisors.
- I understand that I may contact the researcher or supervisor if I require further information about the research, and that I may contact the Research Ethics Coordinator of the School of Education, University of Nottingham, if I wish to make a complaint relating to my involvement in the research.

Signed (Research participant)

Print name

Date

Contact details

Researcher: *Hannah Ordoyno*, ttxho3@nottingham.ac.uk

Supervisor: *Professor Monica Mclean*, monica.mclean@nottingham.ac.uk

Dr Peter Gates, peter.gates@nottingham.ac.uk

School of Education Research Ethics Coordinator:

educationresearchethics@nottingham.ac.uk

SECTION 2 Life Grid

	Pre-School	Primary School	Secondary School	Post-Compulsory
Education				
Family				
Housing				
Friends and Significant Relationships				
Leisure/ Activities Outside Education				
Parent's Employment				
Student's Employment				
Health				

Completed Life Grid (Lucy)

Pedagogic Quality and Inequality Life-Grid Notebook

SECTION 1 (For completion by interviewer)

1. Pseudonym: Lucy (recording DM450009)
2. University: Local
3. What date did you complete the life grid on? 03/05/12
4. a) What degree programme are you on? LLB

Personal Information

5. Date of Birth: 15/10/92
6. Gender: female
7. Ethnicity: white,
- 7a. Where are you from: Lithuania

8. a) Do you have a disability? No
- b) If yes does it affect your educational experience and/or performance? N/A

9. a) Number and ages of Siblings: N/A
- b) Do you have any more siblings? N/A
- c) Are any of the above half or step siblings? N/A

10. How many of your siblings are at or have been to university? N/A

11. How many of your siblings are planning to go to university? N/A

12. Parent's/Guardian's Highest Educational Qualification: 1. Dad -degree
2. Mum –degree

13. Parent's/Guardian's/ Partner's Current Occupations:
1. Dad – army officer
2. Mum – primary education teacher

14. Are there any major factors (positive or negative) which you believe have affected your experience of and achievement within education?

No – always knew she wanted to go to uni, all her family have been, only question was where (uk or Lithuania) – uk is better than Lithuania so came here

Secondary School	Post Compulsory
<p>State school in Lithuania, closer to grandparents' house Quite a small school Liked people at the school (had lots of friends, teachers were supportive), liked the environment – very quiet and safe (had a guard on the door) Maths and history were favourite subjects. Didn't like biology Had to do exams at 16 years old – these were school exams. Had to pass them to go to the gymnasium school, if you fail you leave school. Student passed these exams</p>	<p>State school - Gymnasium school – 14-18 Have exams at 18, student choose the subjects but have to do 2-6 – maths, history, English (IELTS) Same as secondary school but higher – all in the same building School was one of the best in the area – high level of education Decided to come to UK and go to university here, she finished music school successfully but decided not to pursue this any further</p>
<p>Mum and dad moved to UK, she lived with grandparents Spend most of her time with her grandparents, skyped parents daily and they visited often, student went to visit parents in school holidays Parents and grandparents were supportive of her education – offering helped, didn't ask her to do chores, Nothing detrimental</p>	<p>Same as secondary school Family didn't influence choices but university choice means students can live with her parents, some of her choices meant she would live in halls</p>
<p>Mum and dad moved to UK. Student lived with her grandparents in the same city. They all lived in a flat Same as living with her parents. Worked in her bedroom. School was close to home, so didn't have a long commute on the bus. Nothing detrimental to study</p>	<p>Same as secondary school</p>
<p>New school didn't know anyone but friends quite quickly. Made friends at school, music school, home. Had a boyfriend. Friends were neither supportive nor distracted – they spend time together but they had no influence on students education</p>	<p>Same friends as secondary school, met friends at IELTS course Same boyfriend as a secondary school</p>
<p>Went to cinema with parents and friends, went to music school (finished this at 17), Socialised with friends in town</p>	<p>Finished music school, passed her driving licence, went out with friends into town (for food) No significant impact on her education</p>
<p>Parents came to UK to work and student stayed at school in Lithuania In UK, Mum worked in a factory. Dad is a logistics manager Impacted her education because she started to think about coming to UK for university</p>	<p>N/A</p>
<p>N/A</p>	<p>Had one month's full time work before university – worked in UK in food producing factory. Now works as a student ambassador for the university</p>
<p>Nothing</p>	<p>Nothing</p>

	Pre-School	Primary School
Education	Went to nursery, state in Lithuania. Reading and writing Helped by her mum because she was a teacher – this impacted school education positively	State school in Lithuania, Started at 6 years old. Liked it there, favourite subjects were maths and languages. Liked all subjects High achiever. Had lots of friends Started music school – had to learn how to manage her time
Family	Mum, Dad, grandparents (dads) Spend most time with her mum Visited mums parents in Russia	No changes Parents supported education Parents are proud of her achievements
Housing	Flat, grandparents owned the flat Mum, dad and student moved out to another flat which they owned Lived in a city which they lived in until they came to UK Liked living here – very cosy and had lots of visitors	Didn't move house Atmosphere supported learning – studied in her room without interruptions, didn't have to do any chores so could focus on work or socialising
Friends and Significant Relationship	Some lived in the same block of flats as student, some went to the same nursery	Same as preschool. Fitted in well, made friends easily, friendship groups didn't change. Had best friend – Victoria, spend lots of time together – music school and dancing
Leisure/ Activities Outside Education	Playing games with parents and other families Went to seaside resort each year (in Lithuania) for holidays and went to see family in Russia when student was two years old	Went to dance school and music school. Liked painting but stopped due to lack of time. Went out with friends and parents near home
Parents' Employment	Dad – officer in army Mum – primary teacher	N/A
Students' Employment	N/A	N/A
Health	Nothing	Nothing

Appendix 4: Interview schedule for the first and second year interviews

1. Background Question: How did you come to be doing this degree at this University?

Prompts

- Why this university?
- Why this degree?
- What do you hope to gain from being here and studying sociology/social science?
- What you want to get out of your degree?

2. Academic Work: How are things going for you academically? What do you think your lecturers/tutors expect of you?

Prompts

- Listening to lecturers/others; talking; reading; writing; using technology- about what?
- In terms of what you are expected to do: in the degree programme in general; in lectures, seminars and other taught parts- preparation and participation for assignments
- How many hours you have to attend lectures per week?
- How much reading do you have to do per week?
- How often do you meet your tutor?
- Do you find the work difficult?

3. Assessment: Tell me about one assignment you have done.

Prompts

- What assignment s have you done so far?
- Have you had any choice?
- How do you think you are doing?
- What marks have you got so far?
- To what extent are you clear about how your tutors allocate marks?

- Are the comments you get about your work helpful?

4. The 'student experience' – their experience in the campus: Do you enjoy student life? What have you got out of being at university so far?

Prompts

- What do you like and what don't you like?
- Are you happy with the university facilities and the student support services?
- Who are you getting to know?
- Do you find university strange (good or bad)?
- What have you got out of being at the university so far?
(Knowledge, skills, attitudes/dispositions- academically, socially, personally.)
- Are you happy with your choice so far?
- How much time they spend at the University and what you do?
- Do you socialise at University or elsewhere and with students/non-students?

5. Students' lives: How are things going for you?

Prompts

- Social/paid work/other living circumstances. How many hours of paid work do they do and what type?
- Has it changed you or changed your relationships? (Relationships with lecturers –compared with teachers at school/college – teachers, peers, family and friends.)
- How do you think your experience compares with other students?
- Who do you talk to about your degree?

6. Future aspirations: What are your plans/aspirations – if any – beyond your degree?

7. On a scale of 1-10 to what extent are you satisfied with this course?
With this university? With your experience at university so far?

8. Anything that you think is important about your education and we haven't discussed.

Appendix 5: Interview Schedule for the final year interviews

1. Introductory Questions (including dissertation):

- How is your academic work going? What marks did you get last year? Do those marks go towards your degree? What degree classification are you hoping to get?
- What optional modules have you chosen this year? Why?
- Have you done any assessments this year? What results did you get? What assessments do you have left this year?
- What's foremost in your mind at the moment? (Career, assessments, work experience)

2. What the student has gained from academic work

2.1 Discipline (knowledge i.e. learned to know about what?)

- Now you have studied law for nearly three years has it met the expectations you had of it when you started? Has it surprised you? Let you down? How?)
- Do you enjoy law? Why/what? Why not? Has this changed since you started the degree?
- Do you find it difficult? If so, why? what? Do you mind that it is hard/easy? Is it more difficult than you had anticipated it would be? How?
- Would you give me two or three examples of the most interesting things you have learned in law? What makes them interesting? (Discuss whether and why theory, methods, empirical examples are the most interesting and why)
- What competencies and skills have you learned during your degree? How have these been taught? How have these been assessed?

- Has law helped you understand and think differently about your own life or about the lives of people close to you? Please give examples
- What do you think are the main things your lecturers want you to learn in law? (the main messages) What gives you that impression? Are they very knowledgeable themselves? How do they show that? Do they conduct research?
- Do you have a sense of what it means to say that you are a lawyer? Do you feel like a lawyer?

- **Case Question**

Using the skills and knowledge that you have gained from your degree, how would you approach the following facts:

- Three friends Paul (12 years old), Henry (12 years old) and Callum (15 years old) planned to run away together. Callum (15) told the others that his step-father would be extremely angry if they did run away and the only way their plan would work was if they killed his step-father. The three boys met in the local park where Callum gave Paul (12) a loaded handgun and kept one for himself. Callum and Paul climbed through an open window into Callum's house whilst Henry (12) stayed outside keeping guard. Callum and Paul sat in the living room on the sofa waiting for Callum's step-father to enter the room. When Callum's step-father entered the room Callum shot him several times and then Paul also shot him.

2.2 Discipline (know how- i.e. learned to do what?)

- What are you better at academically/intellectually now than when you arrived? [Prompts: thinking, Reading, writing, talking (formally and informally), listening, working in groups, ICT?]

- What do you feel you are good at in your academic work? (essay writing, case analysis, applying the law, communication skills)
- Can you describe how hard you have worked during your degree? Roughly what proportion of your time do you spend on university work? What do you do with the rest of your time? Are you planning to spend more time on university work this year?

2.3 How have 2.1 and 2.2.above been learned- getting at students' conceptions of quality?

- What has it been like studying/learning law here?
 - Prompt: lectures, seminars, workshops, reading, assessment and feedback, use of ICT, relationships with tutors, relationship with peers on the course.
- How much do you contribute to tutorials and seminars? Have you learned from your peers in these sessions?
- How did you work out what was expected of you on your degree course? How did you work out what equates to each degree classification? Did you read Handbooks?
- What would you recommend about the teaching you've had?
- What would you have wanted improved. (Is there anything that would have helped you do better?)

3. What has the student gained from the broader university experience?

- What have you liked and not liked about student life more generally?
- Have you made good friends [how many? Do you think they'll be for life?] How have you met them?
- Do you have a partner? From before university? Met here?
- Have you joined societies/clubs? Any other activities in the university or department/school?

[Generally, find out whether university has been only learning law or more than that]

4. How the student combines university and non-university

- Do you keep up with friends who are at other universities? If so, how and how often.
- Do you keep up with friends who didn't go to university? If so, how and how often?
- Has university changed your relationship with friends from home?
- Do you keep in touch with your family? How often and how? Has being at university changed your relationships with family?
- Do you think you are a typical student?

5. What students have become: combining learning a discipline with the 'student experience'

- Are you different from when you started university? If so, how? Do you think it is the academic work or the general experience of university that has changed you? If the academic work- how? If the more general university experience, how?
- What do you really want to do with your life when you leave [refer to previous interviews here and work if it has already been mentioned]? What will you do? Do you have plans or wishes for 5 years' time? [ask about work, personal plans, other activities and contributions]
- Can imagine what you would be like if you hadn't been to university?
- Do you think your life will be very different from your parents? If so, how and has university had anything to do with it? If not, why not?

6. Summary questions

- Overall, are you pleased that you came to university to study law?
Why? Why Not?
- Have you felt comfortable at university? Why? Why not?
- What does a degree mean to you? (What does it mean to you to be a graduate?) What does it mean to your family?
- Can you see yourself encouraging your own children to go to university? (probe: about fee rise)
- Would you recommend your university? If so, why and if not why not?

7. On a scale of 1-10 to what extent are you satisfied with this course?
With this university? With your experience at university so far? (Discuss comparisons with previous years)

8. Anything that you think is important about being at university that we haven't discussed.

Adapted final year interview for Gavin

1. Introductory Questions (including dissertation):

- How is your academic work going? What marks did you get last year? Do those marks go towards your degree? What degree classification are you hoping to get?
- Why did you choose not to complete your law degree?
- Why have you chosen to re-enrol onto a computer science degree?
- Have you done any assessments this year in computer science?
What results did you get? What assessments do you have left this year?
- How is studying Computer science different to law?

2. What the student has gained from academic work

2.1 Discipline (knowledge i.e. learned to know about what?)

- Now you have studied law for nearly three years has it met the expectations you had of it when you started? Has it surprised you? Let you down? How?)
- Do you enjoy law? Why/what? Why not? Has this changed since you started the degree?
- Do you find it difficult? If so, why? what? Do you mind that it is hard/easy? Is it more difficult than you had anticipated it would be? How?
- What competencies and skills have you learned during your degree? How have these been taught? How have these been assessed?
- Do you have a sense of what it means to say that you are a lawyer? Did you feel like a lawyer at all during your law degree?
- What would you have wanted improved in the law department? (Is there anything that would have helped you do better and complete your law degree?)

- **Case Question**

Using the skills and knowledge that you have gained from your degree, how would you approach the following facts:

- Three friends Paul (12 years old), Henry (12 years old) and Callum (15 years old) planned to run away together. Callum (15) told the others that his step-father would be extremely angry if they did run away and the only way their plan would work was if they killed his step-father. The three boys met in the local park where Callum gave Paul (12) a loaded handgun and kept one for himself. Callum and Paul climbed through an open window into Callum's house whilst Henry (12) stayed outside keeping guard. Callum and Paul sat in

the living room on the sofa waiting for Callum's step-father to enter the room. When Callum's step-father entered the room Callum shot him several times and then Paul also shot him.

3. What has the student gained from the broader university experience?

- What have you liked and not liked about student life more generally?
- Have you made good friends [how many? Do you think they'll be for life?] How have you met them?
- Do you have a partner? From before university? Met here?
- Have you joined societies/clubs? Any other activities in the university or department/school?

[Generally, find out whether university has been only learning or more than that]

4. How the student combines university and non-university

- Do you keep up with friends who are at other universities? If so, how and how often.
- Do you keep up with friends who didn't go to university? If so, how and how often?
- Has university changed your relationship with friends from home?
- Do you keep in touch with your family? How often and how? Has being at university changed your relationships with family?
- Do you think you are a typical student?

5. What students have become: combining learning a discipline with the 'student experience'

- Are you different from when you started university? If so, how? Do you think it is the academic work or the general experience of

university that has changed you? If the academic work- how? If the more general university experience, how?

- What do you really want to do with your life when you leave [refer to previous interviews here and work if it has already been mentioned]? What will you do? Do you have plans or wishes for 5 years' time? [ask about work, personal plans, other activities and contributions]
- Can imagine what you would be like if you hadn't been to university?
- Do you think your life will be very different from your parents? If so, how and has university had anything to do with it? If not, why not?

6. Summary questions

- Overall, are you pleased that you came to university? Why? Why Not?
- Have you felt comfortable at university? Why? Why not?
- What does a degree mean to you? (What does it mean to you to be a graduate?) What does it mean to your family?
- Can you see yourself encouraging your own children to go to university? (probe: about fee rise)
- Would you recommend your university? If so, why and if not why not?

7. On a scale of 1-10 to what extent were you satisfied with your law degree? And your new course? With this university? With your experience at university so far? (Discuss comparisons with previous years)

8. Anything that you think is important about being at university that we haven't discussed.

Company Law	74		66										
Principles of Commercial Law								53					
Employment Law	70	58	73	60			73	56				52 [®]	
Family Law		59					75		65	70		58	63
Child Law									65				61
UK Human Rights Law													72
European Convention on Human Rights							80						64
International Human Rights Law				68									
International Trade Law								62					
Public International Law				72		76							
Evidence			69	67									
Intellectual Property				68		65	75						
Industrial Property							72						
Sustainable Development and International Business Law	76												
Healthcare Law							70						64
Medical Law & Ethics						86							
Maritime Law							80	62					
Tax Law													61
Coroner's Court		57					72						
Social Welfare and the law											62		
Legal Research Placement											NC		
Mini Dissertation								68					62
Degree Classification	1st	2:2	2:1	2:1	DNF	1st	1st	2:2	2:1	1st	TC	2:1	

Key

® - Resit

X - Did not sit exam

NC - not finished the module at the time of asking

TC - Transferred courses

Degree Classifications 2014

Degree classification	Local	Global
First class	10 (10%)	31 (14.1%)
2:1	52 (54%)	137 (62.3%)
2:2	10 (10%)	50 (22.7%)
No decision	25 (26%)	2 (0.9%)
Total	97	220

Appendix 7: ESRC Project Publications

'Not everybody walks around and thinks 'That's an example of othering or stigmatisation': identity, pedagogic rights and the acquisition of undergraduate sociology-based social science knowledge.

M McLean, Monica, A Abbas and P Ashwin

How do students' accounts of sociology change over the course of their undergraduate degrees?

P Ashwin, A Abbas, and M McLean

The use and value of Bernstein's work in studying (in) equalities in undergraduate social science education

M McLean, A Abbas and P Ashwin

A Bernsteinian view of learning and teaching undergraduate sociology-based social science

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Representations of a high-quality system of undergraduate education in English higher education policy documents

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Quality and Inequality in Undergraduate Courses: A guide for national and institutional policy makers

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The pedagogic device: sociology, knowledge practices and teaching-learning processes

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Teaching through Biographical Methods

M Mclean and A Abbas

A bad deal for consumers.

P Ashwin, A Abbas and M McLean

Neoliberal policy, quality and inequality in undergraduate degrees

A Abbas, P Ashwin and M McLean

Global inequalities and higher education: Whose interests are you serving?

A Abbas and M McLean

The 'biographical turn' in university sociology teaching: a Bernsteinian analysis

M McLean and A Abbas

Qualitative research as a method for making just comparisons of pedagogic quality
in higher education: a pilot study

A Abbas and M McLean

Appendix 8: Interview Work Schedule

Post 1992	Post 1992	Post 1992	Pre 1992	Pre 1992	Pre 1992	Pre 1992	Pre 1992	Pre 1992	Pre 1992	Pre 1992	Institution
											Participant
											Contact details
											Contact Email
Luke	Leah	Laurence	Grace	Gavin	Gina	George	Gaby	Gemma			Pseudonym
											Synopsis
10 05 12	17 05 12	10 05 12	14 02 13	04 05 12	04 05 12	21 04 12	22 03 12	12 03 12			Consent
10 05 12	17 05 12	10 05 12	14 02 13	04 05 12	04 05 12	21 04 12	22 03 12	12 03 12			Information Sheet
10 05 12	17 05 12	10 05 12	14 02 13	04 05 12	04 05 12	21 04 12	22 03 12	12 03 12			Life grid
10 05 12	17 05 12	10 05 12	14 02 13	04 05 12	04 05 12	21 04 12	22 03 12	12 03 12			First Year Interview
07 03 13	N/A	28 02 13	1pm 04/02/13	1pm 25/01/13	10.15am 28/01/13	11am 25/01/13	Midday 25/01/13	11am 04/02/13			Second Year Interview
26/02/2014	N/A	19/02/2014	03/02/2014	30/01/2014	13/0/2014	11/0/2014	04/0/2014	11/3/2014			Final Year Interview

Post 1992	Post 1992	Post 1992	Institution
			Participant
			Contact details
			Contact Email
Laura	Lucy	Lauren	Pseudonym
			Synopsis
14 05 12	03 05 12	03 05 12	Consent
14 05 12	03 05 12	03 05 12	Information Sheet
14 05 12	03 05 12	03 05 12	Lifegrid
14 05 12	03 05 12	03 05 12	First Year Interview
28/02/2013	1pm 18/02/13	1pm 19/02/13	Second Year Interview
26/02/2014	19/02/2014	19/02/2014	Final Year Interview