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JUBILEE CENTRE
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VIRTUOUS CHARACTER

FOR THE PRACTICE OF LAW

EXTENDED METHODOLOGY

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Methodology

1. Rationale

A cross-sectional design enabled enquiry at three career stages: 1st year Law undergraduates, students about to finish their vocational legal training courses (LPC/BPTC students), and experienced professionals, composed of solicitors and barristers usually with at least five years' experience of practice. Findings for solicitors and barristers are normally reported separately but we use 'lawyer(s)' when referring to both groups.

Within this design, an e-survey provided data on the role of virtue in legal practice by examining:

- (a) personal and 'ideal' lawyer character strengths;
- (b) the nature of reasoning when resolving legal ethical dilemmas; and
- (c) contextual factors that shape and influence the character of LPC/BPTC students and solicitors.

Complementing the quantitative e-survey were semi-structured interviews with a sample of participants selected from survey participants who volunteer to be interviewed. The interviews added to our understanding of lawyer character in relation to clients, legal education, the workplace and the regulatory environment.

Triangulating data from the three survey and the interviews provided a multi-faceted profile of character and virtues in legal practice.

2. Research Design and Instruments

The instruments were designed following a review of literature and discussions with experts and representatives of organisations involved in ethics, regulation and governance.

2.1 The e-survey

The e-survey had five sections and took approximately 20 minutes to complete.

Adapting by abbreviation the 24 character strengths included in the *Values in Action Inventory of Strengths* (VIA-IS) (Peterson and Seligman, 2004), **Sections A and C** collected respondents' views on (A) their own character and (C) those of the 'ideal' lawyer.

- In section A, respondents ranked six character strengths that best reflected their own character.
- In section C, respondents ranked six character strengths that best reflected their view on the character of the 'ideal' lawyer.

Self-report methods on character strengths and virtues face important challenges, particularly self-deception, social desirability and self-confirmation biases inherent in self-reporting with evidence suggesting that human beings are conspicuously inaccurate in their self-assessments of characteristics or competencies (Nisbett and Ross 1980; Podsakoff, MacKenzie et al. 2003; Dunning, Heath et al. 2004; Morgeson, Campion et al. 2007; van de Mortel 2008; Dunning 2011). However, given the difficulties inherent in measuring character, we do not use self-report data as indicators of individual character but are more interested in how the profile of selected strengths compare with those identified for the ideal lawyer.

Section B contained six ethical dilemmas prepared by an expert panel of legal ethicists, whose details can be found at Table 1. The panel were chosen for their expertise in ethics, professional conduct and knowledge of law school curricula. They adapted existing dilemmas and devised new ones designed to provide insights into moral judgement and reasoning. Each dilemma included a scenario and a choice of courses of action; once chosen, a list of six reasons appeared from which three had to be selected and ranked by importance in their reasoning. The instrument did not allow respondents to return and alter their course of action. Ethical dilemmas were chosen as they represent an efficient and credible way to gain some insight into moral functioning and development and may well activate more than just moral judgement (Evans, 2011; Kristjánsson, 2015, chap. 3). Even so, it cannot be known if respondents would actually act as they indicate or display sensitivity to moral dilemmas arising in their working lives. While these dilemmas are not measures of virtue from an Aristotelian perspective, indeed no such measure exists, they are intended to provide an insight into moral reasoning and, when triangulated with the e-survey and interview data, contribute to developing our understanding of virtue-related performance (Patterson and Ashworth, 2011; Rest et al, 1999).

The method of using dilemmas as an indicator of moral performance is grounded in a long, so-called neo-Kohlbergian tradition in moral psychology of working with 'Defining Issue Tests' (DITs) to trace general moral development (Rest, Narvaez, Bebeau & Thoma, 1999). An analogue of general DIT-testing in the field of professional decision-making is the so-called Situational Judgement Test (SJT) which gauges professionals' likely performance on representative tasks, contrived and evaluated by an expert panel in a given professional field. SJTs are increasingly being used as selection and training tools, especially in professional ethics education (Patterson & Ashworth, 2011).

Table 1: Members of the expert panel that devised and amended the e-survey ethical dilemmas.

Nigel Duncan	Professor of Legal Education at The City Law School, City University, London.
Richard Moorhead	Professor of Law and Professional Ethics at University College London and Director of the Centre for Ethics and Law.
Sheelagh McGuinness	University Fellow based in the Centre for Health Law, Science & Policy at Birmingham University Law School.
Jyoti Ahuja	Postgraduate Teaching Assistant, Birmingham University Law School and Chartered psychologist.
Julian Lonbay	Senior Lecturer, Law, University of Birmingham
Paul Maharg	Professor of Law at the Australian National University College of Law and previously Professor of Legal Education at Northumbria Law School.
Andy Boon	Professor of Law at The City Law School, City University, London.

Section D was included only for LPC/BPTC students in relation to their vocational legal education and experienced solicitors in relation to their workplace. It was not appropriate for undergraduates in the first weeks of their course or barristers as they tend to be self-employed. The Likert-scale questionnaire contained 15 items relating to the training environment or workplace, which are listed below. Ten items were adapted from an EU workplace survey (Eurofound, 2012), three from a questionnaire on the workplace of law firms (Parker and Aitken 2011), and two developed by the research team.

The 15 questions from the on-line survey addressed to solicitors asking about the working environment:

For each of the statements please indicate how often this has been the case in the environment in which you work according to these categories: Always, Mostly, Sometimes, Rarely, Never.

1. I am motivated to work to the best of my ability
2. I experience stress
3. My colleagues help and support me
4. I am not treated fairly
5. I am able to apply my own ideas in my work
6. I am able to act in the best interests of my clients
7. My work involves tasks that are in conflict with my personal values
8. My work requires that I hide my feelings
9. I do not have time to do my work to the standard I believe is right
10. I feel 'at home' in my workplace
11. I have the feeling of doing useful work
12. I am emotionally involved in my work
13. I have the resources to do my work to a standard I believe is right
14. I am unable to influence decisions that are important for my work
15. At work it is difficult to do the right thing

Section E asked for demographic information:

- Gender; age; ethnicity; religion; whether practising a religion; country of citizenship.
- Solicitor or barrister; law school completion date; years of experience; area of law; type of law firm; previous occupations.
- Reasons for entering the legal profession (open box).
- Education.

2.2 Semi-structured interviews

Interviews were devised around the main research questions with prompts used for clarity. Questions included: reasons for career choice; characteristics of a good lawyer; factors that can help or hinder being a good lawyer; views on the influence of character on professional practice; the influence of codes of conduct; and the influence of education and training in developing the strengths necessary for good professional practice.

Interviews with educators concentrated on their role in educating future lawyers, their view of a good lawyer and whether/how this has changed how students are assessed for entry, the place of ethics in the training programme and how lawyer education might be developed. Regulators were asked about regulatory objectives, maintaining professional standards and perspectives on changes in the profession.

The vast majority of interviews were conducted by telephone and recorded for accuracy, despite awareness that this may influence what is said (Scott and Usher, 1999). Tapes were transcribed by team members and by a transcription service, and then returned to participants for checking (Lincoln and Guba, 1985) and amendments.

3. Participants

Data from undergraduates and LPC/BPTC students were gathered at seven sites (the Universities of Birmingham, Brighton, Hull, York, Glasgow, City University and the University of Law). Typically, students received an email with a link to the survey although LL.B undergraduates at York University and Diploma in Professional Legal Practice students at Glasgow University took the survey as a cohort in computer suites.

Solicitors were contacted via 'Law Society Professional Update', a weekly email to over 100,000 solicitors in England and Wales. The news item contained a short outline of the research and a hyperlink to the on-line survey. Barristers were emailed to the work email addresses available on the Bar Directory online. Approximately 4,100 addresses for a mix of London and regionally based barristers were selected who were sent a personalised email in letter form; as 6.5% bounced back, the total delivered was about 3,800.

Table 2 shows the profile of distribution and response rate for the four groups with more detailed information in Appendix 1 below. The Appendix also shows that the majority of respondents were female, white British and described their religion as Christianity or none.

Table 2: E-survey and interviews

Career stage	Distribution (n)	Completed responses (n)	Response rate (%)	Interviews (n)
1 st yr. undergraduates	849	345	40.6	28
LPC/BPTC students	2169	271	12.5	20
Solicitors	E-mail newsletter to 100,000	177	-	26
Barristers	3,800	150	3.9	20
Educators and regulators				23

While the number of responses for a study of this type is acceptable, low response rates in all groups except for undergraduates means the profile is unlikely to be representative. With the exception of undergraduates, however, it may be reasonable to conclude that our respondents share an interest in the area of enquiry, a factor which is relevant to how we view the analysis. As argued later, this is particularly pertinent in our analysis of responses to the ethical dilemmas. Interviewees were contacted by email or telephone if they had indicated a willingness to be contacted. As with responses to the e-survey, we do not claim that they are representative. Officials the Legal Services Board (LSB), the Solicitors Regulation Authority (SRA), the Law Society (LS), the Bar Council (BC) and the Bar Standards Board (BSB) were interviewed and at least three academics or educators from each participating law school. All regulators and educators were interviewed in person. Quotations in the report from the semi-structured interviews with individual students and practitioners are cited using an anonymous reference e.g. *Solicitor 04*.

3.4 Data Analysis

3.4.1 *The survey*

Data were collected online using SurveyGizmo and transferred and analysed in SPSS version 21. Analyses included descriptive analysis, cross-tabulation, correlation and factor analysis. Forms of analyses were developed to deal specifically with the data in sections A and C (respondents' views on character) and section B (moral dilemmas).

3.4.2 *Semi-structured interviews*

Analysis of interview data was thematic, using a constant comparison (Glaser and Strauss, 1967) within a modified framework approach (Richie and Spencer, 1994). Team members initially analysed data from interviews independently and compared coding before developing a common format. Codes were created horizontally (coding each interview or focus group as a standalone hermeneutic unit) and vertically (scanning across the data for specific terms) and then categorised into themes. Categories were refined and coding reviewed throughout and NVIVO software used.

3.5 Limitations of the Study

A longitudinal design could have tracked changes in reported responses to the lists of character strengths and the dilemmas but the timescale meant this was not possible. Possible variation in membership of the three cohorts may affect comparability between the groups.

Response bias is likely. Participation was voluntary and meant that only those favourably disposed favourably to the topic (whatever their views) responded. The low response rate to the survey from solicitors and barristers is a limitation – mitigated, however, by the richness of interview data. Other possible response biases have already been mentioned.

Using dilemmas to gauge moral performance is controversial, even among neo-Kohlbergians who initiated DIT-and SJT-testing. Some theorists claim that such test only measure (at best) moral reasoning rather than overall moral performance (including likely moral behaviour in relevant situations). Other theorists are more sanguine of such testing tapping into grand 'moral schemas' and hence into more components of overall moral performance than simply reasoning skills (Kristjánsson, 2015, chap. 3).

3.6 Ethical Considerations

The Jubilee Centre for Character and Virtues is committed to conducting research of the highest ethical standards. The study received ethical approval from the University of Birmingham Ethics Committee and data was collected with strict adherence to ethical considerations.

Participants were recruited only if they met the predetermined inclusion criteria: able and willing to consent, practising member of profession or enrolled student on the LPC or BPTC, over 18 years of age, and in the UK. The research participants were fully informed of the scope and methods of the research, and what their participation in the research entailed. Participants were informed of their right to withdraw from the study without consequences. Confidentiality of all participants was ensured through the secure storage of data and the use of pseudonyms when reporting outcomes. Quotations in the report from the semi-structured interviews with individual students and practitioners are cited using an anonymous reference e.g. *Solicitor 04*. Compliance with the Data Protection Act (1998) was assured at all stages.

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Appendix 1: Participant demographic information

Number of e-survey student participants and institutions:

Starting 1 st Year LLB students			
Institution	Sept 2013 Intake	Completed responses	Response rate (%)
City University	n/a	6	n/a
University of Birmingham	499	184	36.87
University of Brighton	n/a	3	n/a
University of Hull	210	27	12.86
University of York	140	125	89.28
Total	849	345	40.64
Finishing LPC/BPTC students			
Institution	Sept 2012 Intake	Completed responses	Response rate (%)
City University	79	16	20.25
University of Law - Birmingham	350	26	7.43
University of Law - Bloomsbury	928	49	5.27
University of Law - Moorgate	639	17	2.66
	Sept 2013 Intake		
University of Glasgow	173	163	94.22
Total	2169	271	12.49

Number of survey respondents by career stage and gender:

			Career stage			
			UG students	LPC/BPTC students	Solicitors	Barristers
Gender	Female	%	69	65	52	25
	Male	%	31	35	48	75

Number of survey respondents by career stage and religion:

			Career stage			
			UG students	LPC/BPTC students	Solicitors	Barristers
Religion	Buddhism	%	0.6	3.7	0	0
	Christianity	%	42.7	34.6	56.8	46.7
	Hinduism	%	2	5.6	0	0
	Islam	%	7.6	5.6	1.5	0.7
	Judaism	%	2.3	3.7	2.3	6.7
	Sikhism	%	4.1	2.8	0.8	0
	Other	%	5.8	0	2.3	7
	None	%	34.8	43.9	36.4	39.3