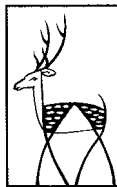# LEGAL ACADEMICS

This detailed study of the lived experience of legal academics explores not only the culture of legal academia and the professional identities of law teachers, but addresses some of the most pressing issues currently facing the discipline of law. Given the diverse nature of contemporary legal scholarship, where does the future lie? With traditional doctrinalism, socio-legal studies or critical scholarship? What does academic law have to offer its students, the legal profession and the wider society? How do legal academics 'embody' themselves as law teachers, and how does this affect the nature of the law they teach and study? In the context of the RAE, the QAA and all the other pressures facing universities, legal academics discuss the realities of contemporary legal academia in the UK.

Legal Academics

Culture and Identities

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For Tony

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Preface

Exploring the lived experience of legal academics has been a very enjoyable experience. Like many such experiences, it would not have been possible without the assistance of other people. I would, of course, particularly like to thank all the legal academics who so willingly gave up their time to talk with me, and who were so generous in answering my questions so fully.

This book would not have appeared without the support—emotional, intellectual and of every conceivable kind, which I receive on a daily basis from Tony Bradney. My debt to him is impossible to repay. The experience of living with that particular legal academic is profoundly satisfying.

I am also very grateful to Mandy Burton, who patiently read and commented on a number of draft chapters. Bela Chatterjee, Jeff Murray and Alex Mackenzie have offered enthusiastic support, and their interest in the project has been heartwarming. Bill Felstiner gave me the courage to 'take as long as it takes', thus ensuring that I worried more about the quality of my ideas than the RAE!

Mark Bell, Andy Boon, Ray Cocks, Pascal Lorber and Trevor Buck have all patiently answered my queries and supplied me with additional material. Sue Smith, specialist in Government Publications at the University of Leicester, has willingly unearthed obscure data and Jo Goacher used her administrative skills to excellent effect in the early stages of the project. I would like to thank all of those people.

I would also like to thank the Society of Legal Scholars for the grant which allowed me to go and visit, often on several occasions, the research sites which I chose. Some of the research for this book was carried out during a semester's study leave from the University of Leicester.

Finally, I would like to thank Richard Hart, for believing in a somewhat unusual 'legal' project.

<div align="right">
Fiona Cownie
Leicester, June 2003
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1

Studying Legal Academics

T HE PURPOSE OF this book is to provide an extended analysis of the 'lived experience' of legal academics teaching and researching law in English universities. By 'lived experience' I mean that I want to examine the everyday professional lives of legal academics, in order to uncover the culture of academic law as it is found in university law schools, as well as the professional identities of those who research and teach it. My investigation encompasses the attitudes of legal academics, situated in a wide range of institutions, to teaching and researching law, their perceptions of themselves as members of the academy, the extent to which the study of law permeates their lives, how they 'embody' themselves as law teachers, and how their social background, as well as their gender, affects the construction of their professional identities. It also involves exploring their views about the discipline of law itself, whether the nature of academic law is changing, and what it might look like in the future. Finally, I want to acknowledge that this 'lived experience' takes place in a particular context, that of the organisation variously called a law department, a law school, or law faculty, and within the larger organisational context of the university, which itself is affected by policies emanating from government and other national and supranational bodies.

The purpose of exploring the culture of legal academia is twofold. Firstly, it is a contribution to our knowledge of the academic profession. Clark argues that there are many reasons why '. . . the academic profession ought to arouse our curiosity and elicit serious study':

> Academics train the members of an increasing number of leading fields outside the academy; its ideas speak to economy and politics, to social order and culture; and its leading scientists produce knowledge and technique in such world-transforming fields as atomic energy, biotechnology and computerization. In so many ways, and more than before, it touches the lives of the general public. Yet, in the face of such importance, how much do we know about the development of this profession, other than in simple numerical terms?
> (Clark, 1987: 2)

Investigating academic lawyers is, then, a step towards increasing our knowledge of a profession which has hitherto been subject to remarkably little scrutiny by its members, even though they are arguably best equipped to carry out the kind of serious investigation which is called for:

Observers have long noted that academicians study everything but themselves, a remarkable failing in an estate composed of scholars and researchers devoted to the task of assisting others to understand the natural and social phenomena that make a difference in shaping the modern world. Of this we can be sure: the academic profession makes a difference. We can hardly know too much about it.
(Clark, 1987: 2)

Or, as Geertz has put it:

We know very little about what it is like, these days, to live a life centred around, or realized through, a particular sort of scholarly, or pedagogical, or creative activity. And until we know a great deal more, any attempt to pose, much less answer, large questions about the role of this or that sort of study in contemporary society—and contemporary education—is bound to break down into passionate generalities inherited from a past just about as unexamined in this regard as the present.
(Geertz, 1983: 163)

In finding out more about academic lawyers, my second objective is to discover more about the discipline of law itself. In doing so, I am making a contribution to what Becher (1989), following Geertz (1976), has called 'an ethnography of the disciplines'. This enterprise calls for detailed qualitative studies of all academic disciplines, in order to contribute to our knowledge of the higher education system and the way it functions. The discipline, says Clark, is the 'primary going concern' of higher education (1983: 76); it is also the 'dominant force' in the working lives of academics (1983: 30). In order to better understand higher education, he argues, we need to better understand the disciplines:

It is around the formidable array of specific subjects, and their self-generating and autonomous tendencies that higher education becomes something unique, to be first understood in its own terms . . . Field by field, the academic search for progress leads to alternative interpretations of the world . . . Knowledge will remain a divided and imperfect substance. In its fissions and fusions we come closest to a root cause of the many odd ways of the higher education system.
(Clark, 1983: 276)

By examining the everyday lives of legal academics, their attitudes towards, and beliefs about, teaching, research and administration, their contacts with colleagues in other institutions and (occasional) conference attendance, I want to question what this tells us about academic law. Do we teach in a certain way? What are we trying to do when we are teaching our students? What are the criteria we use when deciding what to research? What are the qualities of a 'good' academic lawyer? What do the answers to these questions tell us about our beliefs about the nature of law itself?

It was Trow who pointed out that:

By far the greatest part of what is said in print about higher education is directed towards its public life, and toward decisions that involve agencies outside the colleges and universities—decisions about the size of the system, its costs, governance, and the

like. The private life of education is what actually happens in the classrooms, the libraries, the laboratories, at the desks and in the offices—the moment-by-moment-, day-to-day activities of teachers and students engaged in teaching and learning. (Trow, 1975: 113)

When research into the private life of the university is focused on one particular discipline, it can tell us much about the ways in which academics construct that discipline, their perceptions of its intellectual and political strengths and weaknesses, what qualities are valued in those who are recognized as experts, or achieve high status. By exploring the perceptions, views and attitudes of legal academics, I aim to contribute to debates about the nature of academic law, its place in the academy, its epistemology and its future development. One can also form views about the nature of law schools, the kinds of values they are transmitting, and their potential for producing cultivated human beings and/or potentially desirable employees. On a more pragmatic level, knowledge about specific disciplines can also inform policy-making, making it more responsive and effective, enabling policy-makers to understand the complexities of the higher education system, and undermine '. . . the crudely naïve assumptions . . .' which they may otherwise make (Becher, 1991: 130).

Agreeing with Bourdieu (1988) that the academy is a site of power, I would also argue that the ways in which legal academic careers are made, defended and destroyed have far-reaching consequences, in terms, for example, of the research which is carried out, that which is valued and that which is given little attention, that which attracts large numbers of younger scholars, and that which is left to the 'maverick'. Thus, academic careers have profound effects upon what makes up 'the academic discipline of law'. In addition, although some have argued that the characteristics imported into the academic profession by individual members from their personal background and prior experiences are unimportant (Clark, 1987: 107), I would accept Huber's argument that academic disciplines cannot be understood without taking into account social factors, since '. . . there are traits associated with disciplinary cultures which cannot plausibly be connected only with the epistemological characteristics of knowledge domains' (1990: 243). Social factors, such as class and gender, also play important roles in shaping the careers of legal academics, while the ways in which law teachers 'embody' themselves, to students and to others, both inside and outside the academy, provides further evidence of their attitudes and values, and the ways in which they construct their professional identities. In terms of teaching, the choices which law teachers make about the subjects which are offered on the law syllabus and the ways in which they are taught will influence generations of law students, while law teachers' relationships with others in the academy, as well as with the legal profession and others outside the academy, are also likely to contribute to the shape of legal studies in the future.

I would therefore agree with Valimaa (1998: 126) that 'it is both theoretically and empirically controversial to use disciplinary cultures as the sole explanatory factor of academic behaviour.' Thus, I would argue that in studying the culture

of a specific discipline it is important to acknowledge the influence of the 'micro' level of personal identity, of class and gender, of location in a particular type of institution, and a particular type of department, upon the professional lives of individual legal academics, as well as the 'macro' level of national policies, emanating both from government and elsewhere (Knorr-Cetina and Cicourel, 1981). I have therefore used the concepts of 'culture' and 'identity' to indicate that I aim to provide an understanding of the whole range of what Sally Falk-Moore (1978), in another context, called the 'semi-autonomous legal fields' which go to make up the picture as a whole—in this case, the range of different influences upon the lives of individual legal academics which overlap and interact with each other in the complex mesh which makes up their professional identity of 'legal academic' as it is lived out in the university law school, and what this means for the academic discipline of law.

<div align="center">'CULTURE' AND 'IDENTITY'</div>

In taking account of both the 'macro' and the 'micro' influences on legal academics, I am thus exploring the culture of legal academia as it is constructed and experienced by academic lawyers. Influences external to individuals—the department, the institution, and the society in which they are situated—will clearly influence, to varying extents, that culture. Yet the individual professional identities which are forged by and within that culture are also of considerable interest when trying to understand how legal academia works out. Henkel argues that,

> . . . the concept of identity itself has been of central symbolic and instrumental significance both in the lives of individual academics and in the workings of the academic profession . . . Traditional academic reward systems reflect the cultivation of an institutionalised individual within a community of peers.
> (Henkel, 2000: 13)

Key to understanding legal academia, therefore, is the interplay between the culture of the discipline as a whole, and the individual academic identities forged within that culture.

These two concepts, 'culture' and 'identity,' are thus central to my analysis, and I agree with Alvesson that when using such concepts, '. . . a well-elaborated framework and a vocabulary in which core concepts . . . are sorted out, is necessary for understanding . . .' (2002:1). In the sections which follow, therefore, I set out the theoretical basis of my study, indicating the ways in which these fundamental concepts will be used to explore the 'private life' of legal academia.

'CULTURE'

Raymond Williams, one of the founding fathers of cultural studies, famously describes culture as 'one of the two or three most complicated words in the English language' (1983: 87). The concept of culture is one that has proved useful to researchers from a wide range of disciplines across the arts and social sciences. However, the very flexibility of the notion of culture, wherein lies its broad appeal, can also prove its undoing. As Alvesson notes: 'Many people referring to culture seem to do so in a very vague way and it is important to use the concept without losing focus, direction and interpretative depth' (2002: 3).

In *The Idea of Culture* (2000) Terry Eagleton argues that:

> It is hard to resist the conclusion that the word 'culture' is both too broad and too narrow to be greatly useful. Its anthropological meaning covers everything from hairstyles and drinking habits to how to address your husband's second cousin, while the aesthetic sense of the word covers Igor Stravinsky but not science fiction. Science fiction belongs to 'mass' or popular culture, which floats ambiguously between the anthropological and the aesthetic. Conversely, one can see the aesthetic meaning as too nebulous and the anthropological one as too cramping. The Arnoldian sense of culture as perfection, sweetness and light, the best that has been thought and said, seeing the object as it really is and so on, is embarrassingly imprecise, whereas if culture just signifies the way of life of Turkish physiotherapists then it seems uncomfortably specific.
> (Eagleton, 2000: 32)

'Culture' then, is not an easy concept to deal with, but, as Bauman argues, it is the very ambiguity of the concept which makes it '. . . such a fruitful and enduring tool of perception and thought' (Bauman, 1999: xiv).

In saying that I wish to explore the 'culture' of university law schools, I am drawing on ideas of culture developed in a number of different disciplines, but primarily in cultural anthropology and organisation studies. 'Culture' is a slippery concept, even for anthropologists; Geertz (1975: 4) notes that in the first twenty-seven pages of a chapter on the concept of culture, Kluckhohn defined culture in eleven different ways, including 'the social legacy the individual acquires from his group,' 'the total way of life of a people,' 'learned behaviour,' 'a way of thinking, feeling and believing,' and 'a storehouse of pooled learning'. In his own anthropological research Geertz himself espoused a concept of culture which he described as essentially a semiotic one:

> Believing, with Max Weber, that man is an animal suspended in webs of significance he himself has spun, I take culture to be those webs, and the analysis of it to be therefore not an experimental science in search of law but an interpretative one in search of meaning. It is explanation I am after, construing social expressions on their surface enigmatical.
> (Geertz, 1975: 5)

One of Geertz's main contributions, in his theoretical analysis of the idea of culture (the concept around which the whole discipline of anthropology arose) is his emphasis upon Gilbert Ryle's idea of 'thick description' (1975: 6). Seeing a boy rapidly contracting the eyelid of his right eye, to engage in 'thick description' is to be able to interpret that gesture not just as a wink, but as 'a boy practising a burlesque of a friend faking a wink to deceive an innocent into thinking a conspiracy is in motion'. Analysis involves 'sorting out the structures of signification . . . and determining their social ground and import' (1975: 10):

> What the ethnographer is in fact faced with . . . is a multiplicity of complex conceptual structures, many of them superimposed upon or knotted into one another, which are at once strange, irregular and inexplicit, and which he must strive first to grasp and then to render. (Geertz, 1975: 10)

In terms of a qualitative study of legal academics, this approach does indeed involve 'making the familiar strange' (Delamont 1996: 147), having sufficient sensitivity to professional practices, common assumptions and taken-for-granted behaviour firstly to notice, and then to interpret, what is talked about and done. Culture, viewed in this way, is not a structure, but a continual process of 'becoming' (Billington et al, 1991: 29).

In taking this approach in the particular context of universities, which are, in some senses, organisations, I am also drawing on work carried out in organisation studies, and in particular by Mats Alvesson, who has written extensively about the culture of organisations (1993, 2002; Alvesson and Billing, 1997). Alvesson writes that culture can be understood '. . . as a theoretical tool for developing sensitivity for differentiation, inconsistency, confusion, conflict and contradiction' (1993: 120). He argues that in order to take as many dimensions of organisational culture as possible it is necessary to incorporate multiple perspectives into research:

> The perspective I am proposing can be called a multiple cultural configuration view. It assumes that organisations can be understood as shaping local versions of broader societal and locally developed cultural manifestations in a multitude of ways. Organisational cultures are then understandable not as unitary wholes or stable sets of subcultures, but as mixtures of cultural manifestations of different levels and kinds. People are connected to different degrees with organisations, subcultural units, profession, gender, class, ethnic group, nation, etc; cultures overlap in an organisational setting and are rarely manifested in pure form. It is especially important to keep in mind the existence of cultural traffic—that organisations are not cultural islands, but are affected by the societal culture.
> (Alvesson, 1993: 118)

As Sackmann et al (1997) have noted, this interpretative approach falls within a naturalistic paradigm, which assumes not only that reality is socially constructed, but that it is multiple (1997: 25). Along with researchers working on organisational culture, I find the definition of culture put forward by Sackmann et al, while not ideal, useful in encapsulating my approach:

> The core of culture is composed of explicit and tacit assumptions or understandings commonly held by a group of people; a particular configuration of assumptions and understandings is distinctive to the group; these assumptions and understandings serve as guides to acceptable and unacceptable perceptions, thoughts, feelings and behaviours; they are learned and passed on to new members of the group through social interaction; and culture is dynamic—it changes over time, although the tacit assumptions that are the core of culture are most resistant to change.
> (Sackmann et al, 1997: 25)

Culture, then, is about beliefs, values and customs (Billington et al, 1991: 4). In terms of studying legal academics it involves paying attention to the way people live their lives in law schools, focusing on the norms and values which they share *because* they are legal academics.

The Cultural Approach to Researching Higher Education

My interest in culture is not, for present purposes, a general one. I am interested in the culture of academic law, in uncovering the assumptions and understandings of academic lawyers about their professional expertise, and in their attitudes and behaviours. Examination of the academy has long been the concern of researchers in the field of higher education studies, and there is now a body of literature about various aspects of the professional lives of academics, much of which can be found in specialist academic journals such as *Studies in Higher Education, Higher Education Review, Higher Education in Europe* and so on. Tight (2002) has identified seventeen specialist higher education academic journals published in the English language outside America, many of which contain material relevant to the current study, which is referred to in later chapters. In addition, there are substantial numbers of monographs, ranging from those which are concerned with the nature of the academic profession as a whole (such as Halsey's *Decline of Donnish Dominion*, 1992) to those whose concern is with a particular aspect of academic life, whether it is teaching (Andre and Frost, *Researchers Hooked on Teaching,* 1997) or the place of women in the academy (Brooks, *Academic Women*, 1997). Again, these are referred to throughout this book, when it is relevant to do so. However, the vast majority of this literature is general in nature, in the sense that it is concerned with exploring aspects of academic life as it is lived by all members of the academy. To date, no extended study of academic lawyers has been published (Becher and Trowler, 2001: 53).

In the field of higher education studies, the idea of an 'academic culture' as a tool of analysis, as it has been developed by European researchers, is rooted in CP Snow's discussion of the two academic cultures of arts and sciences, antithetical and unable to communicate with each other (1959). Snow's discussion has been described as '. . . a landmark in the development of the cultural understanding of higher education, because it promoted an interest in higher education consisting of cultural entities' (Valimaa, 1998: 123). Among those who have

adopted what Valimaa has called 'the cultural approach' to the study of higher education, the work of Tony Becher stands out as seminal. Indeed, the inspiration for this book came originally from my reading of his work, in particular *Academic Tribes and Territories* (1989). This study, which has been described as having '. . . many of the attributes that enable a study to become a classic in its field' (Williams, 1990: 352) has made an outstanding contribution to the qualitative examination of higher education. Becher's thesis was that '. . . the ways in which particular groups of academics organize their professional lives are intimately related to the intellectual tasks in which they are engaged' (1989: 1). In other words, his interest lay in exploring the academic culture of different disciplines, to see whether the discipline to which academics belonged affected their attitudes, behaviour and way of thinking.

Between 1980 and 1987, Becher gathered data from interviews with academics in twelve different disciplines (including law) (1989: 175). In each case, he started by exploring the characteristics of the discipline itself, its specialisms, its nearest intellectual neighbours. Next he moved on to epistemological matters, including the role of theory, the importance of specialised techniques and so on. His third area of interest was career patterns, including questions about how new members were inducted into the discipline and how specialisms were chosen. This was followed by questions about reputations and rewards, such as the criteria for professional recognition, terms of praise and blame, and prizes and other marks of distinction. Becher also looked at professional activity: forms and rates of publication, the structure of personal networks, the extent of teamwork. Finally, he explored his respondents' value-systems, the extent of their involvement in their work, the aspects of their jobs which they considered particularly rewarding or unrewarding and their stereotypes of fellow practitioners and of those in other disciplines (1989: 2). From Becher's work emerges a comprehensive overview of a range of disciplines situated in contemporary universities. His book, now in its second edition (Becher and Trowler, 2001) is a rich source of information about how academics belonging to different disciplines think, how they organise their research and their careers, their publication practices and their views of themselves and of other inhabitants of the 'academic territory'.

However, although Becher has explored many different aspects of contemporary academia, one of the necessary limitations of his work was that in dealing with twelve different academic disciplines, there was clearly a limit to the extent of his analysis in relation to any one of his chosen subjects. Becher himself suggested that,

> much more remains to be done in the way of a systematic study of the nature of knowledge fields and the cultural aspects of the communities engaged in their exploration . . . The understanding of each of the 12 disciplines could also be given greater dimensionality and depth by pursuing the type of close observation suggested by Geertz (1976) in his prospectus for 'an ethnography of the disciplines' and adopted by Evans (1988) in his study of modern linguists.
> (Becher 1989: 179)

The project to create 'an ethnography of the disciplines' is one which has been notably ignored by the majority of higher education researchers, a fact which Becher himself comments on in later work which looks at unexploited opportunities for research on higher education (1991). Becher speculates that the reason for this may be (a) because this area lacks the 'authoritative sweep' of policy-centred research (which is a strong field within higher education studies) and (b) because it calls for particularly demanding and time-consuming fieldwork (1991: 123). However, he goes on to make a strong case for the value of what he terms 'meso-qualitative' research, emphasising not only that it can contribute to our knowledge of the higher education system and our understanding of the way in which it functions, but also the more utilitarian contribution such research can make to the development of higher education policy (1991: 130, 131). A central aim of my research, then, is to build on Becher's work, and thus contribute to the creation of 'an ethnography of the disciplines'. The study reported here aims to uncover the complexity of the discipline of law as it is taught and researched in contemporary universities, not just in an effort to communicate with policy-makers, but as an attempt to reveal aspects of the nature of the academic study of law which do not lend themselves to examination by other more traditional methods of enquiry.

Using the Cultural Approach to Study Academic Law

In exploring the nature of academic law, my perspective is, however, slightly different from Becher's in that I am less concerned with the disciplinary epistemology which fascinated him so much, and more with the nature of the professional identities of academic lawyers. Becher's main interest lay with the disciplines themselves, and the interplay between people and ideas, though in the second edition of *Academic Tribes and Territories*, more attention is paid to changes in the higher education system, to the effects of increasing regulation and managerialism and to the variety of institutions encompassed within the higher education system (Becher and Trowler, 2001: ch 1). It is noticeable, however, that even in the later edition, Becher and Trowler do not give equal amounts of attention to all aspects of disciplinary culture, preferring instead to '. . . give sustained attention to one among a number of structural factors which have differential, and fluctuating, degrees of cultural influence' (2001: 25). It was also, as the authors' comment 'a self-imposed limitation' of the original empirical research upon which Becher based his study, that it did not enquire into the lives of respondents as private individuals (2001: 147), and although in the second edition of the book there is discussion of the effects of gender and ethnicity on academic careers, the exploration of more personal matters, and their relationship to the formation of professional identities, is far from extensive.

Among those who have taken up the challenge to create an ethnography of the disciplines, the work of Colin Evans is particularly important. He has

written two extended studies in this genre: *Language People* (1988) and *English People* (1993). These are qualitative studies, concerned with the disciplines of modern languages and English respectively. Evans' approach differs from Becher's, in that he characterises his primary aim as being to explore 'the lived experience of a group of people' (1988:1). He is thus much more concerned than Becher with aspects of his respondents' identities—the fact that many staff in modern language departments had entered into cross-cultural marriages, for example (1988: 83), or the effect of gender on academic careers (1988: 150–56; 1993: 115–26). My approach is in some ways closer to that of Evans, though unlike his work on 'language people' I am not at this stage concerned with exploring the student experience of involvement with a discipline.

The work of Becher and Evans, therefore, has been influential in providing a stimulus, and to some extent, a model, for my work. In general, however, contributions to this genre of research are hard to find, so that, as Delamont says, '. . . there is today no solid body of data on the ethnography of higher education and few attempts to study the occupational cultures of those who work in higher education . . .'(1996:146). Becher and Trowler (2001: 52) refer to a small number of studies of particular disciplines, noting that physics has been the most popular area for study, while other scientific disciplines remain relatively unexplored. The social sciences and humanities, and particularly the discipline of law, are in terms of disciplinary ethnography, they note, relatively uncharted waters. The culture of academic law is therefore an area which is likely to repay extended investigation.

Toma argues that the work of legal academics takes place in at least four cultures concurrently; they are: the academic profession, the academy as an organisation, the discipline and the institution type. To these he would add the paradigm (ie the perspective—doctrinal, socio-legal, critical legal, feminist and so on). 'Like other components of faculty culture, paradigms represent deeply incorporated assumptions and values that guide behaviour among faculty' (1997: 682). In examining the lived experience of academic lawyers, I have engaged with all of these. In addition, I agree with Valimaa that in order to fully understand a culture, it is important to consider the professional identities of the academics who inhabit it (1998: 131). I have therefore considered not only legal academic culture, but legal academic identities. This approach also enables me to take seriously Alvesson's idea of 'multiple cultural configuration' (1993: 118).

<div style="text-align:center">'IDENTITY'</div>

'Identity' refers to the ways in which individuals and collectivities are distinguished in their social relations with other individuals and collectivities. It is the systematic establishment and signification of similarity and difference between those entities. In relation to individuals, identity is our understanding of who we are are and who other people are, as well as other people's understanding of

themselves and others (Jenkins, 1996: 4–5). If we accept the interactionist premise that our sense of self is socially constructed, then the linking of culture and identity becomes clear—our culture is an important influence upon the way in which we think of ourselves. Our identities are constructed in '. . . specific historic and institutional sites, within specific discursive formations and practices, by specific enunciative strategies' (Hall, 1996: 4).

Just as 'culture' is a complex and contentious concept, so is 'identity'. As Stuart Hall says: 'There has been a veritable discursive explosion in recent years around the concept of identity . . .' (1996: 1). For Giddens, for example, identity is a distinctively modern project within which individuals can reflexively construct a personal narrative which allows them to understand themselves as in control of their lives and futures (1991). The postmodern contribution to the debate on identity emphasises its fluidity, and the way in which individuals are fragmented into a number of selves, so that different 'selves' may emerge in different contexts. Much of the postmodern critique of identity has centred on dissatisfaction with the notion of an integral, unified identity. Anti-essentialist critiques of ethnic, racial, class and national identity are of considerable importance here, as well as postmodern analyses of the endlessly performative self (Butler, 1999). Acknowledging the strength of these critiques, Hall nevertheless argues that the concept of identity should not be abandoned, but it should be reconceptualised as a question of 'identification':

> In common sense language, identification is constructed on the back of a recognition of some common origin or shared characteristics with another person or group, or with an ideal, and with the natural closure of solidarity and allegiance established on this foundation. In contrast with the 'naturalism' of this definition, the discursive approach sees identification as a construction, a process never completed—always 'in process' . . . Though not without its determinate conditions of existence, including the material and symbolic resources required to sustain it, identification is in the end conditional, lodged in contingency.
> (Hall, 1996: 2)

One of Hall's key points, then, is that identities are never unified, but always fragmented and multiple. Since individuals have multiple identities, they may differ in their relative significance in different situations. This is as true of their professional identity as 'academic lawyer' as it is of other aspects of their identity. Although many academic lawyers would no doubt conceive of their professional identities as relatively stable entities, reflecting clearly defined values, attitudes and so on, this perception is deceptive. Writers such as Hall would argue that professional identity depends very much on the context in which the individual is embedded.

In conceptualising the task of exploring the professional identity of academic lawyers, in addition to the theoretical insights just discussed, the work of Erving Goffman has also proved useful, especially the dramaturgical approach he first put forward in *The Presentation of Self in Everyday Life* (1990). Goffman's great achievement was to make us think again about everyday behaviour within a

framework of the analysis of social interaction. He 'possessed an extraordinary ability to appreciate the subtle importance of apparently insignificant layers of everyday conduct' (Manning, 1992: 3). Goffman talks of the 'performance' which an individual puts on in his or her interactions with others. An individual uses a range of expressive equipment to achieve a performance; this includes the setting (furniture, décor, etc) and the 'personal front,' made up of appearance, such as clothing, gender, age, racial characteristics, speech patterns, posture, facial expressions and manner, which may be meek, haughty, aggressive, conciliatory, etc. An individual can give a range of performances on the basis of this personal front. Performances tend to be 'idealised,' that is to say they may be modified to fit in with the expectations of the society in which they are presented, which may involve concealing action which is inconsistent with those expectations. Fronts add dramatic realization to performances; they help performers convey everything they wish to convey in any given interaction (Goffman, 1990: ch 1). As a comprehensive account of everyday life, Goffman's dramaturgical perspective is inadequate; but it is a very useful metaphor, which clearly points to the types of factors to take into account when examining professional identity (Manning, 1992: 54). Goffman's work can clearly be related to Giddens' conception of the 'reflexive project' of the self in modernity, and the way in which he conceptualises individuals as continuously engaged in 'a practised art of self-observation' (1991: 75–76). It is also possible, without doing undue violence to the original concepts, to relate Goffman's work to postmodern ideas of the fragmentation of the self.

Professional Identity

In relation to identity, just as with culture, it is important to keep in mind the 'macro,' as well as the 'micro'. As Giddens has pointed out, modernity must be understood at a 'macro,' institutional level, but 'the transmutations introduced by modern institutions interlace in a direct way with individual life and therefore with the self' (1991: 1). In this context, the work of Bourdieu is especially useful. Bourdieu was concerned with what individuals do in their daily lives, but was emphatic that social practice cannot be understood either solely in terms of individual decision-making, or solely in terms of social structures. He used the notion of 'habitus' to bridge these two ideas. 'Habitus' in the sense of a habitual or typical condition, only exists in and because of the practices of actors and their interaction with each other and with the rest of their environment; it consists of sets of dispositions (attitudes, 'taste,' linguistic and bodily traits—ways of talking, moving, making things, and so on). Habitus, embodied as 'hexis,' combines the individual (the personal) with the systematic (the social). It is the mediating link between individuals' subjective worlds and the cultural worlds which they share with others. (Bourdieu, 1977; Jenkins, 1996: 74–84). Bourdieu's notion of habitus has been criticised for being too deterministic,