

# **Some observations on meritocracy and the Law: the profile of pupil barristers at the Bar of England and Wales 2004 – 2008**

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## **Executive Summary**

1. The Bar compares favourably to population comparators with regards to ethnicity and gender.
2. The Bar is, however, also socially less diverse than the university population at large in terms of the representation of pupils from lower social-class origins and the proportion graduating from different universities.
3. Among pupils, attainment factors are the largest predictor of earnings, employment location and employment status. High attainment and an Oxbridge education are related to high earnings, opting for self-employment and for working in London. While the earnings pattern is compatible with the meritocratic paradigm, the employment status pattern may raise some questions regarding whether barristers in employed and self-employed practice are of the same academic calibre. There also appears to be some brain-drain away from the regional Bar to London, although this issue may not be a unique challenge to the Bar but might be apparent in other professional employment sectors.
4. Social origin factors play a role in influencing earnings, employment status and location that is not explained by the prior impact of Origin on educational attainment. Women and those older than 25 earn significantly less during pupillage. Women, those older than 25 and those with a disability are more likely to join the employed Bar. Those who are older than 25 and ethnic minorities are less likely to be outside of London.
5. Overall, the allocation of earnings, employment status and employment location among pupil barristers seems broadly but not completely compatible with allocation based purely on merit as educational attainment.

## Summary

This article investigates the social profile of pupil (trainee) barristers at the legal Bar of England and Wales between 2004 and 2008. The multi-variate statistical analysis is based on the annual ‘Pupillage Survey’ (n = 1,935) administered by the Bar Standards Board. We compare barristers with other professionals, and pupils with other university graduates. We describe the profile of pupils in terms of their ethnicity, gender, class and age and show how these factors are related to education factors such as the university attended; earnings during pupillage; type of pupillage (employment or chambers); and the place of pupillage (London or outside). We conclude that the Bar compares favourably to other professions on measures such as gender and ethnicity. There would be, however, scope for further widening participation the Bar was to represent the population of highly educated individuals in proportion to the population and when comparing pupils with other university graduates on e.g. the representation of those from working class backgrounds. While education factors such as degree class, university attended and performance on the Bar Vocational Course are the strongest predictors of earnings, employment status and location, residual effects of origin characteristics remain. Women and older pupils are less likely to earn highly and gender and disability are related to opting for employment over self-employment.

**Keywords:** equal opportunities, merit, barristers, legal careers, legal education, educational attainment, professions, self-employment, earnings.

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## Introduction

Barristers have been providing expert advice and advocacy since the thirteenth century and are one of the oldest professions in England and Wales. For many years they had a monopoly on the right to represent people in the higher courts. Their advocacy monopoly has gone, owing to the introduction of solicitor-advocates (Courts and Legal Services Act 1990, 27), and court room drama has been diminished with wigs and gowns disappearing in some courts (Bar Council 2009). Nonetheless, the legal Bar remains a quintessentially English institution recognised, imitated and frequently admired throughout the world (Gillespie 2007, p. 12; Western Australian Bar Association 2009). Barristers also continue to be ranked as the highest status profession for males<sup>1</sup>.

This article is about pupil barristers. They are trainee barristers in the final practical stage of their legal education, who aspire to form the next generation of this ancient profession. Who they are matters broadly on three counts. First, the nature of British legal work means that court room negotiations, influenced by the profile and experience barristers and judges bring to a case, not only affect current cases but also set precedents for future legal frameworks. Second, the 21st century Bar is presenting itself as the archetypal meritocratic profession, with entry and career progression determined only by ability and advocacy skills, and not by social background, networks or socialisation (Entry to the Bar Working Party 2007, Judicial Appointments 2009). With some caveats, the profile of pupil barristers can thus be used as indicative of the actual extent of meritocracy in relation to the Bar. Finally, as one of the professions recently represented in the government's Panel on Fair Access to the Professions, the Bar is also recognised as an aspiration setting profession, that is, the profile of practitioners might shape aspirations for what kind of person can become a successful professional in Britain in the 21st century with implications beyond the legal world (The Panel on Fair Access to the Professions 2009).

This article aims to contribute to an understanding of the profile of barristers and to give some indication of the prevalence of meritocracy in relation to pupillage earnings, pupillage employment status and pupillage location. Given the stakes British society has in the Bar, it is perhaps surprising that we have little in-depth information about those who aspire to become barristers and those who are successful in their quest. Beyond aggregate numbers of minorities and women in the profession, we do not know their social class origin; where pupils undertook their university education or Bar training; their attainment records; or where they practice. More specifically, this article is the first to use individual level data to investigate intersectionalities between social origin, measures of educational attainment and outcomes at the Bar. We will focus on four research questions. The first descriptive question investigates what the profile of pupil barristers is and how this compares with general population comparators. Three further questions regarding employment status, locality and earnings are investigated using multivariate analyses: Do those who join the employed Bar differ from those training for the self-employed Bar in Chambers? Are barristers different in the legal hub of London – ‘the City’ – from barristers in other

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<sup>1</sup> In the Cambridge class scale, being a barrister is the most prestigious occupation among male British workers and the fourth most prestigious among females. **Bottero, W.** 2005 *Stratification: Social Division and Inequality*, Oxford: Routledge.

parts of England and Wales? And, finally, are pupillage earnings influenced by social background characteristics? We use the framework of merit selection as the overarching way to frame these research questions.

The article first reviews theoretical work on meritocracy. We then describe training for the Bar, empirical work on meritocracy, and discuss our research hypotheses. This is followed by an account of our data and methods. The results section presents the empirical findings from four years of the Bar pupillage survey (2004-2008). We conclude with a discussion of our findings in the light of our research limitations and current debates.

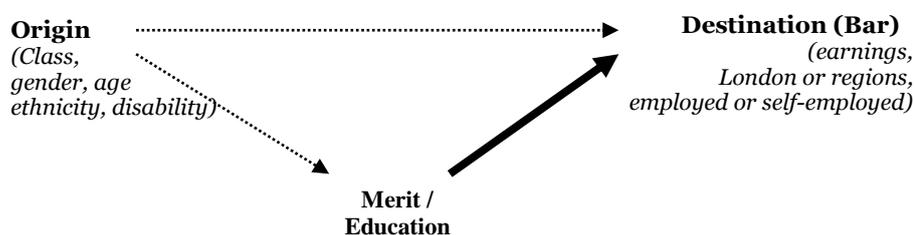
## Literature Review

### Merit selection

One seminal question regarding entry to the Bar and other elite professions is the prevalence of merit selection or meritocracy. In a meritocracy, it is considered unfair if an individual's chances of success are unduly influenced by factors outside their control. This refers primarily to ascribed characteristics such as social class of origin, ethnicity, disability or gender. Both career entry and career progression should only be influenced by individuals' merit.

The idea of merit selection is frequently represented as a triangle consisting of Origin, Merit / Education and Destination (see Figure 1 and Blau and Duncan 1967; Breen and Goldthorpe 2001; Halsey, et al. 1980; Zimdars 2006). In the triangle, a direct, unmediated link between Origin and Destination is considered unfair and replaced by the link between Merit and Destination. The latter is largely considered a fair or meritocratic way of selecting individuals into employment and promotions.

**Figure 1: The link between Origin and Destination mediated by Merit / Education**



The triangle also shows, however, that if there is a strong link between Origin and Merit / Education, then the meritocracy is at best a weak or 'surface meritocracy' (Turner 1966). This would not, overall, lead to a disappearance of the Origin and Destination link but the effect would be mediated through merit<sup>2</sup>.

<sup>2</sup> Even if there were no links between Origin and Merit, there would still be conceptual challenges to the meritocratic model. These discussions are outside the scope of this article – interested readers are

It has, furthermore, been said that whereas ‘everyone agrees that applicants should be chosen on merit: the problem arises when we try to define it.’ (Schwartz Commission Report 2004, p. 2). Merit shares with other wide-reaching ideas the characteristic of being an essentially contested concept, which involves endless disputes about its proper uses on the part of its users (Freeden 2003; Gallie 1956; Young 2001). For ease of measurement and targeting policy interventions, merit has often become synonymous with educational attainment (Jackson, et al. 2007; Saunders 1995). This arguably narrow definition of merit is also the approach taken in this article: our subsequent analysis of earnings in particular will investigate what the link between Origin and Destination is, taking into account Merit as measured by prior educational attainment. This approach is not to deny that for success at the Bar, one needs more than educational credentials – flair, advocacy skills, confidence, the ‘X-factor’ (see also Jackson 2001; Rogers 2009). These unmeasured skills might, however, in turn be related to Origin.

But first, it seems prudent to offer some description of the training for the legal Bar in England and Wales. This will facilitate the development of hypotheses regarding how we would expect Origin and Merit to influence entry to the Bar as a destination in our empirical investigation.

### **Training for the Bar in England and Wales**

Becoming a barrister in England and Wales has been described as lengthy and expensive. The shortest route to practice is five years of full-time, post-secondary training. This comprises four years of academic study – a three year law degree and a one year specialist training course for the Bar, the Bar Vocational course (BVC). This academic stage of training is followed by a minimum of 12 months of practical training (pupillage) under the supervision of qualified practicing barristers. A law degree in England and Wales is currently priced at the same rate as any other degree and charged uniformly across different universities. In 2009, for example, the course fee for an undergraduate degree was £3,225 per annum<sup>3</sup>. The BVC is offered by private providers and charges fees in the region of £10,000<sup>4</sup>. Since 2003, pupillage is funded by a minimum of £10,000 per annum per pupillage. Entry to pupillage is highly competitive - fewer than one in four BVC graduates were successful in

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referred to **Marshall, G. and Swift, A.** 1993 'Social-Class and Social-Justice', *British Journal of Sociology* 44(2): 187-211, **Marshall, G., Swift, A. and Roberts, S.** 1997 *Against the odds? : social class and social justice in industrial societies*, Oxford: Clarendon Press, **Sen, A.** 2000 'Merit and Justice', in K. J. Arrow, S. Bowles and S. N. Durlauf (eds) *Meritocracy and Economic Inequality*, Princeton: Princeton University Press, **Zimdars, A.** 2007 'Challenges to Meritocracy? A study of the social mechanisms in student selection and attainment at the University of Oxford' *Department of Sociology*, Vol. DPhil: Oxford.

<sup>3</sup> Tuition fees were introduced in the UK in 1998. Initially, the charge was £1,000 per annum (plus inflation) but this was increased to £3,000 per annum (plus inflation) in 2006. The figures are for home students, that is British or European students only.

<sup>4</sup> Course fees vary – for example, in 2008/9 the BVC at Manchester Metropolitan University cost £7,650 whereas BPP London charged £13,900.

obtaining pupillage between 2004-2008<sup>5</sup>. Completion of internships (mini-pupillage) in Chambers and success in advocacy competitions can increase the chances of gaining pupillage.

In contrast to legal training in continental European countries, it is not necessary to have studied law as an undergraduate degree in order to become a barrister. About 40 per cent of pupil barristers between 2004 and 2008 entered pupillage with an undergraduate degree in a subject other than law. For those students, the time to qualification is increased by the equivalent of one year's full-time study during which students take a law conversion course. Fees for this course are in the region of £7,000. The majority of aspiring barristers are self-funded for their BVC and, where applicable, law conversion courses<sup>6</sup>.

Barristers are, furthermore, an unusual profession in terms of employment status and regional concentration. Unlike other legal professionals such as solicitors and judges, who are largely employed, the barrister profession has historically favoured self-employment. The emergence of employed barristers is a relatively recent phenomenon (Senate of Inns of Court and Bar Confidential 1974) and they remain a minority of practitioners. In 2008, about 80 per cent of barristers, that is 12,136 individuals-were in self-employed practice, with the remaining 20 per cent - 3,046 barristers - in employed practice (Bar Council, 2008, Tables 1 and 2). Another particularity of the legal Bar is its geographic concentration in London. More than 63 per cent of self-employed barristers are based in the capital with a minority of 37 per cent of self-employed barristers in England and Wales practicing outside London (Bar Council, 2008, Table 5). This is a strong regional concentration, as only about one fifth of all professional class employment in the UK is based in London (SAR 2001, see analysis in Table 1).

In sum then, training for the Bar has accurately been described as lengthy and expensive. While the length and expense of becoming a barrister in England and Wales neither compares badly internationally<sup>7</sup> nor with other professional occupations in the UK<sup>8</sup>, the lengths and costs of training as well as the regional concentration of barristers in London and the prevalence of self-employment are likely to have implications for the Origin profile of those joining the barrister profession. We will now discuss these expected implications for the composition of pupil barristers in the light of previous research on Origins and Destinations.

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<sup>5</sup> Not all BVC graduates choose to apply for pupillage in the UK – about a quarter of BVC graduates are non-UK citizens and many of them aspire to practice overseas.

<sup>6</sup> Limited funding available from the Inns of Court for the BVC and, in exceptional cases, for the law conversion course and the Crown Prosecution Service can also help with costs of training for aspiring employed barristers. Some student loans are also available.

<sup>7</sup> Such a comparison shows that the length and costs of legal training are not exceptional. For example, in Germany, the minimum time to qualification is six years of post-secondary study and in the US it is seven years. Also, conversion routes for non-law graduates are unusual – neither Germany nor the US allows for a fast-track conversion route that shortens legal training.

<sup>8</sup> For a medical doctor to become fully qualified as a specialist, at least 11 years of training pass; university teachers undertake a minimum of seven years of training; and teachers and pharmacists undertake at least four years of training. The costs of training are more difficult to compare.

## Social Implications

This section discusses expectations regarding the composition of entrants to the Bar by drawing on empirical research on the three sides of the triangle: the Origin-Merit link, the Merit-Destination and the Origin-Destination link. The standard canon of literature from the educational attainment, labour market entry and social mobility literature is complemented by consideration of the special characteristics of the Bar with regards to self-employment and regional concentration.

### Origin and Merit

Regarding the link between Origin and Merit, we expect limited impacts of some, but not all, social background factors on previous educational attainment of pupil barristers. We would not expect to see any gender effects on attainment, as women have achieved parity or even out-performed men in secondary and tertiary education (National Statistics 2006). Other inequalities such as social class have been more persistent and in population studies we would expect to see at least some effects of class of origin on Merit as Education (e.g. Baumert, et al. 2006)<sup>9</sup>. This inequality is increasingly less of a quantitative nature regarding the length of education an individual enjoys (Raftery and Hout 1993) but instead about qualitative differences in the educational experience (Brint and Karabel 1989; Lucas 2001). For example, the higher education system in the UK is stratified with the Universities of Oxford and Cambridge, collectively known as Oxbridge, at the top of the prestige hierarchy followed by the Russell Group of further 18 research-led universities. This institutional stratification is not blind with regards to social Origin: the higher social classes and white students and those educated in private schools<sup>10</sup> are more likely to attend the most prestigious universities (Archer 2000; Boliver 2005; Galindo-Rueda, et al. 2004). These differences are in turn partly but not fully explainable by differential performance in prior secondary education with students from higher social classes and those educated in private school more likely to attain highly in secondary schools (Boudon 1974; Breen and Goldthorpe 2001; Saunders 1997; The Panel on Fair Access to the Professions 2009, p. 81). Controlling for class of origin, white students outperform some minority groups such as blacks but not all - e.g. Indians – at the end of compulsory schooling (Rothon 2008, p. 701).

While Origin thus continues to influence education, we have to bear in mind that pupils for the legal Bar are a highly (self-) selected group of individuals. We expect that all of them will have achieved highly in absolute terms, that is compared with the population and also with the university population at large. For example, we expect that pupils from backgrounds associated with a lower propensity of high attainment, such as working class origin, will have already overcome obstacles with regards to educational attainment and achieved very highly. At the same time, we expect that, in absolute numbers, fewer individuals from working class origins will be among pupils than the population or university population because of the previously discussed links between Origin and Education / Merit. It is also noteworthy that previous research on selective higher education has found that Origin characteristics still impact on the

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<sup>9</sup> Baumert et al's 2000 report on the OECD's PISA study of educational attainment in 43 countries ([www.pisa.oecd.org](http://www.pisa.oecd.org)) found that a link between origin and educational attainment in secondary schools continued to exist in all participating countries.

<sup>10</sup> As we do not have information on pupil barristers' secondary schools in the current survey, we do not discuss the impact of social origin on private and state school attendance in this article.

relative prior educational attainment of even highly selected groups of individuals (Heath and Zimdars 2005). If this were true for pupillage, we would expect all pupils to have attained highly in absolute terms, but the very highest attaining pupils relative to all pupils might still be of the higher social classes and white. We thus expect the following:

*Hypothesis 1: The profile of pupils is less wide than the profile of university students at large with regards to social class but not with regards to gender.*

*Hypothesis 2: There are modest social class and ethnicity effects on pupils' prior educational attainment with the highest social classes most likely to have attained highly. Pupils of white ethnicity and of high social class origin will be most likely to have participated in the most prestigious tiers of education such as Oxbridge for their tertiary education.*

### **Education and Destination**

In a meritocracy, the link between Education and Destination is strong. Origin factors should not influence Destination (such as entering the Bar) over and above the influence Origin exerts on Education – the profile of meritorious individuals is expected to ‘spill-over’ into employment outcomes (Jonsson, et al. 1996; Shavit and Westerbeek 1998). A contrasting, and less benign, hypothesis, however, argues that ‘deferred selection’ takes place. This would be a direct link of Origin with Destination even controlling for Education. Specifically, as educational opportunities expand, educational credentials become a necessary but insufficient condition for entry into desirable professions such as the Bar. Through ‘deferred selection’, Origin characteristics such as particular soft skills, confidence and cultural familiarity with a professional environment might influence Destination in a way that advantages already privileged strata of society compared with other, educationally accomplished individuals from more humble Origins (Jackson 2001; The Panel on Fair Access to the Professions 2009). Both the spill over and the deferred selection hypotheses have found some empirical support. With our cross-sectional design, we are unable to test for the prevalence of merit selection conditional on application, but we can investigate how Origin factors relate to earnings, pupillage location and employment status conditional on having secured pupillage. Specifically, we will test the meritocracy in earnings hypothesis that:

*Hypothesis 3: The distribution of earnings at the Bar is meritocratic conditional on prior educational attainment. Specifically, earning differentials during pupillage are accounted for by differences in merit measured as educational attainment. This includes the type of educational institution attended as well as performance at degree level and in the BVC.*

We do, however, also note that for barristers, the choice of area of practice can impact on earnings. As a general rule, commercial work is more highly remunerated than other areas of legal work such as family law and we would expect the area of practice during pupillage, in cases where there is a specialisation, to impact on pupillage earnings. Unfortunately, data limitations mean that we are unable to include this information in our modelling.

There are, however, further hypotheses that are specific to the Bar and that we can test. To recapitulate, the Bar, unlike many other professional occupations in England and Wales such as doctors, civil servants and university academics, has an unusual employment structure and regional concentration. The majority of practitioners are self-employed and based in London. Let us consider the potential implications in more detail.

Self-employment is inherently more risky than being an employee (Hamilton 1995). Attitudes towards this particular risk are partly an individual characteristic of personal preference - the risk-averse avoid self-employment (Kihlstrom and Laffont 1979) and the more entrepreneurial are more likely to enter self-employment (Jovanovic 1982). But beyond such personal preferences, attitudes to risk are also linked to one's social position, with research showing that risk is understood as relative to one's starting position in life (Goldthorpe 2000) and parental employment relations (Hout and Rosen, 2000). Financial resources can also help in a direct manner as initial start-up capital is usually required for embarking on self-employed practice. US research has also found a lack of access to capital to be associated with a preference for employment over self-employment (Evans and Jovanovic 1989). This may be relevant to the context of new barristers, as there is a time-lag from setting up practice to the arrival of the first payments (Hewson 2009).

Self-employment might also be linked to gender, with men over-represented across self-employed professions in the UK (Office for National Statistics 18/3/05, see also analysis Table 1). Women now constitute half of the barrister profession on aggregate, but we would expect to find women disproportionately in employed practice. While self-employed practice has the potential to offer higher earnings and arguably more flexibility, many women would weigh up those benefits against the better maternity and child care benefits in employed practice in the public sector<sup>11</sup>. Finally, those with a disability may also find the policies of public sector employment more attractive than self-employed practice (Disability Discrimination Acts 1995, 2005).

*Hypothesis 4: Employment status is associated with Origin factors. Predictors of employed practice are being female, having a disability and lower social class origin.*

The regional concentration of legal work in London might also affect the composition of the Bar. Research on higher education participation, for example, has shown that the lower social classes and ethnic minorities are less geographically mobile in their university choices than those from higher class origin and whites (Boliver 2005; Higher Education Funding Council for England 2005; The Panel on Fair Access to the Professions 2009). This pattern might continue into a preference for local employment for minorities and working class students. The Bar in London is thus likely to be more middle class than the Bar elsewhere. However, as the minority population in

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<sup>11</sup> The link between employment status and gender differs across countries and their benefit systems. In England, however, maternity benefits are better for employed barristers: a self-employed female barrister is restricted to state-funded Maternity Allowance of £123.06 per week for up to 39 weeks ([www.direct.gov.uk](http://www.direct.gov.uk) viewed July 2009), a female barrister working in employed practice for the Crown Prosecution Service would be entitled to 26 weeks off work on full pay and up to 26 weeks additional unpaid leave (CPS 2009). It has also been argued that the over-representation of male practitioners at the self-employed Bar may have self-perpetuating properties due to lack of role models and networks. While such explanations may explain persistent inequalities such models are less good candidate for explaining changes such as the increase in female participation in the self-employed Bar.

England is concentrated in London and other metropolitan areas, we might expect an over-representation of minorities in London compared with the regional Bar.

*Hypothesis 5: Ethnic minorities are over-represented in the London Bar and barristers from the lower social classes are over-represented in the regions.*

Before discussing how these five hypotheses are tested in the subsequent analysis, it is worth adding a word of caution regarding what our analysis cannot deliver. We do not have information on area of practice, information on mini-pupillages or internships, or information on secondary schooling. These omissions are regrettable as it would have been interesting to model the extent of horizontal employment segregation among barristers by gender and ethnicity that has been documented in other professions or legal contexts (Jacobs 1989; Sanderson and Sommerlad 2000; Sommerlad 2002). Mini-pupillages and participation in mooted or debating activities might also account for career choices and successes and might in turn be related to Origin characteristics (The Panel on Fair Access to the Professions 2009, p. 101), but again, we are unable to investigate this. Neither can we contribute to discussions of the effect of private schooling on entry to the Bar and the suggestion of an over-representation of privately educated individuals (Sutton Trust 2009). The discussion will describe how these issues are currently subject to further research.

We will now discuss our research methods and data before presenting our findings.

### **Data and Methods**

Our analysis is based on four consecutive years of the ‘Pupillage Survey’ (2004/5-2007/8) currently administered by the Bar Standards Board. The Survey is enclosed with the mailing for the annual pupillage registration forms and enjoys an exceptionally high response rate of over 90 per cent, making it the most authoritative source of pupil barristers. Merging data from four years of pupillage results in 2,052 observations, roughly equally distributed across the four years under study. The survey collects information on pupils’ social background (age, gender, ethnicity, occupation of highest wage-earning parent), their attainment (university attended, achievement, BVC achievement) and their current status (employed or self-employed Bar, earnings during pupillage and location in London or elsewhere).

For the four years in question, pupils were not asked for identifying information such as their name. This means that the research design is strictly cross-sectional and it is not possible to link information on pupillage to other individual level information such as subsequent success in gaining tenancy or previous educational trajectories that were not captured in the pupillage survey. This limits the power of our analysis to stay largely within the descriptive realm as we cannot undertake the causal modelling possible in longitudinal research designs. We are, however, able to describe how background characteristics of pupils relate to population comparators and to pupillage earnings, location and employment status.

Our analytical strategy is first to describe pupil barristers using simple descriptive techniques. Where possible, we aim to compare the profile of pupil barristers with appropriate population comparators. In a second step, we undertake regression and

binary logistic regression analyses to show how background factors relate to pupillage earnings, type of pupillage (Chambers or employed Bar) and location (London or outside). While regression analysis is particularly useful as a causal modelling technique, we use it here simply as a multivariate way to describe our data.

## Variable Description

**Social class:** We operationalise social class as a categorical variable following the NS-Sec class schema (National Statistics 2001). The break down of social class in Table 2 separates professional and managerial class background and includes the petty bourgeoisie to facilitate a like-for-like comparison with UCAS information. We use three categories of social class for our multi-variate analysis - Professional and managerial class, working class, and other (including missing).

**Ethnicity:** We use a dichotomous variable of white / non-white for the multivariate analysis of ethnicity and in Table 1 because of the small number of observations for some ethnic groups. For the comparisons in Table 2, we also use mixed, South Asian (Indian, Pakistani, Bangladeshi), black and other (including missing).

**University attended:** We classify university attended into a categorical variable with three values: Oxford and Cambridge (Oxbridge), other Russell Group University (e.g. research led prestigious university) and other university. For the multivariate analysis, we dichotomise the variable into Oxbridge versus other university as exploratory work did not find significant effects when comparing Russell and Other universities individually rather than combined with Oxbridge.

Furthermore, we use dichotomous identifiers for gender and disability; whether a pupil was in training in London or elsewhere in England and Wales; whether or not pupils had obtained a First in their undergraduate degree, whether they had achieved a grade of Outstanding for their BVC, whether the pupillage was undertaken at the employed Bar or in Chambers (self-employed Bar); and whether pupils had an undergraduate degree in law or in another subject.

We restrict our analysis to those 95 per cent of pupils who had previously undertaken the BVC. This excludes pupils who had embarked on pupillage either as transferring solicitors, overseas lawyers, legal academics or without classifying information. The total number of observations for the subsequent analyses is thus usually 1,935 – a figure that does not allow for powerful statistical inferences, as is possible from large population surveys, but sufficiently large to investigate possible patterns of associations between social background variables and outcomes of substantive interest.

## Results

The results are presented in two sections. First, results from crosstabulations show some summary statistics of gender and ethnicity for the Bar and how social background characteristics of pupils compare with the population at large. Second,

regression analyses show the relative impact of social background factors on earnings, employment status and location.

### **Population comparisons**

In the first step of the results section, we compare the Bar with the population at large and other sections of the legal professions. This gives us a big picture of how the profile of the Bar compares broadly to society before turning to the more detailed analysis of pupil barristers. Population statistics are taken from the Census 2001, and are broken down by ethnicity and gender. While in particular a social class comparison would have been desirable, this is not currently possible from available data although such comparison may be possible in the future (The Panel on Fair Access to the Professions 2009, rec. 2).

[Table 1 about here]

Turning to comparisons of gender statistics in Table 1, we can see that women are under-represented in higher professional employment (this includes both the barrister and solicitor profession) compared with their number among those holding high qualifications in the labour market active population. The representation drops from 56.6 per cent to 33.0 percent for employed professionals and to 21.9 per cent for self-employed professionals. Among new career entrants, defined as women aged 16 – 24, the drop is not as large. In this group, women constitute 40.0 per cent of employed higher professionals and 30.5 per cent of self-employed higher professionals. While there is thus a gender gradient in professional employment, women are catching up and they are catching up at a slightly faster rate among the self-employed than the employed. Turning to the legal profession, we can see that women are the vast majority of legal executives (almost 77 per cent) and constitute 42.5 per cent of practicing solicitors and 32.6 per cent of barristers. It is noteworthy that the figures for all legal professionals are higher than the population comparators (that is if we compare the Bar total to the self-employed professional population at large). When we break down the Bar by employment status, we can see that the percentage of females among self-employed barristers and for employed barristers is 8.5 to 9 percentage points higher than the population comparator for self-employed and employed professionals respectively.

Information on ethnic minorities is less complete but the pattern shows that the total percent of minorities in the legal profession is slightly lower than, but roughly comparable with the population comparator of 11 to 11.5 per cent of higher professionals or the economically active population with higher qualification. For both, solicitors and legal executives, the representation is 10.3 per cent, or .7 to 1.2 percentage points below the higher professional average. Amongst barristers, the minority representation appears to be particularly large in the employed Bar with 15.1 per cent, although the large number of missing cases for this observation makes this a less robust observation. Compared with the minority representation of 16 per cent among new entrants to the economically active population with higher qualification, the barrister profession shows a higher participation rate of minorities of 19.6 per cent, a figure that rises to 28.3 per cent when only looking at the employed Bar.

The second descriptive comparison concerns pupil barristers and the population of university students at large. Ideally, a comparison would have been made between pupils and the profile of law graduates and graduates from other subjects, and a break down by attainment and social origin, but data availability means that frequently only less conceptually concise comparisons are possible such as comparing pupils with all university applicants or all graduates. These comparisons are undertaken in Table 2.

[Table 2 about here]

The left side of Table 2 compares pupil barristers with university and degree characteristics and the region and place of pupillage. The right side of the table compares pupil barristers' Origin characteristics with those of the university population.

With regards to university and attainment, pupil barristers have disproportionately attended the most prestigious universities and attained much more highly than the university population at large. Over 26 per cent of pupils had achieved a First in their first degree compared with 10.3 per cent of all university students. Looking at pupils with a law degree as a first degree only (figure not shown), the high attainment is even more apparent – here, 30.3 per cent had achieved a First compared with only 5.1 per cent of Firsts being awarded in Law first degrees in 2001.<sup>12</sup> Pupils had also attained more highly in the BVC than those who undertook the BVC and did not enter pupillage. Pupils are much more likely to be based in London than individuals in other professional employment. Fewer pupils are currently entering the employed Bar than we would expect, given the size of the employed Bar as a share of the barrister profession.

With regard to social origin, Table 2 shows that pupil barristers are of higher social class origin, more frequently male and describe themselves as disabled less frequently than all university students. Pupils are also more frequently white, with the representation of South Asians and blacks decreased compared to the university population at large. When interpreting these figures, however, we have to remember that there are links between Origin characteristics and factors such as university attended and, to some extent, degree class and BVC grade. This makes it difficult to infer anything about the conditional probabilities of participation in pupillage. While Table 2 suggests, for example, a lower participation rate of working class students, women, minorities and those with a disability in pupillage compared with the representation of this group in university education, the information available does not allow us to say to what extent this might be explained by the universities attended and attainment or whether this is an effect of lower aspirations or a perceived or actual exclusivity of the Bar (Entry to the Bar Working Party 2007). However, given the magnitude of the effects, attainment is unlikely to be the sole explanation for the differences the representation of those from working class origins among between pupils and the university population comparator.

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<sup>12</sup> Between 1996 and 1999, on average 3.9 per cent of law graduates gained a First, in 2000 it was 4.1 per cent, in 2002, 4.3 per cent, in 2004, 5.1 per cent, and in 2005, 5.0 per cent (Figures from HESA). The figure of 5.1 per cent might thus, if anything, be an over-estimation of the attainment of other law students from the time when the pupils in this study went through university.

## Pupillage awards

We now turn to a multi-variate analysis of pupillage awards, location and employment status. Pupillage earnings information was available for 1,727 individuals<sup>13</sup>. The reported range of pupillage earnings was between £833<sup>14</sup> and £150,000. Various ways of modelling salary were explored including interval regression, ordered logit and a regression of log-income<sup>15</sup>. A straight-forward regression with a truncated dependent variable, whereby the earnings of the four highest earning individuals were capped at £51,000, provided the same pattern of results as other models and is displayed here. A binary logistic model is used to describe the chances of being in the highest 10 per cent of pupillage earners (£35,000 and above).

[Table 3 about here]

We first model the Origin-Destination (earnings) link without taking into account potentially mediating effects of Merit / Education (Model 1). We find that women, those aged 26 and older, ethnic minorities and those from working class origins earn significantly less than their male, younger, white and professional or managerial class peers. To recapitulate, these effects would be deemed largely meritocratic if they were accounted for by Merit / Educational attainment. Model 2, then, shows the link between Merit / Education and Earnings without considering any Origin factors. We can see that there are large and significant positive effects on earnings of being an Oxbridge graduate, having achieved a First in a first degree, of having achieved a result of outstanding in the BVC and of having been funded through the BVC. The model did not detect any differences in earnings between those with a law degree as a first degree and those who had come through the conversion course route. Model 3 adds an interaction term between university attended and attainment, as it is of some policy relevance to investigate whether the effects of having attended Oxbridge or of having achieved a First are more important. The main effect of Oxbridge now refers to those who went to Oxford but achieved lower than a First. There is still a large and significant effect. The earning premium is indeed larger than the effect of having gained a First which now only refers to those who did not attend Oxbridge. The combined effect of having achieved a First at Oxford is larger than either the effect of an Oxbridge Upper Second or below or a First from another university. Overall,

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<sup>13</sup> Turning to missing pupillage award information, that non-disclosure is associated with being older, in the employed Bar and lower attainment. Non-law graduates, Oxbridge graduates and those with a First were least likely to have information on their pupillage salary missing. The link between non-disclosure and characteristics ties in with the findings in educational research where missing information is associated with characteristics generally associated with disadvantages **Rothon, C.** 2007 'Can achievement differentials be explained by social class alone?: An examination of minority ethnic educational performance in England and Wales at the end of compulsory schooling.' *Ethnicities* 7(3): 306-322. Thus, we are encouraged that there are no class, gender or ethnic patterns with regards to reporting salaries and the reporting pattern of salary suggests that, if anything, our general earning model might be under-estimating the impact of meritocratic factors on earnings.

<sup>14</sup> To recapitulate, the supposed minimum salary for pupillage is £10,000 per annum. It is possible that the lowest two or three answers to the salary questions reported monthly rather than annual salaries.

<sup>15</sup> These results are available from the author on request.

Models 2 and 3 show that there are large meritocratic effects on pupillage earnings with attainment being a significant and sizeable predictor of earnings.

In Models 4, we combine Origin and Merit factors to see whether there are any unmediated effects of Origin on earnings. We can see that the unmediated negative effects of being female and older than 25 from Model 1 are reduced and the working class and ethnic minority effects have become insignificant. This means that women, ethnic minorities, the older age group and working class pupils less frequently attended Oxbridge and / or achieved a First than their male, white, younger and service class peers. This inference is born out by crosstabulations (not shown). For example, while 34.7 per cent of male pupils had attended Oxbridge only 28.3 per cent of women had done so; and 24 per cent of women had achieved a First compared with 28.4 per cent of men. With regards to social class, 35.2 per cent of pupils from professional class origin had attended Oxbridge and 27.3 per cent had achieved Firsts compared with 15.1 per cent of pupils from working class origin having attended Oxbridge and 18.8 per cent having achieved First class degrees. Minorities are also under-represented among Firsts and Oxbridge – for example, 28.7 per cent among whites had gained Firsts and none among the blacks. These associations illustrate that there is a link between Origin and Merit /Education that partly mediates the link between Origin and Earnings.

We also undertake modelling, this time a binary logistic analysis, to look at the predictors of being among the top 10 per cent of pupillage earners (192 observations), which we also consider to be a proxy for being in commercial areas of practice. The findings are displayed in Model 5 as odds ratios<sup>16</sup>. The pattern is largely similar to the previous models. However, the female disadvantage is larger and there are, perhaps surprisingly, no significant age effects or interaction effects between Oxbridge and Firsts. The findings from modelling the top earners might mean that the most academically outstanding pupils and males have a personal preference or are most successfully recruited to or selected into commercial sets.

## **Employment Status and Location**

We use further binary logistic regression models to investigate the association between Origin factors and whether pupils are in practice at the employed or the self-employed Bar and whether they are located within or outside of London.

[Table 4 about here]

Employment status is modelled in Models 1 to 3 in Table 4. We find that both Origin characteristics and education characteristics are related to whether pupils chose self-employed or employed practice but education factors do not mediate the Origin factors with all Origin effects from the first model retaining their significance in the

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<sup>16</sup> Odds ratios are interpreted the following way: For example, the odds ratio of a female pupil of earning in the top 10 per cent of earners is 0.41. This means that – all other things being equal – a female pupil is less than half as likely as a male pupil to be in the top 10 percent of pupillage earners.

final model. Those with a disability have more than three times the odds of non-disabled pupils of opting for the employed Bar. Women and older pupils are also over-represented among the employed. Contrary to our hypothesis three, we do not find any statistically significant effects of social class origin on employment status – if anything, the direction of the effects might suggest that with a bigger sample size, the working class might have turned out to be most likely to join self-employed practice. Assistance during the BVC is a predictor of being at the employed Bar. Having attained a first and being an Oxbridge graduate mean pupils are less likely to opt for employment. There was no significant interaction between Oxbridge and First.

Turning to the models for predicting employment outside of London, we find again that both Origin and Education factors are related to employment location. But in contrast to modelling the employed Bar, education factors mediate some of the impacts of Origin. In the first model, older pupils, ethnic minority pupils, and disabled pupils were most likely to be in London whereas working class pupils were more likely to be based outside London. This pattern changes when taking into account that those outside London are more likely to be law graduates without a First and without an Oxbridge degree or BVC support. These factors reduce the disability and working class effects to insignificant, although being older and being a minority remain associated with being a pupil in London rather than elsewhere.

## **Discussion**

We set out to describe the pupil barristers at the legal Bar of England and Wales who entered pupillage in the four years between 2004 and 2008 and to test five specific hypotheses in this regard. We compared the profile of pupil barristers with all university students and we compared the profile of the Bar with the make-up of other professional employment. We then used multi-variate techniques to see how Origin and Education factors were related to earnings during pupillage, employment status and pupillage location.

We find that the Bar shows higher female participation, particularly amongst new entrants to the profession, than the professional employment sector at large, although not as high as the solicitor profession in which female participation now exceeds male participation by over 10 percentage points. The Bar also shows higher ethnic minority participation than the economically active population with higher qualifications and more diversity than legal executives and solicitors (total figure).

When comparing pupil barristers with the university population, we found that pupils showed higher merit (understood as educational attainment in terms of degree class and the prestige of the university attended) than all graduates. We also partly confirmed our hypothesis that the profile of pupils would be less diverse than the profile of university students, with a significant drop in representation of working class students (H1). Contrary to the expectation that there would be no gender pattern, however, we saw that there are proportionally fewer female pupil barristers than there are female university graduates. This is perhaps surprising given that we previously established that women are better represented at the Bar than in other professional employment.

We also hypothesised (H3) that the distribution of earnings at the Bar would be meritocratic, conditional on prior educational attainment. We found that the strongest predictors of earnings were indeed related to education, in particular to the type of higher education pupils had participated in with an earning premium for Oxford and also with regard to pupils' degree class and their BVC attainment. The earning premium was slightly higher for being an Oxbridge pupil than for having achieved a First from a university other than Oxbridge, with an Oxbridge and a First proving the most desirable combination for predicting high earnings. The pattern of positive effects of educational achievements supports the meritocracy hypothesis although the size of the Oxbridge premium may not be uncontroversial.

We also found support for our hypothesised link between Origin factors and educational credentials (H2) with the highest social classes and white students most likely to have participated in the most prestigious tiers of education such as Oxbridge and most likely to have attained First class degrees. The link between Origin and Merit/Education partly mediates the link between Origin and Earnings in that it accounts for the lower earnings of minorities and working class pupils. However, there remain residual negative effects of the Origin factors sex (female) and age (older than 25) on earnings, thus challenging the complete meritocracy hypothesis (H3).

Finally, we looked at the exceptional employment structure of the Bar with regard to self-employment and regional concentration. Our hypothesis that ethnic minorities would be over-represented in London was confirmed (H5) but we did not find that pupils of working class origin were significantly more likely to join the regional Bar, thus perhaps emphasising the select nature of the characteristics of working class pupil barristers compared with other members of the working class. Perhaps unexpectedly, we also found that London attracted more graduates from Oxbridge and those with First class degrees than the regional Bars. As expected (H4), predictors of employed practice included being female and having a disability, but contrary to expectation, did not include lower class origin. There was again an unexpected pattern of employment status being associated with educational credentials, with Oxbridge graduates and those with a First significantly less likely to opt for employment as opposed to self-employment. This latter findings might strike international readers as surprising given that in other jurisdictions such as Germany and France, the best and the brightest law graduates compete for desirable civil service employment.

Before offering some final thoughts, we may wish to remind ourselves of three limitations to this study and our findings. First, this study is restricted to the use of cross-sectional data. It is a snapshot of pupils without knowing whether this group has characteristics that differ systematically from those who put themselves forward for pupillage but who were not successful in the competition for a place. Second, while being the most authoritative source on pupil barristers, our survey material did not include area of practice, information on mini-pupillages or internships, or information on secondary schooling, that is factors that may add further explanatory power to individuals choices and opportunities. Finally, cross-sectional statistical analyses are ill-equipped to comment on the motivations and aspirations of pupils and

the interplay between opportunities and individual choices that qualitative work and detailed longitudinal research is able to shed light on<sup>17</sup>.

Bearing this in mind, it still seems possible to conclude that:

The Bar compares favourably to population comparators with regards to ethnicity and gender. Nonetheless, given the profile of university graduates, there still seems scope to expand the intake of new barristers from lower social-class origins and to recruit from a larger number of universities.

Among pupil barristers, attainment factors are the largest predictor of earnings, employment location and employment status. High attainment and an Oxbridge education are related to high earnings, opting for self-employment and for working in London. While the earnings pattern is compatible with the meritocratic paradigm, the employment status pattern may raise some questions regarding whether barristers in employed and self-employed practice are of the same academic calibre. There also appears to be some brain-drain away from the regional Bar to London, although this issue may not be a unique challenge to the Bar but might be apparent in other professional employment sectors.

Furthermore, Origin factors also play a role that is not explained by the prior impact of Origin on educational attainment. Women and those older than 25 earn significantly less during pupillage. Women, those older than 25 and those with a disability are more likely to join the employed Bar. Those who are older than 25 and ethnic minorities are less likely to be outside of London. Some of these effects are not surprising – i.e. current employment policies frequently make the public sector a friendlier work-place for women and those with a disability; ethnic minorities are concentrated in metropolitan areas such as London in general. The age effect on employment may also be an indication that older workers trust the more transparent procedures of the public sector to be easier for them to navigate. It is of course also possible, that older pupils are less able to secure pupillage in the private sector. Finally, the negative effect of being female on earnings raises concerns and this would also be the case even if women were found to opt for less highly remunerated areas of practice as these choices are in themselves influenced by perceived or actual opportunity structures.

Overall, the allocation of earnings, employment status and employment location among pupil barristers seems broadly but not completely compatible with allocation based purely on merit as educational attainment. The Bar is, however, also socially less diverse than the university population at large. In the absence of actual longitudinal data, the most likely inferred culprit for this pattern is the pre-existing link between Origin and Education in the British education contexts with class privilege and ethnicity associated with high attainment and Oxbridge attendance. As long as this link is not further weakened, the legal profession will have difficulty presenting the full diversity of British society among their new entrants. Meanwhile, it is hoped that the Bar will redress residual effects of Origin on Destinations as to

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<sup>17</sup> We are hoping to redress some of the above shortcomings in future research. Specifically, we are establishing a longitudinal data set of BVC students through to tenancy which will not only allow inferences about relative chances of success in gaining pupillage but also contain area of practice.

justify the claim of the archetypical meritocratic profession once individuals get as far as putting themselves forward for entering pupillage.

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## References

- Archer, L.** 2000 'Social Class and Access to Higher Education' *Institute for Policy Studies in Education Occasional Paper*, London: University of North London.
- Bar Council** 2008 'Diversity', London.
- 2008, Table 1: Number of barristers in self-employed practice by ethnic group and gender (excluding pupils): as at December 2008 and Table 2 Number of barristers in employed practice by ethnic group and gender (excluding pupils): as at December 2008, <http://www.barcouncil.org.uk/about/statistics>.
- 2008, Table 5 Annual Statistics of the Bar, Bar Council, London, viewed on August 5 2008, <<http://www.barcouncil.org.uk/about/statistics>>.
- 2009, Revised Court Dress Guidance as of 2 June 2009, Bar Council London, viewed on 20 July 2009, <<http://www.barcouncil.org.uk/news/newsarchive/371.html>>.
- Baumert, J., Stanat, P. and Watermann, R. p.** (eds) 2006 *Herkunftsbedingte Disparitäten im Bildungswesen: Differenzielle Bildungsprozesse und Probleme der Verteilungsgerechtigkeit: Vertiefende Analysen im Rahmen von PISA 2000*, Wiesbaden: VS.
- Blau, P. M. and Duncan, O. D.** 1967 *The American occupational structure*, New York,: Wiley.
- Boliver, V.** 2005 'Stratification of Higher Education in the United Kingdom' *Sociology*, Oxford: Oxford.
- Bottero, W.** 2005 *Stratification: Social Division and Inequality*, Oxford: Routledge.
- Boudon, R.** 1974 *Education, Opportunity and Social Inequality*, New York: Wiley.
- Breen, R. and Goldthorpe, J. H.** 2001 'Class, mobility and merit - The experience of two British birth cohorts', *European Sociological Review* 17(2): 81-101.
- Brint, S. G. and Karabel, J.** 1989 *The diverted dream : community colleges and the promise of educational opportunity in America, 1900-1985*, New York: Oxford University Press.
- Cole, B.** 2007 'Trends in the solicitors' profession: Annual Statistical Report 2006', London: The Law Society.
- Courts and Legal Services Act** 1990 (c. 41). London, HMSO.
- Crown Prosecution Service** (2009) Staff absence and welfare, including annual, special and sickness leave in CPS *Personnel Management Manual* Volume 4. Crown Prosecution Service, Human Resources Department.
- Disability Discrimination Act** 1995 (c.50). London, HMSO.
- 2005 (c.13). London, HMSO.
- Entry to the Bar Working Party** 2007 'Entry to the Bar Interim Report', London: Bar Council.
- Freedon, M.** 2003 *Ideology : a very short introduction*, Oxford: Oxford University Press.
- Galindo-Rueda, F., Marcenaro-Gutierrez, O. and Vignoles, A.** 2004 'The Widening Socio-economic Gap in UK Higher Education' *Centre for the Economics of Education*, London: London School of Economics.
- Gallie, W. B.** 1956 *Essentially contested concepts*.
- Gillespie, A.** 2007 *The English Legal System*, Oxford: Oxford University Press.
- Goldthorpe, J. H.** 2000 *On sociology : numbers, narratives, and the integration of research and theory*, Oxford: Oxford University Press.

- Hamilton, B.H.** 1995. "Does Entrepreneurship Pay? An Empirical Analysis An Empirical Analysis of the Returns to Self-Employment." *Working Paper McGill University*.
- Halsey, A. H., Heath, A. and Ridge, J.** 1980 *Origins and Destinations*, Oxford: OUP.
- Heath, A. and Zimdars, A.** 2005 'Preliminary Report: Social Factors in Admission to the University of Oxford', *Department of Sociology Working Papers, University of Oxford*.
- Hewson, B.** 2009 'Is the Bar 'fit for purpose' in the twenty-first century?' *The Barrister*(30).
- Higher Education Funding Council for England** 2005 'Young participation in higher education', Bristol.
- Home Office** 2003 'Statistics on Women and the Criminal Justice System', London: Home Office.
- Hout, M, Rosen, H** (2000) Self-Employment, Family Background, and Race, *The Journal of Human Resources*, Vol. 35, No. 4 , pp. 670-692.
- Jackson, M.** 2001 "Non-Meritocratic Job Requirements and the Reproduction of Class Inequality: An Investigation', *Work, Employment and Society* 3(15): 619-630.
- Jackson, M., Erikson, R., Goldthorpe, J. H. and Yaish, M.** 2007 'Primary and Secondary Effects in Class Differentials in Educational Attainment', *Acta Sociologica* 50(3): 211-229
- Jacobs, J. A.** 1989 *Revolving Doors: Sex Segregation and Women's Careers*, Stanford: Stanford University Press.
- Jonsson, J. O., Mills, C. and Mueller, W.** 1996 'A half century of increasing educational openness? Social Class, gender and educational attainment in Sweden, Germany and Britain', in R. Erikson and J. O. Jonsson (eds) *Can Education be equalized? The Swedish Case in Comparative Perspective*, Boulder: Westview Press.
- Judicial Appointments Commission** 2009, Selection Policy, viewed on August 20 2009, <<http://www.judicialappointments.gov.uk/about-jac/9.htm>>.
- Kilhstrom, R., Laffont, J-J.** 1979. "A General Equilibrium Entrepreneurial Theory of Firm Formation Based on Risk Aversion." *Journal of Political Economy* 87(4):719-48.
- Lucas, S. R.** 2001 'Effectively Maintained Inequality: Education, Transitions, Track Mobility, and Social Background Effects', *American Journal of Sociology* 106: 1642-1690.
- Marshall, G. and Swift, A.** 1993 'Social-Class and Social-Justice', *British Journal of Sociology* 44(2): 187-211.
- Marshall, G., Swift, A. and Roberts, S.** 1997 *Against the odds? : social class and social justice in industrial societies*, Oxford: Clarendon Press.
- Maytum, C.** 2008 'Statistics enquiry - legal executives and diversity', in A. Zimdars (ed).
- Ministry of Justice** 2007 'Statistics on Race and the Criminal Justice System - 2006', London: Ministry of Justice.
- Office for National Statistics** 18/3/05 'All people aged 16 - 74 Part 1: Census 2001, National Report for England and Wales - Part 2. C3302 '.
- 2006, Education: Girls continue to outperform boys, National Statistics, viewed on July 20 2009, <<http://www.statistics.gov.uk/CCI/nugget.asp?ID=1892>>.
- 2001, The National Statistics Socio-economic Classification (NS-SEC), viewed on July 20 2009, <<http://www.ons.gov.uk/about-statistics/classifications/current/ns-sec/index.html>>.

- Raftery, A. E. and Hout, M.** 1993 'Maximally Maintained Inequality - Expansion, Reform, and Opportunity in Irish Education, 1921-75', *Sociology of Education* 66(1): 41-62.
- Rogers, J.** 2009 'The Price of Pupillage: The Nature and Limits of Ritual Ordeal at the Bar' *Socio-Legal Studies Association Conference* Leicester.
- Rothon, C.** 2007 'Can achievement differentials be explained by social class alone?: An examination of minority ethnic educational performance in England and Wales at the end of compulsory schooling.' *Ethnicities* 7(3): 306-322.
- 2008 'Women, men and social class revisited: an assessment of the utility of a "combined" schema in the context of minority ethnic educational achievement in Britain', *Sociology* 42(4) 42(2): 695-712.
- Sanderson, P. and Sommerlad, H.** 2000 'Professionalism, discrimination, difference and choice in Women's experience in law jobs', in P. A. Thomas (ed) *Discriminating Lawyers*, London: Cavendish Publishing.
- Saunders, P.** 1995 'Might Britain be a Meritocracy?' *Sociology* 29(1).
- 1997 'Social Mobility in Britain: An Empirical Evaluation of Two Competing Explanations', *Sociology* 31.
- Schwartz Commission Report** 2004 'Fair Admissions to Higher Education: Draft Recommendations for Consultation': Schwartz Commission.
- Sen, A.** 2000 'Merit and Justice', in K. J. Arrow, S. Bowles and S. N. Durlauf (eds) *Meritocracy and Economic Inequality*, Princeton: Princeton University Press.
- Senate of Inns of Court and Bar Confidential** 1974 'Minutes of Meeting of the Planning Committee held in Committee Room A, Fountain Court on Thursday, 17th October, 1974, at 4.30 p.m.' London: Bar Council.
- Shavit, Y. and Westerbeek, K.** 1998 'Educational stratification in Italy - Reforms, expansion, and equality of opportunity', *European Sociological Review* 14(1): 33-47.
- Sommerlad, H.** 2002 'Women solicitors in a fractured profession: intersections of gender and professionalism in England and Wales', *International Journal of the Legal Profession* 9(3): 213 - 234.
- Sutton Trust** 2009 'The Educational Backgrounds of Leading Lawyers, Journalists, Vice Chancellors, Politicians, Medics and Chief Executives - The Sutton Trust submission to the Milburn Commission on access to the professions', London: Sutton Trust.
- The Panel on Fair Access to the Professions** 2009 'Unleashing Aspiration: The Final Report of the Panel on Fair Access to the Professions', London: Cabinet Office.
- Turner, R. H.** 1966 'Acceptance of Irregular Mobility in Britain and the United States', *Sociometry* 29(4): 334-352.
- Western Australian Bar Association** 2009, Welcome to the Western Australian Bar Association, Western Australian Bar Association, Perth, viewed on August 9 2009, <<http://www.wabar.asn.au>>.
- Young, M.** 2001 'Down with meritocracy: The man who coined the word four decades ago wishes Tony Blair would stop using it' *Guardian*.
- Zimdars, A.** 2006 'Who Gets Into Oxford - A Question Of National Interest?' *The New Collection* 1.
- 2007 'Challenges to Meritocracy? A study of the social mechanisms in student selection and attainment at the University of Oxford' *Department of Sociology*, Vol. DPhil: Oxford.

Table 1: The legal profession in England and Wales by gender and ethnicity

	Population Comparators				Legal Professionals				
	Population comparator aged 16 – 74	Economically active population with higher qualification aged 16 - 74	Population in Higher professionals (traditional) - employed	Population in Higher professionals (traditional) - self-employed	Legal Executives	Solicitors (total)	Barristers (total)	Employed Bar	Self-employed Bar
<b>Number of observations</b>	37,607,438	5,917,467	1,081,713	298,667	19,660	104,543	14,888	2,854	12,034
<b>Total per cent female</b>	50.8	56.6	33.0	21.9	76.8	42.5	32.6	42.0	30.4
<b>New entrants female **</b>	50.0	53.0	40.0	30.5	80.0	61.1	50.7	63.3	49.9
<b>Total per cent minority***</b>	8.2	11.5 <sup>18</sup>		11.0	10.3*	10.3	11.3	15.1*	10.4
<b>New entrants per cent minority**</b>	12.9	16.0		Not available	15.0*	Not available	19.6	28.3	19.1

Sources: Population Statistics: Census 2001 (Office for National Statistics 18/3/05 ). The term 'higher level' refers to qualifications of levels 4 and above (i.e. first degrees, higher degrees, NVQ levels 4 and 5, HND, HNC and certain professional qualification). Barristers: self-employed Bar data as at December 2006 (Bar Council 2008), employed Bar gender as of 2003 (Home Office 2003, p. 49). Employed Bar ethnicity as at 31 December 2006 (Ministry of Justice 2007, p. 111) Solicitors: Solicitors with practicing certificates as of July 31 2006 (Cole 2007, p. 16). Legal Executives statistics concern only members of ILEX (the total includes student members) – student members are listed as new entrants (Maytum 2008).

\*estimate questionable as 22.7 per cent (employed Bar) and 40 per cent (ILEX) missing.

\*\* The figures for new female entrants for the economically active population relates to those aged 16 – 24 (Office for National Statistics 18/3/05 ). New entrants to traditional professional class (self-employed) refers to women aged 16 – 29 (Office for National Statistics 18/3/05 ). The figure for new entrants relate to the average representation of women and minorities among University graduates between 1998-2008. New entrants of barristers, total and employed / self-employed Bar breakdown based on pupils between 2000 – 2004, Pupillage Survey, Bar Council / Bar Standards Board. ; \*\*\*Ethnicity and New entrants by ethnicity excludes those with ethnicity missing information. Minorities are only non-white minorities.

<sup>18</sup> This figure and the figure for new entrants refer to all minorities not just the economically active ones.

Table 2: A comparison of pupil barristers with the university population (observations for pupils = 1935; figures are in column per cent)

Education, Attainment and BVC funding		Per cent Pupils	University population Comparator	Social Background		
<b>University of first degree</b>				<b>Social class</b>		
	Oxbridge	31.5	1.7 ( <i>Law 4.3</i> )		Higher professional / managerial	45.1
	Other Russell Group	35.3	16.5 ( <i>Law 26.7</i> )		Lower professional / managerial	22.4
	Other	33.2	81.8 ( <i>Law 69.0</i> )		Intermediate and lower supervisory	17.2
<b>Qualifying Law Degree</b>					Petit bourgeoisie	6.4
	Yes	60.4	4.4		Working class	3.2
	No	39.6	95.6		Missing	5.8
<b>Degree Class first degree</b>				<b>Ethnicity</b>		
	First	26.1	10.3 ( <i>Law 5.1</i> )		White	80.4
	Upper Second	62.0	44.4 ( <i>Law 49.9</i> )		Mixed	5.1
	Lower	11.9	45.2 ( <i>Law 44.9</i> )		South Asian	6.7
<b>BVC grade</b>					Black	2.2
	Outstanding	11.5	7.2		Other / missing	5.7
	Very competent	73.6	57.8	<b>Gender</b>		
	Competent	13.0	35.0		Male	49.3
	Missing	1.9			Female	50.7
<b>Characteristics of Pupillage</b>		Per cent Pupils	Population Comparator	<b>Disability</b>		
<b>Region</b>					Yes	2.6
	London	66.3	22.0		No	97.4
	Elsewhere	33.7	78.0	<b>Place</b>		
	Chambers	93.8	80.8			
	Employment	6.2	19.2			

*Data Sources:* Social class comparator UCAS 2002 degree accepts in England (previous social class information not comparable); ethnicity comparator based on UCAS degree accepts from England by ethnicity in 2000; gender comparator based on HESA graduates from 2001 (Table 14a - HE Qualifications Obtained in the UK by Mode of Study, Domicile, Gender and Subject Area 2000/01); disability comparison information from HESA Table 11a - First Year UK Domiciled HE Students by Level of Study, Mode of Study, Gender and Disability 2001/02 degree results based on HESA data 2004; University type based on Analysis of HESA data, academic year 2007-2008, figure for UK domiciled students at UK universities only; Law students based on HESA data for 2001 graduating year, qualifying Law degree comparator HESA 2004 graduating year. BVC attainment data for all full-time students 2000-2004 after re-sit and excluding fails. Regional comparison (London / elsewhere) is based on employment data for professionals from the Sample of Anonymised Records (SAR), Census 2001 (valid n = 1,535,611). Figures for the size of the employed / self-employed comparison are Bar Council figures (Bar Council 2008).

Table 3: Predicting Earnings during Pupillage – Regression analysis and binary logistic regression analysis predicting top 10 per cent of awards

Predictor (number of observations in parentheses)	Linear Regression- pupillage award								Top 10 per cent earners (Logit) Model5	
	Model1 £	(S.E.)	Model2 £	(S.E.)	Model3 £	(S.E.)	Model4 £	(S.E.)	O.R.	(S.E.)
<b>Origin</b>										
Female (869)	-1,985.47***	(458.11)					-922.54*	(380.13)	0.41***	(0.09)
Older than 25 (950)	-2,323.55***	(463.53)					-882.07*	(412.67)	0.74	(0.16)
Ethnic Minority (281)	-1,544.63**	(619.73)					604.39	(523.54)	1.29	(0.37)
Disabled (44)	1,261.04	(1,456.09)					876.48	(1,201.88)	1.43	(0.79)
Working Class (212)	-2,177.39***	(718.53)					-282.86	(597.53)	0.82	(0.37)
Other Class (146)	490.85	(837.66)					311.71	(691.08)	1.06	(0.36)
<b>Education / Merit</b>										
Non-law graduate (732)			-640.86	(391.97)	-670.31	(388.13)	-372.68	(413.38)	0.66	(0.14)
Oxbridge (577)			5,666.02***	(438.68)	4,093.24***	(508.45)	3,924.80***	(526.25)	4.29***	(1.46)
First (478)			5,743.25***	(457.65)	3,733.50***	(565.17)	3,788.63***	(569.50)	4.13***	(1.48)
BVC Outstanding (213)			2,755.28***	(608.61)	2,572.46***	(603.38)	2,594.49***	(602.82)	2.29***	(0.53)
BVC Assistance (255)			7,758.02***	(572.40)	7,466.79***	(568.86)	7,306.58***	(570.86)	3.77***	(0.79)
Oxbridge*First (211)					5,217.93***	(876.95)	5,130.22***	(880.91)	1.29	(0.55)
<b>Other</b>										
Employed Bar (77)	5,615.81***	(1,105.00)	6,634.66***	(924.07)	6,661.32***	(914.96)	6,788.23***	(915.95)	1.22	(0.70)
Not London (566)	-8,628.59***	(491.96)	-4,771.61***	(427.90)	-4,823.73***	(423.76)	-4,868.99***	(431.73)	0.02***	(0.02)
2005 (447)	1,249.80	(650.87)	1,575.19***	(534.39)	1,490.25**	(529.31)	1,469.05**	(539.09)	2.97***	(0.95)
2006 (388)	2,540.61***	(685.13)	1,604.40***	(555.53)	1,802.85***	(551.05)	1,710.96***	(569.85)	5.10***	(1.63)
2007 (448)	2,141.77***	(655.89)	1,677.40***	(532.85)	1,832.93***	(528.23)	1,738.45***	(544.01)	3.87***	(1.24)
Constant	19,380.21***	(614.87)	10,858.48***	(479.12)	11,335.84***	(481.13)	12,181.69***	(604.50)		
N	1727		1727		1727		1727		1727	
F(Loglikelihood)									-	348.98

p-values of statistical significance: \*.05 \*\*.01 \*\*\*.001; models 2, 4 & 5 also control for BVC provider (8 coefficients), not shown.

Table 4: Binary logistic regression analysis predicting award missing and top 10 per cent of awards

Predictor <i>(number of observations in parentheses)</i>	Employed Bar						Not London					
	Model1		Model2		Model3		Model1		Model2		Model3	
	O.R.	(S.E.)	O.R.	(S.E.)	O.R.	(S.E.)	O.R.	(S.E.)	O.R.	(S.E.)	O.R.	(S.E.)
<b>Origin</b>												
Female (982)	1.79***	(0.35)			1.73**	(0.35)	1.09	(0.11)			0.98	(0.10)
Older than 25 (1100)	1.60*	(0.32)			1.64*	(0.36)	0.64***	(0.06)			0.53***	(0.06)
Ethnic Minority (338)	1.54	(0.35)			1.19	(0.28)	0.62***	(0.09)			0.43***	(0.06)
Disabled (51)	3.24***	(1.32)			3.01**	(1.26)	0.50*	(0.18)			0.56	(0.21)
Working Class (245)	0.76	(0.24)			0.69	(0.22)	1.71***	(0.25)			1.28	(0.20)
Other Class (170)	1.02	(0.35)			0.99	(0.34)	0.92	(0.16)			0.89	(0.17)
<b>Education / Merit</b>												
Non-law graduate (785)			0.73	(0.15)	0.65	(0.15)			0.68***	(0.07)	0.77*	(0.09)
Oxbridge (609)			0.40***	(0.12)	0.45**	(0.14)			0.39***	(0.05)	0.30***	(0.04)
First (506)			0.37***	(0.12)	0.37***	(0.13)			0.51***	(0.08)	0.43***	(0.07)
BVC Outstanding (223)			0.55	(0.26)	0.58	(0.28)			0.98	(0.18)	0.93	(0.18)
BVC Assistance (280)			2.78***	(0.75)	2.69***	(0.74)			0.40***	(0.08)	0.40***	(0.08)
Oxbridge*First (217)			0.28	(0.31)	0.30	(0.33)			0.60	(0.21)	0.73	(0.25)
<b>Other</b>												
Employed Bar (120)							1.93***	(0.38)	1.37	(0.27)	1.54*	(0.32)
Not London (651)	1.97***	(0.38)	1.33	(0.26)	1.50	(0.31)						
2005 (489)	0.64	(0.19)	0.70	(0.21)	0.61	(0.19)	1.07	(0.15)	0.96	(0.14)	1.05	(0.16)
2006 (472)	1.02	(0.29)	1.20	(0.33)	1.03	(0.30)	1.00	(0.14)	0.99	(0.14)	1.13	(0.18)
2007 (477)	1.32	(0.35)	1.58	(0.41)	1.42	(0.39)	1.11	(0.16)	1.07	(0.15)	1.23	(0.19)
N	1935		1935		1935		1935		1935		1935	
Loglikelihood	-430.145		-416.774		-407.36		-1205.38		-1121.98		-1083.55	

p-values of statistical significance: \*.05 \*\*.01 \*\*\*.001