

Globalization and Large Law Firms

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Large law firms have been one of the most successful institutions of the 20th and 21st centuries. They have grown hugely in number and size; each year *The Lawyer Top 100* and the *Am Law 200* chart the successes and failures of this particularly Anglo-American elite. Those at the top of this group now generate a £1 billion a year in revenues, have offices in 30 countries with 3000 lawyers spread among them. Their expertise and reach enable them to counsel on the big transactions that are the mainstay of globalization. They are the architects of globalization because they provide the infrastructure and certainty of expectations that wire together all the different parties in wide-ranging jurisdictions and makes global business possible.

Within the major jurisdictions of the UK and the US the vast majority of the legal profession is composed of small law firms of between one and five lawyers. Yet this majority is shrinking as firms consolidate and merge. The significant growth is in law firms of more than 100 lawyers. However, *The Lawyer Global 100 2005* shows the range for large law firms to span from 400 to 500 lawyers at the bottom to the top 12 where each firm has each more than 1000 lawyers.

In the remainder of the entry I present a brief history of the large law firm and its structure with examples of work that shows how it is implicated in globalization.

The second half of the 19th century saw the birth of the corporate law firm. The industrial revolutions of the UK and the US were in full swing, railways were expanding (and collapsing), global trade was increasing, and the stock markets were floating many companies. London and New York were being established as the centres of the world's capital markets. Corporate law firms were small ventures with two or three partners and a large number of managing clerks (paralegals). At the height of the railway boom, some firms had leverage ratios of one partner to 70 managing clerks. These partners were as much entrepreneurs as their clients; in fact it could be difficult to distinguish them apart. Depending on their clients' business lawyers found themselves travelling as far afield as the United States or Argentina. During this period the law firms established strong ties with investment and merchant banks.

In the first part of the 20th century the blueprint for the modern large law firm was drawn up by Paul Cravath. His model was simple in its design and execution but radically different from what had occurred before. Instead of taking into practice sons of friends and relatives, Cravath proposed that the best qualified students from graduating from law school should be hired. Ideally, they should have served an editorship on the law review. They would be paid a good salary to prevent them from taking on other work. Instead of being assigned their own docket of cases, they would collaborate with a partner or senior associate who

would dissect a case into its constituent parts and give them to a range of associates. Over time, say seven or eight years, an associate would be considered for partnership. If he met the expectations of the firm, he would be promoted. If he was not selected, the firm would place him in another firm or in the legal department of a client thereby strengthening links through alumni networks. There were always more associates than openings for partner, which then created a tournament between associates for these coveted positions. The tournament prevented associates from taking their expertise away from the firm too early in their probationary periods. A problem with the tournament strategy is that it is predicated on unlimited growth which has become unrealistic. Hundreds of partners within the modern large law firm has made governance among equals very difficult. The result is increased stratification, with the introduction of two-tier and multi-tier partnerships, which effectively extend probationary periods and reduce the numbers of equity holders.

For much of the 20th century making partner was a stable marriage, for life. But from the 1980s on law firms became more entrepreneurial and business-oriented leading to lawyers moving between firms more often and taking clients with them. Law firms now resemble interlocking networks of specialisms held together by competitions for resources, especially associates. They have become managed professional businesses, with the prospect of evolving into corporate structures as governments relax their regulatory holds over professional organizations.

Large law firms have always looked out beyond their jurisdictional borders. The rapid growth in capital markets has meant that the demand for New York and English law has risen dramatically. Through a process that enables legal instruments to be created via contract for the particular deal, large law firms have exported their legal technology throughout the world. When, for example, the largest Chinese automobile manufacturer had to be restructured to provide access to Japanese joint-venture investment, despite the existence of Chinese corporate law firms, an American large law firm was used for the task as it provided global legitimacy for the transaction.

Even where statutes provide solutions for legal problems, large law firms can create alternative structures through transactions that are better than the statute-based one. In Germany a successful mortgage-backed bond, *Pfandbriefe*, exists by statute. In the UK there was no equivalent. The investment banks and City of London law firms were able to fashion an English-based counterpart that provided greater returns than the original *Pfandbriefe* by joining together various elements of English law in documents that created a legitimating structure without the need of statute. Sometimes domestic laws can contradict each other preventing satisfactory resolutions, as many insolvency laws do. Transnational companies experiencing financial problems turn to large law firms to engineer informal restructurings that satisfy markets without incurring the penalties imposed by formal laws.

As long as international law remains unable to cope with the demands of globalization, the gaps will be filled by creative lawyering from large law firms.

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