

## **The value of a law degree**

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## The value of a law degree

Rising costs, vast increases in the proportion of young adults progressing to higher education and the introduction of alternative pathways to professional qualifications, have in recent decades prompted some to argue that the "value" of an undergraduate law degree is diminished. Increasingly students, politicians, and society more widely appear to assess such value on an overly economic basis, focusing almost exclusively on employability and neglecting the wider and longer-term benefits for individuals, as well as for local and global communities. As the Solicitors Regulation Authority prepares to launch its new Solicitors Qualifying Examination ("SQE"), there is a risk that law schools may inadvertently erode existing value by placing too great an emphasis on preparing students for those centralized assessments and/or in how they respond to other market pressures. This paper draws on marketing theory to evaluate more holistically the potential value of a law degree, specifically in a post SQE era. It is submitted that constructing resonating value propositions in relation to the wider and/or unique benefits of their programmes may help law schools to preserve, enhance and articulate value, thereby challenging the broader political rhetoric before it is too late. To this end, a new conceptual model is proposed.

Keywords: "value"; "slices"; "community"; "lifetime"; "employability"

### Introduction

Common yet apparently contradictory phrases such as 'you get what you pay for' and 'value for money' illustrate that consumer "value" is a multifaceted and highly subjective concept.<sup>1</sup>

On the one hand, it might be argued that "value" exists *only* in the eyes of the beholder; this so-called "perceived value" is, as Zeithaml put it: 'the consumer's overall assessment of the utility of a product [or service] based on perceptions of what is received and what is given'.<sup>2</sup>

On the other hand, it is at least conceivable that a product or service may offer benefits that are not known or considered by a consumer, and/or that might accrue to local and global communities more broadly (representing a certain "community value") whilst not being

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<sup>1</sup> S Kelly, P Johnston and S Danheiser, *Value-ology* (Palgrave Macmillan 2017) 4.

<sup>2</sup> V A Zeithaml, 'Consumer Perceptions of Price, Quality, and Value: A Means-End Model and Synthesis of Evidence' (1988) 52(2) *Journal of Marketing* 2-22, 14.

considered by the individual to be of sufficient direct benefit to them to justify the exchange, suggesting that Publilius Syrus was only partially right when in the 1<sup>st</sup> century BC he wrote: 'everything is worth what its purchaser will pay for it'.<sup>3</sup> On the contrary, true "value" may often be more than this.

Since their inception, the perceived purposes of higher education ("HE") institutions - and thus also societal conceptions of their value - have changed dramatically. The parliamentary mandate given to the first UK universities was: to advance 'education, religion, learning and research'.<sup>4</sup> Whilst the subsequent secularisation of society may make the advancement of "religion" a more contentious aspiration now than it was then,<sup>5</sup> these other objectives appear to be relatively uncontroversial. Yet dig deeper, and one will find that there has been a marked shift in public perception, which has had a significant impact on the value debate.

Slater argued that the *raison d'être* of all "firms" is customer value creation,<sup>6</sup> and therefore that competitive advantage is achieved where culture and processes are designed to facilitate effective customer orientation.<sup>7</sup> Whilst - phrased in these terms - members of the academic community may balk at the suggestion that this analysis applies to their institutions, there is no doubt that in recent decades the "value" of HE has been called into question, arguably prompted by rising costs,<sup>8</sup> significant increases in the proportion of young adults progressing

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<sup>3</sup> As quoted in W J Baumol and A S Blinder, *Economics: Principles and Policy* (13 edn, Cengage Learning 2016), 81.

<sup>4</sup> Oxford and Cambridge Act 1877 (40 & 41 Vic c 48), s 15.

<sup>5</sup> C Taylor, *A Secular Age* (Belknap Press of Harvard University Press 2007).

<sup>6</sup> S F Slater, 'Developing a customer value-based theory of the firm' (1997) 25(2) *Journal of the Academy of Marketing Science* 162-167.

<sup>7</sup> *ibid* 164.

<sup>8</sup> Times Higher Education, 'The cost of studying at a university in the UK' *The Times Higher Education* (London, 1 December 2017) < <https://www.timeshighereducation.com/student/advice/cost-studying-university-uk> > accessed 12 March 2019.

to HE<sup>9</sup> and the rising popularity of alternative pathways to professional qualifications, such as degree apprenticeships.<sup>10</sup>

More recent legislation uses much broader language around the aims of HE institutions,<sup>11</sup> and government guidance in relation to the applicability of consumer law to the sector has helped to confirm students' status as "consumers".<sup>12</sup> Most recently, the terms of reference for the government's Augar Review of post-18 education and funding explicitly referenced "value for money".<sup>13</sup> This marketization and commoditization of HE means that its value is increasingly evaluated in economic terms,<sup>14</sup> with a strong if not almost exclusive focus upon graduate employability. Evidence suggests that ironically this shift threatens the educational "value" that universities were originally designed to deliver.<sup>15</sup>

In addition to these sector-wide changes, legal education in England and Wales is in the process of being radically reformed. At the time of writing it seems likely that from 2021, aspiring solicitors will need to pass a centralized assessment (the Solicitors Qualifying Examination, or "SQE") in order to be admitted to the profession, and the regulator's

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<sup>9</sup> Office for National Statistics, 'How has the student population changed?' (ONS, 20 September 2016) <<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/livebirths/articles/howhasthestudentpopulationchanged/2016-09-20>> accessed on 8 February 2019.

<sup>10</sup> Universities UK, *Degree Apprenticeships: Realising Opportunities* (Universities UK 2017) <<http://www.universitiesuk.ac.uk/policy-and-analysis/reports/Documents/2017/degree-apprenticeships-realising-opportunities.pdf>> accessed on 18 January 2019.

<sup>11</sup> See for example the Education Reform Act 1988, s 124(1).

<sup>12</sup> Competition & Markets Authority, *UK higher education providers - advice on consumer protection law*, (CMA 2015)

<[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/428549/HE\\_providers\\_-\\_advice\\_on\\_consumer\\_protection\\_law.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/428549/HE_providers_-_advice_on_consumer_protection_law.pdf)> accessed on 8 February 2019.

<sup>13</sup> Department for Education, *Review of Post-18 Education and Funding: Terms of Reference* (Department for Education 2018)

<[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/682348/Post\\_18\\_review\\_-\\_ToR.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/682348/Post_18_review_-_ToR.pdf)> accessed on 22 February 2019.

<sup>14</sup> M Tomlinson, 'Conceptions of the value of higher education in a measured market' (2018) 75(4) *Higher Education* 711-727.

<sup>15</sup> R Naidoo, A Shankar and E Veer, 'The consumerist turn in higher education: Policy aspirations and outcomes' (2011) 27(11-12) *Journal of Marketing Management* 1142-1162.

intention is to publish data on candidate performance by educational institution.<sup>16</sup> Moving forward it seems likely therefore that most law schools will at least have regard to the content and format of the SQE when designing and developing their own undergraduate courses, and many will proactively seek to ensure that their students are appropriately prepared to face the SQE after they graduate. This likely trend has the potential to strengthen the overly economic perspective of value even further.

What then is the true, holistic value of a law degree in a post-SQE era, and how can such value be preserved, enhanced and articulated in these changing times? Value creation is the purview of the modern marketing discipline.<sup>17</sup> Uniquely, this study utilizes contemporary marketing theory to evaluate and articulate the potential "value" of a law degree in general whilst at the same time identifying risks of potential erosion and new opportunities for value creation. A new conceptual model (the "Value Slices Model") is then proposed which may support equivalent analyses in relation to a specific course or activity.

The findings of this study will be of use to legal academics in England and Wales who are developing and marketing law courses in a changeable and increasingly competitive market, supporting them to conceptualize value more holistically and thereby develop and articulate unique value components within their programmes that go well beyond the current emphasis on employability within the sector. It will also assist HE institutions in responding to the political rhetoric in relation to the value of HE more generally, both in the UK and internationally. Furthermore, the Value Slices Model may be adapted for use beyond the HE sector.

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<sup>16</sup> See Solicitors Regulation Authority, *A new route to qualification: The Solicitors Qualifying Examination (SQE)* (SRA 2017) <<https://www.sra.org.uk/documents/SRA/consultations/sqe-summary-responses.pdf>> accessed on 18 January 2019.

<sup>17</sup> R B Woodruff, 'Customer value: The next source for competitive advantage' (1997) 25(2) *Journal of the Academy of Marketing Science* 139-153.

The paper begins with an overview of the methodology employed, before systematically evaluating the holistic value of a law degree with reference to the value literature and at the same time highlighting those aspects of value that may previously have been overlooked by legal education providers and/or society more broadly. The paper concludes by presenting a practical model that can be used by course teams to evaluate the value presently offered by their programmes, develop new value and articulate their unique offer within the market in order to achieve a sustainable competitive advantage amidst challenging market conditions.

## **Methodology**

This paper seeks not to present a comprehensive view of the value literature, since notable and effective attempts have already been made.<sup>18</sup> Nor does it seek to explore in any detail the philosophical differences between objective and subjective value,<sup>19</sup> or the intricacies of prevailing economic theory. Rather, this paper seeks to evaluate holistically the potential value of a law degree, identifying the extent to and senses in which that value exceeds and/or might in future exceed that which is currently perceived by key stakeholders, thereby identifying opportunities to preserve, enhance and articulate that value.

Smith and Colgate note that the complexity of the "value" concept renders precise quantification an impossibility, but argue that understanding the different dimensions involved in that process will aid organisations in its creation.<sup>20</sup> In their influential article, they draw upon existing marketing theory and propose a "practical framework" that can be used to create customer value through the consideration of four such dimensions:

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<sup>18</sup> See for example T Woodall, 'Conceptualising 'Value for the Customer': An Attributional, Structural and Dispositional Analysis' (2003) *Academy of Marketing Science review* 1.

<sup>19</sup> See for example G N Belknap, 'Objective Value' (1938) 35(2), 29-39.

<sup>20</sup> J B Smith and M Colgate, 'Customer Value Creation: A Practical Framework' (2007) 15(1) *Journal of Marketing Theory and Practice* 7-23, 8.

"functional/instrumental value"; "experiential/hedonic value"; "symbolic/expressive value"; and "cost/sacrifice value".<sup>21</sup> These aspects of value are strongly endorsed by wider literature from within the marketing discipline.<sup>22</sup>

The present study therefore adopts Smith and Colgate's theoretical framework in order to achieve a systematic and holistic analysis of potential value, bringing in other related dimensions from the wider literature where appropriate. Each of the four dimensions is considered in turn.

The primary focus of this analysis is on the legal education market in England and Wales, but many of its findings will also have validity both internationally and beyond the discipline. Furthermore, the assessment is of a law degree generally, rather than of any course in particular, and it is acknowledged that different institutions will currently be delivering and/or articulating value from within each dimension to a greater or lesser extent.

## **Dimensions of "value"**

### ***Functional/instrumental value***

In relation to a product or service, functional/instrumental value concerns a hierarchy of three inter-related aspects: (1) what it does; (2) how well it does it; and, ultimately, (3) the extent to which it enables the consumer to achieve a particular objective.<sup>23</sup> This particular lens suggests that consumers' conceptions of value are driven by a "means-end" mentality;<sup>24</sup>

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<sup>21</sup> J B Smith and M Colgate, 'Customer Value Creation: A Practical Framework' (2007) 15(1) *Journal of Marketing Theory and Practice* 7-23.

<sup>22</sup> J N Sheth, B I Newman and B L Gross, 'Why We Buy What We Buy: A Theory of Consumption Values' (1991) 22(2) *Journal of Business Research* 159-170.

<sup>23</sup> Woodruff (n 17) 142.

<sup>24</sup> *ibid.*

"value" is in the ability of a product or service to deliver a particular end result for the consumer.

Employability enhancement is clearly a key stakeholder objective, evidenced not least by the fact that the current pilot of the Office for Students' Teaching Excellence and Student Outcomes Framework ("TEF") affords a weighting of 40% to employment outcomes in the metric component of its assessment of teaching quality.<sup>25</sup> That achieving a lucrative graduate job is taken as a measure of teaching quality represents a clear prioritisation - by the government at least - of the means-end aspect of value.

This may go some way to explaining why the HE sector is currently under such pressure, since the perceived "usefulness" of a degree as means of obtaining employment, is under threat. The Legal Education Training Review reported 'anger' amongst law graduates who had been unable to progress their legal career in spite of having invested heavily in their legal education.<sup>26</sup> This supports the suggestion that employability is a key driver for students in choosing to progress to HE and is a significant component within their conception of value. They see their studies at least in part as a means to an end and if graduate employment is not strong, this will diminish perceptions of the value of the education itself.

Clearly employability enhancement is already part of the value offered to law students, particularly where a significant component of the course is clinical legal education, which is

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<sup>25</sup> Office for Students, 'Teaching Excellence and Student Outcomes Framework: Guide to subject-level pilot data' (2018) <<https://www.officeforstudents.org.uk/media/ea9f3f58-00b6-45ef-bd00-1be029eb7114/ofs-201844a.pdf>> accessed on 3 February 2019.

<sup>26</sup> J Webb and others, *Setting Standards: The Future of Legal Services Education and Training Regulation in England and Wales* (letr, 2013) <<http://www.letr.org.uk/wp-content/uploads/LETR-Report.pdf>> accessed 18 January 2019.

arguably the most useful preparation for legal practice.<sup>27</sup> Whilst some have vehemently opposed the notion of employability as a legitimate concern of the academy,<sup>28</sup> this aspect of value cannot be ignored altogether given its fundamental prioritization by key stakeholders. However, the growth of employability metrics within the sector can quickly create an impression that HE study is *only* about securing lucrative and/or specific employment.

Perceptions of functional/instrumental value may change during service delivery and have much to do with the quality of the service provided.<sup>29</sup> Equally, the importance of functional/instrumental values is likely to differ as between consumers.<sup>30</sup> Related to this is the extent to which the product or service has the flexibility needed to adapt to the consumer's particular needs/objectives, which of course may also change over time.<sup>31</sup> In the present context, this suggests that the diversity and availability of elective modules within a law degree may be an important aspect of value as it enables students to tailor their studies so that they are best placed to achieve their specific and changing objectives, recognizing that most law students do not ultimately become practising lawyers.<sup>32</sup>

In addition to employability and any other objectives that students might hope to achieve as a result of their HE, there are also inherent aspects of a degree that provide functional/instrumental values which may sometimes be overlooked or discounted by both

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<sup>27</sup> E. Chemerinsky, 'Why not clinical education?' (2009) 16 *Clinical Law Review* 35-41.

<sup>28</sup> See J McMurty, 'Education and the Market Model' (1991) 25(2) *Journal of Philosophy of Education* 209-217; S Speight, N Lackovic and L Cooker, 'The Contested Curriculum: Academic learning and employability in higher education' (2013) 19(2) *Tertiary Education and Management* 112-126; M Tasker and D Packham, 'Freedom, funding and the future of universities' (1990) 15 *Studies in Higher Education* 181-195.

<sup>29</sup> K de Ruyter and J Bloemer, 'Customer loyalty in extended service settings: The interaction between satisfaction, value attainment and positive mood' (1999) 10(3) *International Journal of Service Industry Management* 320-336.

<sup>30</sup> M L Richins, 'Special Possessions and the Expression of Material Values' (1994) 21(3) *Journal of Consumer Research* 522-533.

<sup>31</sup> J Lapierre, 'Customer Perceived Value in Industrial Contexts' (2000) 15(2-3) *Journal of Business and Industrial Marketing* 122-140.

<sup>32</sup> The Law Society, 'Entry trends' (*The Law Society*) < <https://www.lawsociety.org.uk/law-careers/becoming-a-solicitor/entry-trends/> > accessed on 12 March 2019.

students and providers. For example, "use" value is commonly considered predominantly if not exclusively in a short-term and utilitarian sense, in this case characterized by questions such as: 'does this course help me to secure a graduate job'? This arguably ignores what Vargo and Lush call the "co-creation value"; the idea that value is, and will continue to be, created at the point of use.<sup>33</sup> Skills and knowledge gained during the course of undergraduate studies may have some immediate impact upon graduate employability, but they will also be drawn upon by graduates throughout their working lives. A good example of this is the difference between "knowing" the law, and being able to find it; the ability to independently locate contemporary answers to legal questions as they arise in the future is arguably far more valuable in the longer-term than "knowing" the law that will inevitably soon be out of date.<sup>34</sup> In the present context, such long-term benefits of degree education might be most usefully described as the "lifetime value". Equipped with the capabilities developed through HE, graduates may in theory be able to achieve highly significant and wide-ranging results which go well beyond their initial graduate employment, but which are directly attributable to their studies, even though a causal link may be difficult to evidence. The nature and extent of the possible achievements are potentially infinite, but might include: successful subsequent job applications; promotions; inventions; law and/or social policy reform; process and/or product innovations; publication; or other forms of entrepreneurial activity and original thought. It is clear that outcomes of this kind have potential benefits both for the individual and for local and global communities, which accrue well beyond graduation and thus form part of the functional/instrumental value of a law degree. Further research is needed to establish and evidence such causal links in order to help preserve and articulate the benefits of existing provision, and to create new value in this area.

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<sup>33</sup> S Vargo and R Lush, 'Evolving to a New Dominant Logic for Marketing' (2004) 68(1) *Journal of Marketing* 1-17.

<sup>34</sup> A Nicholson, 'Research-informed teaching: a clinical approach' (2017) 51(1) *Law Teacher* 40-55.

Additionally, there is growing evidence to suggest that graduates live longer,<sup>35</sup> commit less crime, pay more taxes, give more to charity, do more volunteering, and are happier, than those who do not go to university.<sup>36</sup> This evidence provides a range of compelling reasons to attend university, yet these factors are relatively absent from political rhetoric and university marketing materials when it comes to articulating and enhancing the functional/instrumental value of HE. By articulating these benefits and/or developing courses that specifically focus on their enhancement, it may be possible to harness the power of the means-end mentality to promote the impact of study upon these less considered, but nevertheless valid "ends". Furthermore, not only do such wider benefits contribute to the "lifetime" value offered to graduates themselves, but they also contribute to the "community value" of HE, since local and global communities also have an interest in their citizens achieving these outcomes.

As the SQE establishes itself as the exclusive point of entry to the solicitors' branch of the legal profession in England and Wales, a further issue emerges. It seems likely that aspiring solicitors will soon begin to embark upon their undergraduate studies with at least an eye on these admission assessments and will therefore begin to assess the utility of their law degree as a means of preparation, regardless of whether this is something that the provider institution explicitly offers. Of course, some institutions may be able to deliberately market their courses as not preparing students for the SQE, and this would be an entirely legitimate approach given that the Quality Assurance Agency's benchmark for Law clearly outlines at the outset that study at undergraduate level is 'an academic matter'.<sup>37</sup> However, such providers will need to be able to clearly articulate a point of meaningful difference that is sufficiently attractive to

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<sup>35</sup> K Buckles and others, 'The effect of college education on mortality' (2016) 50 *Journal of Health Economics* 99-114.

<sup>36</sup> P Trostel, 'It's not just the money: the benefits of college education to individuals and to society' (2015) *Lumina Issue Papers* <<https://www.luminafoundation.org/files/resources/its-not-just-the-money.pdf>> accessed on 22 February 2019.

<sup>37</sup> QAA, *Subject Benchmark Statement: Law* (QAA 2015), para 1.1 <[https://www.qaa.ac.uk/docs/qaa/subject-benchmark-statements/sbs-law-15.pdf?sfvrsn=ff99f781\\_8](https://www.qaa.ac.uk/docs/qaa/subject-benchmark-statements/sbs-law-15.pdf?sfvrsn=ff99f781_8)> accessed on 18 January 2019.

a particular market segment in order to compensate; uniqueness is not the same as usefulness.<sup>38</sup> In reality, whilst a significant degree of SQE alignment is currently something that makes a course stand out, as more providers make this claim it will quickly become an "expected deliverable", as this is the usual trend for product/service innovations.<sup>39</sup>

There will nevertheless undoubtedly continue to be opportunities for providers to enhance value by delivering the most effective, SQE-compatible legal education. However, institutions that choose to focus on this aspect of value will face some significant risks that need to be closely monitored. Firstly, they will need to make sure that their programmes do not become so closely aligned to the SQE that there is a loss of autonomy/choice for students on their programmes, as this may result in significant reductions in other dimensions of value.<sup>40</sup> Second, they must take care to ensure that they continue to make much needed progress in relation to widening participation, an aspiration that reflects an important outcome for society as a whole, but which is potentially threatened by the assessment methodology of the SQE.<sup>41</sup> And thirdly, they must be clear on the extent of any guarantees that they might be making to prospective students about their prospects of securing a legal career, particularly recognising that only a small proportion of law students go on to practice law.<sup>42</sup>

It is clear then that employability enhancement, particularly as measured by graduate earnings, represents only a small component of the true functional/instrumental value of a law degree. By recognising and ultimately articulating its counterparts, law schools may be able

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<sup>38</sup> S Kelly, P Johnston, and S Danheiser, *Value-ology* (Palgrave Macmillan 2017), 84.

<sup>39</sup> T Levitt, 'Marketing Success Through Differentiation-of Anything.' (1980) 58(1) *Harvard Business Review* 83-91.

<sup>40</sup> Davies (n 79) 104.

<sup>41</sup> J Guth and K Dutton, 'SQE-ezed out: SRA, status and stasis' (2018) *Law Teacher* 52(4), 425-438.

<sup>42</sup> A Bradney, 'The success of university law schools in England and Wales: or how to fail' (2018) *Law Teacher* 52(4), 490-498.

to ensure that they are not inadvertently lost through course development and to explore opportunities to develop them further, creating new value.

### ***Experiential/hedonic value***

Holbrook captures the essence of experiential/hedonic value when he describes "customer value" as '(1) interactive, (2) relativistic... (3) preference, and (4) experience'.<sup>43</sup> Similarly, Kaiser and Young argue that "value" is simply 'another word for happiness'.<sup>44</sup> This experiential/hedonic dimension is concerned with how the consumer experiences the product or service, and whether that experience is positive. Not only will consumers have a perception at the point of exchange regarding what this value is likely to be, but such perceptions are heavily influenced by and change during the experience.<sup>45</sup>

In HE, perceptions of this aspect of value are most likely to be influenced by prospective applicants' own experiences of providers through their marketing materials, open days and equivalents, but also with reference to publically available data, particularly regarding the satisfaction of existing and past students with *their* experiences.<sup>46</sup> As with employability, the student experience is already a key area of focus within the sector. It too represents a significant component in the assessment of teaching quality through the TEF, with satisfaction values from the National Student Survey accounting for one third of the metric component of that judgement.<sup>47</sup> The survey asks students towards the end of their studies

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<sup>43</sup> M B Holbrook, 'Customer value and autoethnography: subjective personal introspection and the meanings of a photograph collection' (2005) 58(1) *Journal of Business Research* 45-61, 46.

<sup>44</sup> K Kaiser and S D Young, *The Blue Line Imperative: What Managing for Value Really Means* (Jossey-Bass 2013), 2.

<sup>45</sup> S Kalafatis and L Ledden, 'Carry-over effects in perceptions of educational value' (2013) 38(10) *Studies in Higher Education* 1540-1561.

<sup>46</sup> See for example Unistats, 'About Unistats' (2019) < <https://unistats.ac.uk/find-out-more/> > accessed 19 March 2019.

<sup>47</sup> Office for Students (n 25).

whether they have been satisfied with various aspects of their course and this data is used to inform league tables which then influence the study choices of prospective students.<sup>48</sup>

How then is the student experience valued? Perhaps the most obvious aspect of experiential/hedonic value in this context is "epistemic value" - the idea that new experiences and/or the arousal and satisfaction of curiosity are desirable characteristics and/or outcomes of themselves, and therefore a source of value to consumers.<sup>49</sup> This aspect of value within the legal education market is supported by the evidence: although aspirations to qualify as a solicitor or barrister are a significant factor influencing students to study law in the UK, research indicates - perhaps surprisingly - that the majority are still motivated primarily out of their interest in the subject matter;<sup>50</sup> and this is also the case internationally.<sup>51</sup> This suggests that so-called "epistemic value" may still in fact be the most important component within the value of a law degree, and should feature heavily in provider marketing and value creation efforts. Providers must ensure that SQE alignment does not detract from or limit the study of topics/research specialisms of particular interest to individual students, else they risk eroding this value dimension.

Another component of this type of value is "emotional value" or, in other words, the feelings that the product or service might produce in the consumer,<sup>52</sup> in the present case these might include: excitement; pride; comfort; belonging; liberation; or even romance. The emphasis on

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<sup>48</sup> Office for Students, 'About the NSS' <<https://www.thestudentsurvey.com/about.php>> accessed on 13 June 2019.

<sup>49</sup> Sheth (n 22) 162.

<sup>50</sup> M Hardee, *Career Expectations of Students on Qualifying Law Degrees in England and Wales* (Higher Education Academy 2014) <[www.heacademy.ac.uk/system/files/resources/hardee\\_interimreport\\_2014final.pdf](http://www.heacademy.ac.uk/system/files/resources/hardee_interimreport_2014final.pdf)> accessed 22 February 2019.

<sup>51</sup> QS Enrolment Solutions, *International Student Survey 2017: Welcoming the World* (QS Enrolment Solutions 2017) <<https://www.internationalstudentsurvey.com/international-student-survey-2017/>> accessed on 5 March 2019.

<sup>52</sup> Sheth (n 22) 161.

emotional values in other sectors is well established - consider for example McDonald's use of the phrase 'I'm lovin' it' in its marketing. Yet within HE these values are typically consolidated under the umbrella of "satisfaction", which is likely to be an oversimplification. How students feel about their experience at university is an important part of its holistic value. It is now well established that even sophisticated contracting parties do not act purely or even predominantly rationally,<sup>53</sup> and since emotion plays a significant part in the decision making process, ought it not also feature explicitly in attempts to promote courses and to create new value through course design and development? Providers may be well advised to proactively explore opportunities to develop such positive emotions in their students.

Closely linked to this is the "sensory" aspect of experiential/hedonic value; the idea that the way products look and feel will influence consumers' experience and their enjoyment of it.<sup>54</sup> This has implications for the design and maintenance of university buildings, as well as literature and online presence. Whilst at first glance it may seem that such aspects have little to do with the value of the core service offered, it seems likely that they have an impact upon the way that students experience that core service and/or their preconceptions of what that experience will be. Far from mere "window dressing", such aspects are arguably in fact an integral part of the value offer to students.

Additionally there has in recent decades been a gradual acknowledgement and consideration of the role that customer-supplier relationships play in creating value.<sup>55</sup> As products and services become increasingly commoditized, differentiation is most commonly achieved

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<sup>53</sup> M A Eisenberg, 'The Limits of Cognition and the Limits of Contract' (1995) 47 *Stanford Law Review* 211.

<sup>54</sup> Smith (n 21) 10.

<sup>55</sup> See for example C Grönroos, 'Value-driven relational marketing: From products to resources and competencies' (1997) 13(5) *Journal of Marketing Management* 407-419, and K E K Möller and P Törrönen, 'Business suppliers' value creation potential: A capability-based analysis' (2003) 32(2) *Industrial Marketing Management* 109-118.

through the strength of customer relationships.<sup>56</sup> Admittedly the literature in this regard relates most naturally to long-term manufacturing-supplier relationships, but relationships are also an increasingly important part of the student experience. Building relationships with academic staff has significant functional/instrumental benefits in terms of references, referrals, learning and innovation, but it also seems likely that the stronger these relationships, the better the students' experience. Again this offers an opportunity for providers to differentiate themselves and articulate/develop the experiential value of their programmes.

It is clear then that experiential/hedonic value is an intricate concept, and that "satisfaction" may be a crude measurement of it. Providers may benefit from evaluating, developing and more clearly articulating the full experiential value delivered by their courses.

### *Symbolic/expressive value*

The third dimension of the framework considers symbolic/expressive value; typified by the meaning that consumers attach to the product or service.<sup>57</sup> This dimension is inherently personal; perhaps more than any other, the application of this concept will differ between individual consumers and thus may be difficult for providers to develop/articulate. For example for some, being the first in their family to go to university may have some social and/or self-identity value that does not exist for other prospective students (and recent evidence suggests that there may also be a "slipstream" effect which changes familial attitudes to HE when this happens, with potential implications for widening participation and the aforementioned "community value"<sup>58</sup>). For others, by analogy to relationship marketing,<sup>59</sup>

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<sup>56</sup> W Ulaga, 'Capturing value creation in business relationships: A customer perspective' (2003) 32 *Industrial Marketing Management* 677-693.

<sup>57</sup> Smith (n 21) 9.

<sup>58</sup> E Wainwright and M Watts, 'Social mobility in the slipstream: first-generation students' narratives of university participation and family' (published online: 10 February 2019) *Educational Review*, DOI: 10.1080/00131911.2019.1566209.

it may be argued that existing familial relationships with particular institutions or groups of institutions (for example, the Russell Group of universities and/or those who have leading scholars/research activities) may influence prospective applicants to restrict their choice of courses to these providers only, with the aim of reducing their consumer choice in what is an increasingly vast market.

Navigating these vast personal differences is inherently difficult for providers, as there is no 'one size fits all'. There are however some respects in which providers may be able to tap into this aspect of value. For example, consider the concept of brand: a degree from an institution with a "stronger" brand arguably has greater symbolic value, and is certainly more likely to resonate with consumers. As such any value propositions must be built upon logical and credible institutional foundations if they are to be effective.<sup>60</sup>

Additionally, providers may seek to preserve, enhance and/or articulate aspects of symbolic/expressive value that are likely to be common to all consumers. For example, HE of itself involves a process of self-formation through which new identities evolve.<sup>61</sup> To enhance this aspect of value, providers might consider proactively embedding new experiences that help students to discover and develop their own identity capital.

### ***Cost/sacrifice value***

Cost/sacrifice value typifies Zeithaml's definition of value as 'the consumer's overall assessment of the utility of a product [or service] based on perceptions of what is received

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<sup>59</sup> J N Sheth and A Parvatiyar, 'Relationship Marketing in Consumer Markets: Antecedents and Consequences' (1995) 23(4) *Journal of the Academy of Marketing Science* 255-271.

<sup>60</sup> K L Keller, 'Building strong brands in a modern marketing communications environment' (2009) 15(2-3) *Journal of Marketing Communications* 139-155.

<sup>61</sup> S Marginson, 'Student Self-Formation in International Education' (2014) 18(1) *Journal of Studies in International Education* 6-22.

and what is given'; it focuses on the perceived favourability of a particular exchange equation.<sup>62</sup> Regrettably, this conception of value now dominates the societal and political rhetoric when it comes to evaluating value within the HE sector, and law programmes are no exception. Two thirds of UK law undergraduates believe that they do not receive "value for money",<sup>63</sup> indicative of a highly economic perspective of "value".<sup>64</sup> The total cost of qualifying as a solicitor is now estimated at between £70,000 and £80,000,<sup>65</sup> with university fees accounting for a significant proportion of those figures. Compare these figures with those of graduate earnings and many consider that the exchange equation does not stack up sufficiently favourably. Like the other dimensions, cost/sacrifice value also changes over time; students are likely to continually evaluate the quality of the service they receive with reference to the costs in order to determine their perceptions of the fairness of the fees that they pay.<sup>66</sup>

The simplest way to improve the cost/sacrifice equation is to reduce price. However, there is limited flexibility to competitively adjust pricing within the HE sector (at least at undergraduate level) with maximum tuition fees being set by the government. Whilst in theory a provider might charge less than the maximum, there is a link between price and perceptions of quality such that - in some but not all cases - lower price may generate perceptions of lower quality.<sup>67</sup> One of the headline recommendations of the recent government Review of Post-18 Education and Funding (the so-called "Augar Review") was a

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<sup>62</sup> Zeithaml (n 2).

<sup>63</sup> J Neves and N Hillman, *Student Academic Experience Survey* (HEA and HEPI 2017) <<http://www.hepi.ac.uk/wp-content/uploads/2017/06/2017-Student-Academic-Experience-Survey-Final-Report.pdf>> accessed 18 January 2019.

<sup>64</sup> M E Porter, *Competitive Advantage: Creating and Sustaining Superior Performance* (Free Press 1985).

<sup>65</sup> A Hattersley, 'Weighing the cost of qualification' *The Law Society Gazette* (London, 4 February 2019).

<sup>66</sup> R N Bolton and K N Lemon, 'A Dynamic Model of Customers' Usage of Services: Usage as an Antecedent and Consequence of Satisfaction' (1999) 36(2) *Journal of Marketing Research* 171-186.

<sup>67</sup> F Völckner and J Hofmann, 'The price-perceived quality relationship: a meta-analytic review and assessment of its determinants' (2007) 18(3) *Marketing Letters* 181-196.

reduction of nearly 20% in the maximum undergraduate annual tuition fee to £7,500.<sup>68</sup> At the time of writing it is not at all clear when or indeed whether this recommendation will be implemented. In theory a reduction in tuition fees for the future might improve perceptions of the cost/sacrifice value of HE, however this is only likely to deliver an actual net increase in value if the government agrees to supplement those reduced fees with additional funding in order to ensure that the other aspects of value delivered do not diminish commensurately.

In any event, economic costs are only one aspect of this dimension. Studying for any degree requires significant investment of time and energy, and comes with it a significant risk of failure of which prospective students are likely to be mindful.<sup>69</sup> Such costs would appear to be inherent within the concept of a degree, but providers may be able to reduce the effect of some of these factors by establishing, for example, strong retention and progression figures - another metric which features in the TEF.

Finally, under the new admission framework for qualification as a solicitor in England and Wales, work experience is likely to become an even more important aspect of this value dimension. In this respect it appears that - if carefully designed and administered - a range of clinical legal education activities may count as qualifying work experience.<sup>70</sup> Providers who can offer clinical legal education that counts towards the two years' hands-on experience that would-be solicitors will need in order to qualify may be able to offer students more in return for the same investment.

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<sup>68</sup> 'Independent panel report to the Review of Post-18 Education and Funding' (2019) <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/805127/Review\\_of\\_post\\_18\\_education\\_and\\_funding.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/805127/Review_of_post_18_education_and_funding.pdf)> accessed on 13 June 2019.

<sup>69</sup> J C Sweeney, G N Soutar, & L W Johnson, 'The role of perceived risk in the quality-value relationship: A study in a retail environment' (1999) 75(1) *Journal of Retailing* 77-105.

<sup>70</sup> R Dunn, V Roper and V Kennedy, 'Clinical legal education as qualifying work experience for solicitors' (2018) 52(4) *The Law Teacher* 439-452.

It is clear then that even a cost/sacrifice value lens is about more than just tuition fees. Even in this relatively restricted domain, there may be more that providers can do to preserve and/or enhance the favourability of the exchange.

### **Value Slices Model**

Figure 1 [Figure 1 near here] presents a new conceptual model which is derived from the foregoing analysis. Law schools and other providers of HE may find this model a useful tool in the process of value creation and in developing resonating value propositions that help distinguish their offer in the market. This model could be applied in relation to an entire programme, a course, or a single teaching/non-teaching activity.

The Value Slices Model breaks down the potential holistic value of a course or activity into six distinct components, which collectively form the mnemonic "SLICES". Four of these "slices" are drawn from Smith and Colgate's own framework, and two are added ("lifetime" and "community" value as described above) given their particular relevance to the HE context.

It is envisaged that the model might be used in three distinct and sequential ways, as follows:

- **Evaluating value:** using either subjective judgements or more scientific data collection methodologies, providers might identify the extent to which each value slice is currently part of the total value offered. These judgements/findings can then be used to determine the relative size of each of the slices for the particular programme, course or activity in question. An annotated and/or resized version of the model might thereby serve as a diagnostic tool, providing a clear picture of the current value proposition.

- **Creating value:** in the development of strategy, providers might utilize the model as a future planning tool to assist in the development of a unique offer which resonates with one or more market segments and which will achieve sustainable competitive advantage. By adjusting the size of the value slices to reflect a desired value focus, law school leaders are able to identify where intervention is needed in order to achieve a truly unique value proposition.
- **Articulating value:** having established both the current and desired "value" foci, the model could be used to help communicate the full value position and aspirations to key stakeholders, not least by providing a foundation upon which value propositions can be developed which will resonate with the intended market.

At the time of writing, the HE market is a "red ocean" market, awash with numerous providers offering broadly equivalent value.<sup>71</sup> Legal education is no exception. The suggestion here is that the current - almost exclusive - emphases on employability and student satisfaction have created a market in which few providers stand out as offering something unique, and in which few value propositions really resonate with market segments. The Value Slices Model therefore represents a much needed tool, designed to both encourage and equip providers to evaluate, create and articulate a unique value focus and truly resonating value propositions.

### **Conclusions and recommendations**

At the time of writing, the "value" of HE is under close scrutiny and - with significant regulatory changes afoot - the law degree faces additional challenges of its own. These dilemmas involve a wide range of stakeholders and - whilst they are not all equal - together

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<sup>71</sup> C W Kim and R Mauborgne, 'Blue Ocean Strategy' (2004) 82(10) *Harvard Business Review* 76-84.

they have substantial power, legitimacy and urgency, and should be carefully considered by legal education providers as they develop their strategic responses.<sup>72</sup>

As this study demonstrates, the potential "value" of a law degree is incalculable and - to a certain extent - incomprehensible; this renders value creation and articulation a complex process. Further challenges also arise from the fact that certain dimensions of value arguably compete with each other. For example: paradoxically, a focus upon the student experience - and in particular its measurement through student satisfaction - may compromise employability. This creates what might be termed an "employability paradox": many skills that employers value (e.g. resilience, independence and teamwork) are often skills that students do not enjoy developing. Such conflicts may go some way to explaining why the traditional lecture (which students continue to value<sup>73</sup>) has survived as a mode of delivery despite long-established academic views that it has only limited pedagogical value.<sup>74</sup>

In spite of these challenges, by being clear on specifically what it is that students value, a law school may be able to target its resources more efficiently to enhance and create value, and this need not necessarily require an increase in workloads.<sup>75</sup> In recent years the incorporation of clinical legal education activities within law programmes has been one way in which a growing number of law schools have sought to differentiate themselves and offer greater value, particularly in relation to employability.<sup>76</sup> However, moving forward, this may not be enough. Henry Ford, the inventor of the Model T motorcar, is often quoted as saying: 'if I had

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<sup>72</sup> R Mitchell, B Agle and D Wood, 'Toward a theory of stakeholder identification and salience: defining the principle of who and what really counts' (1997) 22(4) *Academy of Management Review* 853-886.

<sup>73</sup> A Bone, 'The twenty-first century law student' (2009) 43(3) *The Law Teacher* 222-245.

<sup>74</sup> D. Fox, 'Personal Theories of Teaching' (1983) 8(2) *Studies in Higher Education* 151-163.

<sup>75</sup> See for example V Bermingham and J Hudson, 'Feedback on assessment: Can we provide a better student experience by working smarter than by working harder?' (2010) 40(2) *The Law Teacher* 151-172.

<sup>76</sup> L Bleasdale-Hill and P Wragg, 'Models of Clinic and Their Value to Students, Universities and the Community in the post-2012 Fees Era' (2013) 19 *International Journal of Clinical Legal Education* 257-270.

asked people what they wanted, they would have said faster horses'. Whether Henry Ford ever said this may be in doubt,<sup>77</sup> but it illustrates an important truth: to survive and thrive in this increasingly competitive market, where the value of the core service is being challenged, providers will need to be creative and identify "blue ocean strategies", creating new value that is not yet being offered in the market.<sup>78</sup> The changes brought by the SQE certainly present their own challenges, but they also offer opportunities to providers who are willing to explore new ways of doing things, beyond the restrictions of a qualifying law degree.<sup>79</sup> By adopting a systematic and holistic approach to value, legal education providers will be better placed to capitalize on these opportunities and differentiate themselves effectively within the market. The Value Slices Model may assist in this endeavour.

The first step for a law school is to appraise its own particular external context, since a comprehensive and contemporary appreciation of market factors is an essential precursor to any formulation and articulation of "value".<sup>80</sup> Next, course teams must come together - ideally with student input - to evaluate holistically the present value components of their programmes and activities in a way that: is systematic; is led by the relevant academic literature in this area; and clearly identifies existing areas of strength and weakness.

Equipped with a comprehensive understanding of the external and internal value contexts, course teams are then able to make informed, strategic choices about which aspects of value to develop and then ultimately articulate within the market in order to present a truly unique offer that will deliver sustainable competitive advantage: a resonating value proposition.

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<sup>77</sup> P Vlaskovits, 'Henry Ford, Innovation, and That "Faster Horse" Quote' (*Harvard Business Review*, 29 August 2011) <<https://hbr.org/2011/08/henry-ford-never-said-the-fast>> accessed on 22 February 2019.

<sup>78</sup> Kim and Mauborgne (n 71).

<sup>79</sup> M Davies, 'Changes to the training of English and Welsh lawyers: implications for the future of university law schools' (2018) 52(1) *The Law Teacher* 100-125.

<sup>80</sup> T Levitt, 'Marketing myopia' (2004) 82(7/8) *Harvard Business Review* 138-149.

Modern marketing theory accepts that a product or service cannot be sold to all prospective customers indiscriminately - but rather - that markets must be dissected into segments of broadly similar customers who can be targeted according to their particular needs.<sup>81</sup> Law schools must therefore be clear on what value will be offered by their courses and to whom. They may also benefit from focusing on developing those aspects of value that are already particular strengths, since development and effective utilization of core competencies is a well-established means of achieving sustainable competitive advantage.<sup>82</sup>

Similarly: universities are typically large institutions with centralized marketing functions and potentially very separate academic teams that are tasked with "selling" courses at open days and similar events; this separation can make the development and communication of value a significant challenge.<sup>83</sup> For example, law school websites often do not clearly articulate the unique value of their courses.<sup>84</sup> Providers will therefore need to ensure a degree of organisational coherence in order to ensure that value propositions devised by course teams align effectively with institutional messaging and marketing channels.

There is little doubt that students, politicians and society as a whole typically perceive only a small fraction of the true value offered by HE, but it is useless merely lamenting this shortfall. Resonating value propositions may go some way to persuading stakeholders of the holistic value on offer, whilst at the same time ensuring that such value is not inadvertently eroded through well-intentioned course development. However, in this respect providers must also

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<sup>81</sup> G Lancaster, L Massingham, L and R Ashford, *Essentials of Marketing* (4th edn, McGraw-Hill 2002).

<sup>82</sup> C K Prahalad and G Hamel, 'The core competence of the organisation' (1990) 68(3) *Harvard Business Review* 79-91.

<sup>83</sup> B Dewsnap and D Jobber, 'A social psychological model of relations between marketing and sales' (2002) 36(7/8) *European Journal of Marketing* 874-894.

<sup>84</sup> G Broadbent and P Sellman, 'Great expectations? Law schools, websites and "the student experience"' (2013) 47(1) *The Law Teacher* 44-63.

heed a note of caution: to blame these stakeholders for their lack of understanding is to adopt a deficit model, which rarely achieves intended aims.<sup>85</sup> In order to survive and thrive in the longer-term, providers must strive not merely to identify and articulate existing value but also to enhance and even create new value within their programmes. Students and wider stakeholder groups will then join providers in articulating the "true" value of HE.

Figure caption(s)

Figure 1. Value Slices Model of Higher Education

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<sup>85</sup> P Sturgis and N Allum, 'Science in Society: Re-Evaluating the Deficit Model of Public Attitudes' (2004) 13(1) *Public Understanding of Science* 55-74.