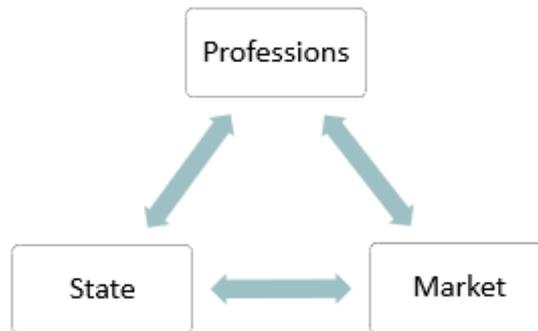


Professions

Introduction

Professions are at once familiar – medicine, law, the priesthood, accounting, engineering, architecture and so on. They develop and provide specialised utilitarian knowledge to act as fiduciaries of clients and are the guardians of social institutions. The essence of a profession is also partly elusive because professions are part of civil society and stand between the market and the state and are in constant relations with both.

Figure 1: The essence of profession



However, these functions and commitments produce many points of tension. Another reason why professions are elusive is because they are not static. Professions are part of society and are influenced by (and influence) the ideas, interests and circumstances around them.

Accordingly, the professions are introduced through an outline of the different ideas of profession and the changing interests and circumstances which have influenced professional work over the last century or so. The main issues and ideas covered are:

- The traditional model of a profession and its leading features;
- The 'Professional Project' and a more critical approach;
- The Commercial-Managerial Model of Profession;
- The promise of professions in the 21st century.

Throughout this article, these ideas are covered against the background of significant change in the practical and economic circumstances of professional practice. These changes have transformed some professions, or parts of them, from the individual or small partnership setting of traditional professional practice with close allegiance to professional associations. Instead, large firms of mobile-employed professionals with national or global reach have developed. Instead of advising individuals, professionals working in these entities advise corporations and business, and some earn very high remuneration. The personal relationship with the client may become more distant using IT and the digital delivery of professional advice. A leading challenge for professions in the 21st century is how individuals working in these large entities satisfy both local professional standards and the requirements and demands of the powerful clients they advise in cross-border settings.

The Traditional Model of Professions

In the traditional model, a profession is said to promise to act as a guardian of an important social institution and serve its clients as a fiduciary. In exchange, it is given the privilege of self-regulation and recognised for the benefits of its esoteric expertise. This aspect is sometimes referred to as the professional ‘regulative bargain’. The ideals of professional service to social institutions and loyalty to clients, civility between professionals and allegiance to their professional body, are often compared to cut-throat competition and profit-seeking in the practices of business. The traditional model sees professions as providing necessary and desirable functions of civil society. In return society and government accept that professional membership confers independence from regulation, professional power, prestige, and for the most successful, generous remuneration. The professions associated with this view of profession are often referred to as ‘status professions’ such as medicine, law and the priesthood.¹

A significant feature of professions is the exclusive position of the professional association to which until the last couple of decades, all professionals were required to belong. This is the body which traditionally had the dual role of leading the representative work of maintaining professional independence and the regulatory work of admitting new members. It alone set conduct and competence standards and investigated and disciplined those who did not meet them. The association shaped professional identity through the training and supervised practice requirements for admission and standard setting and enforcement.

Table 1: The Elements of Professionalism

Elements of the Traditional Promise or Regulative Bargain of Professionalism	
What the Professions Promise	What Society and the Government Guarantee
To act in the interests of a social institution eg public health or the administration of justice	Professional self-regulation of members with a distinctive professional identity which they share through professional association membership
To serve clients loyally (as a fiduciary) and ethically; to ‘put the client first’	Professional power and prestige
To serve clients competently	Generous remuneration for the successful
To cooperate honestly, civilly and in association with fellow professionals and not bring the profession and its members into disrepute	That admission, ethics and competency standards and discipline will be regulated by professional association and political and social influence exercised

¹ Keith Macdonald, *The Sociology of the Professions* (Sage, 1995) 1-14.

The 'Professional Project' and a More Critical Approach

From the 1970s, under the influence of the scholarship of Larson², a more critical approach to understanding the professions developed. Larson argued that it was necessary to 'unmask' the professions. This moved away from the traditional self-conception and rhetoric promoted by professions themselves, to an assessment derived from research observing and surveying professionals at work. Larson argued professions are 'wielders of power, not servants of the social good'³ and characterised by dominance and self-interest. Her idea of the 'professional project' captured the political agency of the professions in pursuing their collective interest in cultural and technical power to maintain their independence and financial rewards. On this view, professional training and ethics requirements are part of the project to keep control of who enters a profession: to exclude certain entrants, to maintain legitimacy and consolidate status and reward.

The Commercial-Managerial Model of Profession

Since the 1980s the regulative bargain that exchanged special status for the supposed critical quality of professional advice to individuals and in the public interest, has been subject to revision through extensive legislation and regulation. The reforms that occurred 'sought to weaken professional monopolies, dismantle restrictive arrangements and challenge entrenched privileges'.⁴ The professions have undergone a process of liberalization while professionals themselves have come under increasing public demand for more auditing and accountability⁵. The reasons for this political attention are many. In the status professions, the heart of the problem was that 'most people or organisations cannot afford the services of first-rate professionals; and most economies are struggling to sustain most of their professional services, including schools, court systems, and health services'.⁶

State regulation, informed by the reports and recommendations of external bodies, has dismantled the exclusive position of professional associations. They are no longer the sole rule-makers regarding terms of professional entry, practice conditions and exit of individual practitioners, and wielders of regulatory power. Associations are no longer permitted to run professional affairs independently, especially the dual role of representation and regulation. Instead substantial regulatory power has been granted under state legislation to government agencies often in co-regulatory settings with associations, diminishing them as a focal point of professional identity.

A parallel change has been one driven by customer-service logic and a consumerist view.⁷ While leading professionals may be world-class, many are not, and the face-to-face manner of work and cost means that few

² Magali Larson, *The Rise of Professionalism: A Sociological Analysis* (University of California Press, 1977); Magali Larson, *The Rise of Professionalism: Monopolies of Competence and Sheltered Markets* (Transaction Publishers, 2013).

³ Magali Larson, *The Rise of Professionalism: Monopolies of Competence and Sheltered Markets*, citing Eliot Friedson.

⁴ Daniel Muzio and Stephen Ackroyd, *On the Consequences of Defensive Professionalism: Recent Changes in the Legal Labour Process* (2005) 32 *Journal of Law and Society* 615, 622.

⁵ Daniel Muzio and Stephen Ackroyd, *On the Consequences of Defensive Professionalism*.

⁶ Richard Susskind and Daniel Susskind, *The Future of the Professions: How Technology Will Transform the Work of Human Experts* (Oxford University Press, 2015) 33.

⁷ Richard Susskind and Daniel Susskind, *The Future of the Professions*, 36.

will be served by such leaders.⁸ The consumerist view is that under-servicing and sub-standard professional conduct results in ethical failures and negligence claims, which professional disciplinary panels and the courts regularly deal with. This predicament encourages those who argue that the professions do not have a monopoly over fidelity, reliability and competence.⁹ The professional ethos has been challenged by the managerial language of 'service delivery'. Such approaches seem to emphasise competence at the expense of virtue. They are criticised for disempowering professionals and devaluing relationships with clients. They are argued to reduce the meaning of ethical service to a version that privileges efficiency and the interests of powerful sectors of the corporate world over values of loyalty. Overall these changes have been criticised for commercialising the professions.

Related to these pressures is the requirement to have professional indemnity insurance. Professional indemnity insurance, along with codes of ethics, has become a hallmark of established professions. The requirement is protective of the client who relies on the expert advice of the professional because they themselves lack expertise. Should the advice be defective the insurance may remediate the client's loss. This is also good for the business protection of the professional and the reputation of the profession. There are also aspects of indemnity insurance that may supply regulatory influences on the business practices, conduct standards and competence of the professional.

A final important change to professions in recent decades has been the slow erosion of association membership numbers and reduction in political and social influence of associations. Compulsory professional association membership was seen as anti-competitive and unnecessary as the functions of associations were assumed by regulators under legislation. The consequent decline in association membership is particularly noticeable in relation to professional practice carried out in large firms or corporations. One of the ways in which associations have lost influence is the capacity of large firms to employ individuals who have professional training and experience but no certification from or membership of the professional association. This means the individual is not subject to the association's rules and ethics and is not amenable to discipline for their disregard. The consequences of this trend are even more emphatic when the professional firm or corporation is global with a cross-border professionally trained but very mobile workforce. We also consider the situation of professionals employed by large firms and corporations. Where practice remains in traditional small-scale settings, professional associations have more to offer by way of professional support and community of interest and identity.

⁸ Richard Susskind and Daniel Susskind, *The Future of the Professions*, 36.

⁹ Richard Susskind and Daniel Susskind, *The Future of the Professions*, 235.

Table 2: Changes of Professionalism

Changes to the Traditional Promise or Regulative Bargain of Professionalism	
Traditional Promise or Bargain	Commercial-Managerial Model Changes
To act in the interests of a social institution eg public health or the administration of justice and with independent professional self-regulation	State regulation of admission and many other professional standards
Compulsory professional association membership	No requirement for membership of independent professional association
To serve clients loyally (as a fiduciary) and ethically; to 'put the client first'	Greater emphasis on professional competence and 'service delivery' and less emphasis on fitness of personal character for trusted fiduciary professional work
To serve clients competently	Greater emphasis on professional competence and 'service delivery' and requirement for professional indemnity insurance when advice is deficient
To cooperate honestly, civilly and in association with fellow professionals and not bring the profession and its members into disrepute	Especially in large firm and corporate in-house legal department employment, there is little or no contact with professional association. Strongest location for formation of identity is the workplace rather than other professionals or association. These trends are augmented when the professional employer entity is global in its operations.
Professional association enforcement of professional ethics and competence standards including expulsion from association	State regulation of discipline and enforcement though often in co-regulatory relationship with professional association

The Promise of Professionalism in the 21st Century

In the 21st century, professions retain many features and attitudes from the traditional approach. They do so in an amalgam with changes derived from ending the legal exclusivity of professional membership and self-regulation, the drive to increase service standards and the advent of professional employment in large entities from the commercial-managerial model.

Expert knowledge and advice of a practical sort remains the core of what professions continue to offer. This is underscored in modern professions by requirements for continuing education and development. In some professions, the maintenance of competence has become an express professional obligation. The provision of

good advice is also underwritten by the requirement to hold professional indemnity insurance, as a source of remediation for those instances when advice is defective.

Professions continue to offer an altruistic and ethical alternative to the more commercial footing of many other occupations. In particular, this offers a confidential and trusted setting in which the client can find reliable advisers for important decisions. More generally ethical advice to clients and collegial treatment of professional peers should benefit important social institutions and reduce the transaction costs of advice and related transactions. The values of professionalism – integrity, competence and personal service – highly correlate with the psychological conditions required for human motivation and satisfaction, providing benefits for professionals personally.

Some professions are intensifying ‘identity work’ in order to revitalise and rearticulate their service ideals and what they offer clients. They are seeking new ways and motivations for professionals to promote ethicality in professional settings including large firms. Training for ethical thinking and conversations with clients, practical help for ethically difficult decisions and greater ethical emphasis in codes, standards and enforcement are evident. Some scholars doubt the merit and sustainability of external motivations such as discipline and sanctions. These writers argue that true ethical behaviour and accountability requires the internal motivations of the psychological needs of autonomy, competence and community service. In short ethicality needs internalization through training, practical support and vocational identity with fellow professionals. This in turn points to the importance of associations as a focal point for professional identity.

Professions are also responding to the challenges of many professionals working in large professional firms through a shift to ‘entity regulation’. Entities are locations of powerful professional formation, and have the capacity to influence professional values and identity. Some are responding to the urging of scholars and professional bodies to create ‘ethical infra-structures’ or formal systems of entity management to encourage professional conduct. These should be extended to promotion and remuneration. Providing the know-how for ethical-infrastructure for entities is a modern self-regulatory opportunity for professional association influence. Likewise, associations are developing ways of influencing employed professionals in large organisations and arguing they too are covered by professional obligations.

A related regulatory development which we explore further below (see ‘*Professional Standards Schemes*’ title) has been supported over the last twenty years by the emergence in Australia of professional standards schemes under legislation, such as those overseen by the Professional Standards Councils. The professional standards schemes, with their lure of limited liability for professionals who adopt appropriate insurance, risk management and business practices, offer another approach to entity regulation in the professions. Membership of these schemes caps the potential liability of professionals or their firms for defective advice, if they have appropriate professional insurance and business practices. This has provided an additional impetus for professional advisers (including accountants) to hold PI insurance even where it is not a legal requirement.

Summary

The reader can see that the idea of profession is a complex and protean one. The times have responded to the different ideas of profession, and professions have often re-negotiated their position between the market and the state with different results. The professions have been addressing the central questions facing them, starting with competence and ethics. Calls for greater ethicality in non-professional occupations and commerce have led to a new interest in professions. Likewise, failures in regulation of legislative origin have caused strategies for ethical internalisation to be re-visited. For those who seek professional recognition, there are more structures to follow, and the process of professionalising is better understood than it once was.

Retaining a distinctive professional offering is complex, and identifying how to deliver what professions have to offer in a global and digitised world will take patience. It will take time to understand what forms of entity regulation work best. The distinctiveness of professions will increasingly depend on the training, workplace ethical support and character of mobile individuals working in those entities. Professional associations will need to work out how to serve their local professionals as well as extending professional norms to global firms. Professions have always had to negotiate changing interests and circumstances: this history and the advances they have made already are reasons for optimism that professions will deliver on the promise of professionalism in the 21st century.

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