Journal of Business Ethics
https://doi.org/10.1007/s10551-022-05276-x

ORIGINAL PAPER

Does the Ethos of Law Erode? Lawyers' Professional Practices, Self-Understanding and Ethics at Work

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Received: 24 July 2021 / Accepted: 10 October 2022

Abstract
Furthering an integrative ethics-as-practice framework, this paper explores the professional practices, self-understanding and ethics of lawyers working in the Germanic legal context. Existing studies of the legal profession often argue that changing conditions in law have led to a 'constrained morality' and an 'erosion of ethos' among lawyers. While the current study acknowledges shifts in lawyers' ethos, it challenges the claim of an erosion or 'lack' of morality. The narratives of the interviewed practitioners rather suggest that socio-discursively constituted professional practices, identity and ethics are complex and contingent. Focusing on the 'moral rules in use' and how lawyers negotiate ethical matters 'from within' evokes ongoing ambiguities and struggles inscribed in ethical (self-)positions, pointing, as such, to the limits of assessing lawyers' conduct as 'ethical' *or* 'unethical'. The study thereby extends both normative and practice-based business and professional ethics studies.

Keywords Ethics as practice · Ethos of law · Germanic legal profession · Professional practice · Self-understanding and identity of lawyers

Introduction

This paper explores how changes in the legal professions have affected the socio-discursively constituted professional practices, self-understanding and ethics of lawyers, with the objective to better understand whether and how these changes challenge the ethos of law. Traditionally, lawyer's ethos, understood as the set of values and norms that shape the customs of engagement in the profession (Daston & Galison, 2007), was based on the duty to uphold the rule of law and grounded in principles such as professional integrity, autonomy and independent judgement (Fasterling, 2009). However, in recent years, the so-called economics-rules-all (Goldsmith, 2008) maxim has gained in relevance in law, as have 'client capture' (Dinovitzer et al., 2014) and accountability maxims, leading some authors to argue that the professional ethos of lawyers 'erodes' (Aulakh & Kirkpatrick, 2018). On the basis of a qualitative study conducted within the under-exposed Germanic legal profession, this paper critically engages with such claims.

The paper pursues an ethics-as-practice framework (Clegg et al., 2007; Dey & Steyaert, 2016), which considers ethical questions to "arise in practice", requiring, as such, that they are "dealt with in practice" (Carter et al., 2007, p. 2). More specifically, the paper seeks to explore how people define themselves and "their ethical position in relation to everyday practice" (McMurray et al., 2011, p. 5). The current study, therefore, analyses how Austrian lawyers relate to the institutional and professional values and norms underpinning their doing, sense of self and ethics at work. The paper thereby extends existing analyses within management and organisation studies (MOS) and professional studies (Empson, 2007; Faulconbridge & Muzio, 2008; Gustafsson et al., 2018), which provide interesting insights into the legal profession and its organisation but hardly engage with the ethical questions inscribed in law. Relatedly, the paper seeks to enrich extant studies on the ethics of/in law. These studies are either conceptual in nature (Luban, 2010; Philippopoulos-Mihalopoulos, 2015) or, in instances where the specific ethics at work are empirically explored, mostly normatively aligned (Moorhead & Hinchly, 2015; Parker &

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Published online: 25 October 2022

Rostain, 2012). They thus aim to define codes and standards of 'ethical' conduct and prescribe how lawyers ought to act (Dinovitzer et al., 2015).

With its focus on situated practices, this paper, by contrast, explores how lawyers manoeuvre the variegated demands that typify the profession and, in the process, respond to contingent ethical concerns. The analysis shows that lawyers' engagement with questions of professional-legal ethics is polyvocal and open-ended. It specifically suggests that lawyers' ethical position and self-understanding is informed by different, entangled 'lawyer types' that prevail within the profession, including the entrepreneurial 'service provider', the 'trusted advisor', the 'posturer' and the so-called lawyer technician (Vaughan & Oakley, 2016). The analysis eventually posits that most lawyers dynamically negotiate questions of ethics, mainly by neutralising, enclosing or reframing them and/or discussing them from a reflexive though often abstract point of view.

The main contributions of the paper are as follows: using an ethics-as-practice framework, the paper contributes to the interwoven fields of business, organisational and professional ethics, which are still dominated by normative approaches focusing on universal moral-legalistic frameworks that define the ethics of individuals from outside (Clegg et al., 2007). Analysing, in line with an integrative practical ethics approach, how precisely legal practitioners constitute themselves in relation to the ethical issues that form part of socio-discursively shaped professional practices, however, allows the evocation of the variegated yet under-explored ambiguities and struggles that seem immanent in ethics and ethical responsibilities 'at work' (Dey & Steyaert, 2016). By undermining individualising, prescriptive positions, separating between ethical conduct and 'misconduct' (Gabbioneta et al., 2019), the paper overall responds to calls from scholars prompting practice-based ethics analyses that allow to nuance existing debates with their emphasis on individuals' local micro-practices and -accounts (Chow & Calvard, 2021). By foregrounding the Germanic-Austrian legal system, the paper, moreover, extends current research within MOS and professional studies, which mostly investigates institutional changes in the context of corporate law firms in the Anglosphere (Allan et al., 2019; Faulconbridge & Muzio, 2009). Seconding Dinovitzer et al. (2015), who ask to cease limiting the study of professional practices, identity and ethics to the context of large law firms, the present study thus contributes insights to the complex professional-moral world of Austrian legal sole practitioners.

The remainder of the paper is as follows: the next section outlines the core assumptions that direct ethics-as-practice approaches in extant business, professional and MOS studies. The subsequent section portrays recent shifts in the legal profession and their implications on lawyers' work. This is followed by a discussion of existing research on lawyers' professional identity and ethics. The methodology section then situates the qualitative study in its specific milieu and introduces its research design, grounded in in-depth interviews with Austrian lawyers. The analysis itself is split into three parts. It begins with a portrayal of lawyers' professional practices, manifesting the specific challenges they encounter, before discussing their articulated professional self-understanding with reference to different lawyer types that the narratives reflect. The third part of the analysis eventually explores how lawyers dynamically engage with ethical matters as part of their professional practice and identity at work. The discussion reiterates the paper's main insights and contributions. Among other things, it challenges the widespread claim that lawyers' ethos currently erodes.

A Practice-Based Ethics Approach

While the ethics-as-practice framework has become more important within the field of business and organisational ethics (Loacker and Muhr, 2009; Clegg et al., 2007; McMurray et al., 2011) and, more recently, professional ethics (Dinovitzer et al., 2015), normative-moralistic ethics analyses still dominate the debate. Such studies commonly seek to "develop more holistic governance and regulatory frameworks to better manage and possibly prevent, the risks associated with…wrongdoing" (Gabbioneta et al., 2019, p. 1711). An ethics-as-practice approach, by contrast, does not direct attention "towards models that define, predict or judge ethics" (Clegg et al., 2007, p. 111), but rather wishes to understand how "ethics are differentially embedded in practices that operate in a…contextualized manner" (p. 111). The approach thus seeks to engage with the question of ethics "locally and empirically" (Rhodes & Wray-Bliss, 2012, p. 42), and not from a safe or abstract distance. However, this does not imply that moral codes are considered irrelevant or exclusively problematic, but what is considered more significant than moralistic frameworks and codices is how individuals relate to them on a micro-level, i.e. how they identify with, challenge, or redefine them and, by this means, inform the practice of ethics and constitute themselves as ethical-moral subjects (Dey & Steyaert, 2016).

Albeit the ethics-as-practice approach is not a homogeneous approach, there are certain premises that unite practice-based analyses: they are critical of universal ethical rules, codes of conduct and value statements that aim to prescribe and codify 'right' and 'wrong' or 'ethical' and 'unethical' behaviour. They further doubt that sets of codes can ensure ethical conduct (Dinovitzer et al., 2015), instead emphasising the situated and subjective character of ethics (Carter et al., 2007). Adopting a non-normative,

non-essentialist position, in effect, implies not to a priori define what is (un)ethical but to explore in the specific field of practice what is considered as specific "ethical substance" (Foucault, 1997) or matter, and "what people actually do when they engage with ethics" (Clegg et al., 2007, p. 110). In doing so, it is acknowledged that ambiguity and "contestation over moral choices" (p. 107) are a constitutive part of ethics and ethical responsibility and can, as such, not be fully 'modelled' and regulated. To the contrary, ethics seems to begin "where the case does not exactly correspond to any rule" (p. 100).

There is a growing number of scholars arguing that practice-based studies should gain in relevance within business and, specifically, professional ethics studies, as they allow us to develop a better understanding of the pressures and conflictual demands that are part of professional practice and inform the ways in which professionals "construct their own identities that, in turn, impact the manner in which ethical dilemmas" (Dinovitzer et al. 2010, p. 127) and concerns are negotiated. In view hereof, the current study furthers an integrative practical ethics framework that goes beyond an individualistic view of professionals' ethical positioning and instead explores the conduct and subjectivity of individuals within the broader social, professional and organisational contexts in which they are situated. It is thereby assumed that moralistic-legalistic regulatory frameworks can never define individuals' ethical (self-)practices. Broadly inspired by a Foucauldian ethics understanding (Foucault, 1997), certain scopes of autonomy are rather considered to be at the heart of ethics and ethical decision-making (Loacker and Muhr, 2009; Ibarra-Colado et al., 2006). Simultaneously, the study acknowledges that dominant social and institutional codes and norms have implications for individuals in that they shape their identity formation, ethical choices and enactment of the former.

Against that background, ethical (self-)practices are in the present study conceptualised as both socio-discursively constituted and actively (in)formed by the single subjects of moral conduct. Before further explicating how legal professionals develop their ethical-professional positions in response to prevailing norms and demands, we now recapitulate the central insights of recent research on changes in the legal professions and related effects on practitioners at work.

Shifts in the Legal Profession and Its Regulation

Changes that have affected the legal profession for about two decades are oftentimes discussed with reference to umbrella terms such as the 'neoliberal turn' or the 'post-2000 era' of law (Faulconbridge & Muzio, 2009). These changes led to increasingly hybrid modes of regulating the work of lawyers (Empson, 2007) and inform established professional norms and standards as well as lawyers' practices (Allan et al., 2019). To develop a better understanding of the contemporary nature of the legal profession, it seems sensible to first engage with the question of what it traditionally looked like. The codes of conduct that have "historic significance" (Dinovitzer et al., 2015, p. 118) in law and long-regulated lawyers' duties, ethical responsibilities and roles serve here as a good starting point.

The first codes that defined lawyers' tasks and duties and sought to ensure 'good' legal practice emerged in the mid-19th century (Backof & Martin, 1991). They included professional values such as integrity, independence and autonomous judgement, alongside a duty to serve the public, referring to the social service ethos that traditionally prevailed in the profession (Hanlon, 1999). Over time, however, these codes have been refined, not least to balance the profession's increasing "economic self-interest with the needs of society" (Backof & Martin, 1991, p. 104); some historical codes such as professional independence and the duty to serve the rule of law are still binding, though (Fasterling, 2009). Model rules that nowadays exist across different jurisdictions further share some commonalities. The obligation to represent and "safeguard the interests of clients" (The Federal Ministry of Justice, 2014, p. 22) is, for instance, reflected in most codes of conduct. Related professional maxims include, e.g., confidentiality, obligation of secrecy and the duty of loyalty (International Bar Association, 2011). The role of lawyers as "gatekeepers of justice" (Michelson, 2006, p. 1) is, likewise, still addressed in many model rules. However, whether and how lawyers perform this role, paralleled by the power to facilitate but also deprive access to justice, is, from a practical ethics perspective, a largely open question.

The effects of institutional changes on lawyers' values and specific practices remain, indeed, contested, even though there is broad agreement that tendencies such as marketisation, commercialisation and economisation increasingly pervade the field, within the Anglo-American legal context but also beyond (Michelson, 2006). Concomitantly, we can observe growing competition and financialisation in law (Faulconbridge & Muzio, 2009), an emphasis on individual client-orientation (Gustafsson et al., 2018) and a promotion of managerial accountability, purportedly counteracting the profession's deregulation and liberalisation (Aulakh & Kirkpatrick, 2018). Considering that more traditional maxims, such as patronage, seniority and hierarchy orientation, are still prevalent in many firms (Empson, 2007), it seems that contemporary lawyers inhabit an ever-more complex world (Fasterling, 2009). This is, among other things, reflected in growing performance pressures and variegated work practices (Sommerlad, 1995),

increasingly insecure employment conditions (Ackroyd & Muzio, 2007) and a diffuse overall image of so-called professionalism and the ethos of law (Parker & Rostain, 2012).

Several studies thus suggest that it is eminently difficult for lawyers to balance the different demands they face while upholding values such as independence and integrity (Chow & Calvard, 2021). Conflicts between, e.g., professional and commercial interests and public and client interests have become an integrative part of legal work (Gustafsson et al., 2018). In light hereof, some studies argue that institutional rules and procedural moral codes are crucial to continually ensure compliance with professional standards (Fasterling, 2009; Faulconbridge & Muzio, 2008). More critical studies, however, challenge this position and argue that the economic globalisation of the field undermines, in conjunction with new regulations promoting managerial accountability, traditional principles and ideals (Aulakh & Kirkpatrick, 2018; Baron & Corbin, 2017). Other analyses, moreover, point out that formal disciplinary-professional codes are widely disconnected from lawyers' work realities (Vaughan & Oakley, 2016). Their effects thus seem widely indeterminate (Dinovitzer et al., 2015).

In addition, some studies argue that legal professionalism, traditionally linked to questions of professional responsibility and ethics, no longer stands in opposition to the 'market' (Hanlon, 1999). By contrast, legal professionalism appears to be more and more permeated by profit-generation maxims and performance measures, such as *PEP* (profits per equity partner). Such measures associate the value of law firms and the quality of legal work with profitability (Faulconbridge & Muzio, 2009), and not, for instance, the acceptance of professional responsibility or considerate judgement. Particularly in corporate law firms, numeric-financial indicators are increasingly pervasive. Following Heinz et al. (2006), corporate law is also the legal 'hemisphere' that is considered prestigious, in contrast to, e.g., civil law. Against that backdrop, some scholars note a shift from law as profession to 'law as business' (Parker & Rostain, 2012).

Phenomena such as financialisation, corporatisation and commercialisation are especially prominent in the Anglo-Saxon legal context. In the UK, it was specifically the so-called *Legal Services Act* that led in the post-2000 period to an accelerated dissemination of 'shareholder value logics' in the profession (Faulconbridge & Muzio, 2009). While the act came along with new auditing rules, it allowed, for the first time, separation between ownership and control in legal firms (Ackroyd & Muzio, 2007). This was again accompanied by an expansion of global US firms in the UK, promoting a corporate model that has been discussed as the 'one-firm model' (Faulconbridge & Muzio, 2013). The model enables large law firms to provide services across different jurisdictions and, thus, allows them to occupy an ever-more powerful position within the legal 'market'.

To what extent financialised performance pressures and overall economic rationales also predominate in the Germanic legal context will be discussed below. However, from the present analysis, we can conclude that the legal profession is characterised by a hybrid set of principles and norms, which informs legal practice as well as lawyers' attitude to their work. The next section further elaborates on how the portrayed shifts may affect lawyers' identity and hence their discursive and reflexive conception of self (Kuhn, 2009). The discussion focuses on studies that explored the nexus between identity and ethics, as they provide insights into whether an engagement with ethical concerns is considered part of lawyers' self-formation at work.

Shifts in Lawyers' Professional Identity and Ethics

Notwithstanding the various responsibilities that disciplinary codes ascribe to legal professionals, studies of lawyers' identity often suggest that their self-understanding is mainly informed by the duty to advocate for client interests (Dinovitzer et al., 2014). For instance, Gustafsson et al. (2018) and Sandefur (2015) see lawyers' self-performance increasingly informed by the client-first maxim or the 'client service virtue', making lawyers ever-more dependent on their clients. Moorhead and Hinchly (2015), furthermore, argue that identifying with the notion of 'client service provider' implies a refusal of any professional responsibility outside the remit of commercial client focus.

Other studies suggest that, in an era of global economisation, values such as status, individual career achievement and individual business performance have become central sources of identification (Sommerlad, 1995). Parker and Rostain (2012), for instance, assess the business maxim as the central value directing the self-understanding of corporate lawyers, referred to as "handmaids to global capital" (p. 2360). Allan et al.'s (2019) study of corporate-commercial lawyers, similarly, proposes that the growing focus on 'financialised management' turns lawyers into strategic-careerist professionals, although, according to them, lawyers' calculative attitudes and identity aspirations cannot be separated from the professional field, in which high-performance pressures, deteriorating employment conditions and an "ontological insecurity with regard to career projects" (p. 126) have become an integrative component of work.

Studies of the relationship between lawyers' identity and ethics at work have, further, elaborated on subjects such as the 'ethical lawyer' (Vaughan & Oakley, 2016), lawyers'

'ethical consciousness' (Moorhead & Hinchly, 2015) and 'ethos' (Aulakh & Kirkpatrick, 2018). As indicated, these studies are mostly underpinned by normative-prescriptive ethics approaches that seek to define what good legal practice looks like and often associate such practice with compliance with predefined codes and rules (Fasterling, 2009). They thereby particularly challenge the practices and self-understanding of lawyers working in large law firms. A recurrent argument here is that the performance measures in such firms foster problematic cultures, favouring not only competition but also non-collegial behaviour and 'misconduct' (Baron & Corbin, 2017; Gabbioneta et al., 2019). Several analyses, concomitantly, conclude that large law firms lack 'ethical infrastructures' (Vaughan & Oakley, 2016) that could cultivate 'professional morality' among lawyers.

Kuhn's (2009) study of corporate lawyers in the US, for instance, suggests that lawyers absorb and identify with the professional and managerial-organisational discourses that dominate in law firms. Such identification enables lawyers to 'neutralise' complex ethical questions in legal work, but it simultaneously implies that lawyers dismiss their 'ethical sensitivity' and reflexivity. Such insights are echoed by Chow and Calvard (2021), who argue that the professional identity of corporate lawyers is "morally constrained", mainly due to the prevalence of "commercial-managerial imperatives" (p. 226) in law. Moorhead and Hinchly's (2015) study, furthermore, emphasises that the self-understanding of corporate lawyers is increasingly governed by what is portrayed as 'lawful' practice. Rather than engaging with questions of professional ethics, lawyers thus seem to reify ethical issues and turn them into technical-legal, managerial problems. Moorhead and Hinchly consequently resume that the "ethical consciousness" of commercial lawyers is "not a strong part of professional identity" (p. 44).

Vaughan and Oakley (2016), authors of another study on the self-understanding and ethics of UK corporate lawyers, similarly argue that lawyers 'codify' ethical tensions between, e.g., client demands, commercial interests and professional responsibility. Vaughan and Oakley therefore introduce the notion of the "lawyer technician" (p. 50), referring to a lawyer type who distances themselves from ethical issues by claiming to represent client interests from a 'value-neutral' position. "Saying no" (p. 67) to client demands is, moreover, not considered an option. The authors hence argue that corporate lawyers are typified by "moral relativism", if not "ethical apathy" (p. 68). While the current analysis prompts that lawyers' engagement with ethics is more complex, it will seize on the notion of the lawyer technician as it evokes some identity aspects that also find expression in the accounts of Austrian sole practitioners.

While there is no homogenous assessment of lawyers' practices, self-understanding and overall ethos, most studies note that in a marketised profession, it is challenging to reconcile variegated and potentially antithetic demands (Faulconbridge & Muzio, 2008). Intensified pressures, indeed, lead to contested practices, including the subversion of prevailing codes of conduct and, in some cases, the violation of law (Fasterling, 2009). As indicated, some scholars thus argue that the profession needs further codes and rules to better 'manage' the ethics at work (Chow & Calvard, 2021) and to encourage self-reflection among lawyers (Dinovitzer et al., 2015). Others, however, posit that it is precisely the growing focus on rules that challenges core values of legal professionalism and leads to the deterioration of lawyers' sense of responsibility and ethos (Aulakh & Kirkpatrick, 2018). Scholars such as Gustafsson et al. (2018) and Sandefur (2015), more specifically, propose that lawyers' traditional values are increasingly replaced by professional standards such as public accountability and client service ethic. Hanlon (1999), similarly, argues that governmental and institutional changes led to a shift from a professional ethos, foregrounding social service as a central epistemic virtue, to a market-defined ethos that values managerialism and commercial practice over service to justice.

Let us recapitulate: prevailing studies of lawyers' identity and ethics provide insights into phenomena such as ethical reification, ethical misconduct and the role of accountability within legal practice. Some studies place emphasis on individual lawyers, ascribing to them an overall lack of 'ethical consciousness' and empathy (Moorhead & Hinchly, 2015), and thus suggest that lawyers are "unconcerned about the ethics of what they and their clients were doing" (Vaughan & Oakley, 2016, p. 71). Other studies problematise the legal field, specifically large firms, for fostering a 'morally constrained' climate (Chow & Calvard, 2021) and jeopardising good legal practice; as Vaughan and Oakley (2016, p. 74) put it, "an ethically minimalist subfield creates an ethically apathetic habitus". By contrast, the integrative ethics analysis developed in this paper is not interested in defining what ethical practices or the 'moral attorney' look like. It instead focuses on how lawyers negotiate established institutional codes and, by this means, "constitute themselves as subjects in relation to ethics" (McMurray et al., 2011, p. 5). Lawyers' subjectivity is thereby understood to be shaped by both socio-discursive practices and norms as well as self-practices, allowing individuals to considerately contribute to their self-formation (Foucault, 1997). As the analysis will show, lawyers' engagement with ethical questions is convoluted, undermining, as such, simplistic judgements. First, however, we introduce the study's methodology.

Methodology

Contextualisation

The empirical material stems from a large research project that investigates changes in the work of Austrian legal professionals, including lawyers, judges and state prosecutors, and their effects on legal practice and the ethos of law. While the paper benefits from the insights gained in this context, the current analysis deliberately focuses on lawyers, representing, alongside judges, the core professional group within the judicial system. Considering that the Austrian system of justice is widely under-exposed, we begin by contextualising the study.

While the theoretical education in Austria is identical for all legal professions, the specific "activities of the different professions have been developed in such a way that they complement each other" (The Federal Ministry of Justice, 2014, p. 23). The training of lawyers consists of five years of study and an additional five years of practical training. During the latter, candidate lawyers work for an individual lawyer or a law firm. The training is complemented by a nine-month placement at court. Following this, candidate lawyers can take the bar exam. They can subsequently secure entry in the register of lawyers and become a full member of lawyers' self-governing professional body, the Federal Bar Association (Rechtsanwaltsordnung, 2009).

Whereas both lawyers and judges are involved in the administration of justice, judges are formally "only bound by the law and decide on the basis of their own legal convictions" (The Federal Ministry of Justice, 2014, p. 25). Hence, they are asked to implement the law as "independent agents" (p. 24), with "the securing of legal peace" (p. 22) presenting a main juridical duty. A core responsibility of lawyers is, by contrast, to offer legal advice and defend the interests of individual clients before other authorities. Other professional responsibilities are listed in the so-called Lawyers' Act, the profession's statutory basis. It states, among other things, that lawyers are subject to "an obligation of secrecy, protected by law, and to strict disciplinary rules" (p. 27). The bar association has to monitor whether lawyers' practices comply with these rules. When found guilty of violating their duties, lawyers are "liable with all their personal assets" (p. 27).

In 2019, roughly 6670 lawyers were registered in Austria, whereby almost 80% of them were male lawyers (Rechtsanwaltskammertag, 2019). This demonstrates the under-representation of women in the profession and, more generally, the continued relevance of traditional maxims such as male patronage and seniority (Empson, 2007). That said, while the Germanic legal system has recently undergone various changes, manifested in increasing (inter) national competition, financial-economic pressures and a liberalisation of the field, there is still some continuity. There are thus parallels and differences between the continental legal system and the Anglo-Saxon context.

In comparison to the Anglosphere, the majority of Austrian lawyers work as so-called independent general practitioners in small law firms (Rechtsanwaltskammertag, 2019). Historically, statutory requirements obliged lawyers to be self-employed, to uphold professional values such as independence and autonomy (Rechtsanwaltsordnung, 2009). While there are now some large, internationally oriented corporate law firms (e.g. Freshfields or Wolf-Theiss), the global 'one-firm model' (Faulconbridge & Muzio, 2013), grounding the success of lawyers' work in financialised performance metrics, does not predominate in the Germanic context. Indeed, a separation between ownership and control in law firms is not allowed. The phenomenon of salaried lawyers is, furthermore, rather marginal in the Austrian context. As sole practitioners, lawyers bear the economic responsibility and risk for their business (The Federal Ministry of Justice, 2014).

With reference to the two hemispheres defining lawyers' position, corporate and non-corporate law (Heinz et al., 2006), one can further posit that, in the Germanic system, the second hemisphere prevails. The division between two hemispheres of law is also reflected in different types of settlement: one type is based on lawyers' 'Fees Act'; another type is based on hourly rates. The Fees Act defines how much lawyers can bill for legal services and is used by most general practitioners. By contrast, specialist lawyers, often working in corporate law firms, mostly settle on the basis of (more profitable) hourly fees. However, irrespective of contingent specialisations, all Austrian lawyers are asked to contribute to the existent legal-aid system. This system also gives those access to the rule of law who cannot afford litigation. For such services, lawyers do not receive any remuneration (The Federal Ministry of Justice, 2014).

Eventually, it is worth mentioning that the continental system of justice is grounded in a different legal tradition than the Anglo-American system. The UK follows the so-called common law tradition, in which 'case law' prevails, while the European system is rooted in the 'Roman law' tradition and so-called code-based law. Code-based law is considered rather theoretical, prompting its advocates to argue that it is more substantiated than the Anglo-Saxon jurisdiction. Proponents of the latter instead claim that case law is more narrative and flexible (Faulconbridge & Muzio, 2013). Without judging the two jurisdictions, it is assumed that they affect the administration of the rule of law, and the specific practices, self-understanding and ethos prevailing among legal professionals.

Research Design, Study Participants and Data Analysis

The empirical study was based on a qualitative research design and provides 'exemplary insights' (Alvesson & Kärreman, 2011) into how changes in the Austrian legal system shape, on a micro-level, the professional practices and negotiation of lawyers' identity and ethics at work. The insights were gained from an in-depth analysis of 20 open, semi-structured interviews conducted with self-employed lawyers practicing in Austria, each lasting between two and three hours. To grasp the multifaceted nature of the world lawyers are embedded in, a sample was chosen that reflects a rich diversity of professional experiences. The sample includes seven female and thirteen male lawyers. A third of the participants are based in Vienna; they mainly work on business law cases. The other participants are located in western Austria. Most of them represent private clients and work in areas such as civil or criminal law. While lawyers' status varies across the sample, all have at least 10 years' working experience, with some having 30–40 years' experience. The analysis is complemented by insights gained from secondary information, i.e. documents such as annual reports published by the Federal Ministry of Justice, public reports published by the bar association, legal practitioner magazines including *Das Anwaltsblatt*, and media accounts on the Austrian legal professions (Bowen, 2009).

The semi-structured interviews focused on six main themes: (a) lawyers' professional biographies and work experiences, (b) evaluation of change and continuity in professional norms and standards, (c) the role of business and performance maxims in law, (d) the relationship between morality and law(fulness), (e) lawyers' self-concept and subjectivity, and (f) challenges of the profession and the overall system of justice. All interviews were recorded and transcribed and, thereafter, thematically and theoretically structured (Alvesson & Kärreman, 2011). For the purposes of anonymity, pseudonyms have been used throughout.

The process of data analysis involved various iterative movements between interview transcripts and secondary sources, circling around questions such as what typifies the profession? What are the main changes and challenges lawyers address and experience? How do lawyers narrate themselves? What are, more broadly, recurrent themes that the independent practitioners evoke, i.e. what matters to those within the profession? After multiple readings of the material, we began with a first thematic structuring of the data. Emergent themes included economic pressures, entrepreneurial demands, dependency on clients, service provision as a core responsibility and self-identification source, the significance of lawful practice, and reification and redefinition of sensitive issues at work. The first-order analysis eventually aroused an interest in further exploring how lawyers understand and negotiate ethical matters in everyday practice and, by this means, (co)construct their identity. The empirical material was subsequently structured with reference to theoretical concepts, paying particular attention to notions such as situated-local practices, moral-legalistic frameworks and codes, and ethical-moral subjectivity and self-formation, as discussed in the ethics-as-practice literature (Carter et al., 2007; Dey & Steyaert, 2016).

The second-order analysis led to further development of the initially evolving themes. In line with an abductive approach (Alvesson & Kärreman, 2011), we sought micro-practices and -accounts evoking how the legal practitioners relate to and engage with the variegated norms, demands and codes that prevail in the specific field of practice and, simultaneously, tried to be open to new categories of meaning (this, e.g., allowed to discern different lawyer types speaking

Table 1 Empirical analysis: overview of main thematic categories and sub-themes

Socio-discursively constituted professional practices	Lawyers' professional self-understanding and identity	Ethical (self-)practices at work
Economic pressures and calculative-entrepreneurial practices	Self-identification as (entrepreneurial) service provider	Ethical closure, neutralisation and reification
Liberalisation of the field and accountability-oriented practices	Self-identification as trusted advisor	Intellectual, reflexive engagement with ethical matters
(Self-)Marketing demands and networking activities	Self-identification as committed-passionate lawyer	Reframing of ethical questions: creative challenges and concerns of lawfulness
Individual client focus and general practitioners' practices	(Dis-)Identification as career-oriented posturer	Situational, contingent negotiation of the ethics at work
Commercial client focus and specialist lawyers' practices	Self-presentation as lawyer technician	
(Un)Lawfulness and ethically contested work practices	Self-presentation as reflexive practitioner	
	Identity formation through distant othering	

in practitioners' self-accounts). The analysis finally resulted in three main thematic categories: (a) socio-discursively constituted professional practices manifesting work-related challenges, (b) professional self-understanding and identity, and (c) ethical practices and self-positioning at work. In accordance with an ethics-as-practice framework (Clegg et al., 2007), these categories allowed to link interwoven themes and organise the presentation of the empirical material. For a more detailed overview of the main categories and their various sub-themes, we refer the reader to Table 1.

The analysis, overall, followed a 'reflexive methodology' (Alvesson & Sköldberg, 2000). This involved a critical awareness that extant ontological and epistemological commitments underpin and shape, similar to theoretical and methodological choices and assumptions, the process of knowledge creation. Critical-reflective questioning and refining of the modes through which insights were developed was thus central to the process of interpreting the empirical material. This material is presented in what follows. The first sub-section introduces lawyers' professional practices and allows, as such, to situate the intricacies that lawyers face. The second sub-section subsequently discusses lawyers' articulated self-understanding, placing emphasis on the dynamically entangled lawyer types evoked in the narratives. The third sub-section then elaborates in detail on lawyers' engagement with questions of ethics and thereby provides further insights into their discursively and ethically-reflexively constituted subjectivity.

Analysis

Lawyers' Professional Practices: Change and Contestation

Lawyers' narratives suggest that their professional practices are impacted by recent changes in the field, including increasing competition, client focus, accountability demands and economic performance pressures. While the 1980s and 1990s are often referred to as the "golden age" (Severin), many lawyers argue that

> [The] good times are over now. The work is very challenging…and some lawyers go out of business. (Paul)

Distinct competition and economic pressures tend to result in a "fight for money and clients" (Cassie) and a growing focus on *calculative-entrepreneurial practices*, which are, again, furthered by the steady liberalisation of the profession. Following Archie, "what was previously done by lawyers is now often done by legal consultants, accounts, or computer programmes". Such shifts are observed with scepticism, as most cases are considered "too complex to be outsourced or resolved by an online programme" (Sven).

However, liberalisation tendencies have also been accompanied by the introduction of new governmental policies such as the Data Transparency Programme or the Money Laundering Codex. Concomitant with such regulations is an increasing emphasis on externally oriented *accountability practices*, which some lawyers consider necessary in an ever-more complex, commercialised profession (Chow & Calvard, 2021), whereas others regard it as "yet another burden" (Elton) and risk to lawyers' independent practice.

Several accounts further suggest that *marketing and networking activities* have become an integrative part of lawyers' professional practice. Most lawyers consider 'investments' in relationship management necessary to secure mandates. Following Benno, it is no longer sufficient to "offer sound legal work; you must also be a tough marketer and salesman", a circumstance that also contributes to the individualisation of the profession and that general practitioners experience as particularly challenging.

Practices of general practitioners, constituting the main 'class' of Austrian lawyers, are mostly oriented towards local, *individual clients*. Several accounts suggest that these practitioners tend to "take on any clients" (Cassie), even in instances wherein the "tariff law hardly compensates for the work" (Brigitte). That said, being exposed to precarious work conditions is, in the Austrian context, no longer an exception. Such conditions, however, hardly affect the second 'class' of lawyers, specialist lawyers. *Practices of specialist lawyers* are focused on the representation of (international) *commercial clients* and, thus, the "good, affluent clients" (Rainer), prepared to pay hourly rates between EUR 300 and 600. Whether such fees are justified is subject to ongoing debates. While some argue that specialist lawyers offer the 'best' quality, others challenge the practices prevailing especially in corporate law firms. Several accounts propose that these are defined by "numbers, metrics and high turnover" (Sandra):

> There's a clear hierarchy and status difference between standard lawyers and lawyers working in corporate law firms…They think they are superior, even though their work isn't necessarily better, just much more expensive. (Lena)

However, not all lawyers agree that "it's only a myth that corporate or specialist lawyers have more know-how than others" (Brigitte):

> It pays off to choose a specialist lawyer. Their work isn't comparable to the work of normal lawyers…Take a table from IKEA; it may last some years, but you can never compare a mass-product with the effort going

> into a handmade table…Retaining a specialist lawyer means that the client gets full attention, a first-class service and the best solution. (Sven)

Despite differing views, many lawyers accept that there is a correlation between the case and client type, amount in dispute and effort invested. This is particularly evident in instances in which the litigious value is very low, asking lawyers to "work really efficiently" (Georg), or where lawyers' work is not remunerated, as in legal-aid cases. While most practitioners agree that it is, in principle, "important that the poor can also access legal services" (Cassie)—which indicates lawyers' public service function (Hanlon, 1999)—they equally criticise that the current system is based on "forced labour" (Elton), leading some to complete legal-aid cases with "minimal effort" (Richard). Expectations from clients who wish to gain more than a "standardised service, complying with disciplinary standards" (Paul) are referred to as "misplaced; we don't live in Alice's wonderland" (Sven). Only one lawyer, Archie, argues that "clients' background does not matter; I treat every case identically".

However, Archie also acknowledges that "not everyone is equal before the law". Such claims are considered "overconfident" (Lena) or "simply wrong" (Lydia). Accounts such as "the law is not outside political and economic interests" (Elton) indeed suggest that economic considerations also influence the administration of justice. Judges, in particular, face ever-increasing performance demands, implying that they are asked to "produce verdicts very quickly" (Lena). According to some lawyers, this is paralleled by the risk that the complex question of dispensing justice is reduced to a "mathematical box-ticking exercise" (Sven).

With regard to the evaluation of their own practices, many lawyers are less critical, even if they are evidently affected by institutional changes and pressures. While safeguarding client interests is one of the core responsibilities of lawyers, several accounts suggest that "the generation of turnover is at times prioritised over client interests" (Paul). This is manifested in practices such as the "intentional prolonging of lawsuits" (Marianne) or attempts to "talk clients into unnecessary lawsuits" (Rainer). Following the narratives, such practices cannot only be observed in instances where lawyers face the "huge challenge to secure their own economic survival and work in the best interest of clients" (Sandra); they also prevail in successful law firms wherein "lawyers do not often choose the most sensible option, but one that allows to charge lots of billable hours" (Sandra).

Alongside *ethically contested practices*, there are, according to some practitioners, also *unlawful practices* within the field. Criminally liable practices include, for instance, the "negotiation of high-risk M&A deals outside the law" (Benno), or "billing for services not performed" (Lydia). Sven worked as a candidate lawyer in firms where such practices prevail:

> In most corporate law firms, the money defines everything…Senior lawyers are often involved in money laundering, or fictional constitutions of foundations.

While all lawyers distance themselves from unlawful practices, some expound that practices compromising lawyers' professional-ethical responsibility are, in part, the result of a profession increasingly informed by the economic-rules-all maxim (Goldsmith, 2008). Simultaneously, several lawyers argue that, in comparison to the "shareholder-oriented, financialised Anglo-American industry" (Tom), the Germanic field is still "widely solid" (Lena). Lawyers specifically problematise that the former is based on success fees and allows "law firms to be on the stock market" (Tom), something that is considered detrimental to independent legal practice. In light hereof, some lawyers remark that "for all difficulties, there's still a good chance that people get as much justice as possible here" (Benno).

Taken together, the accounts on lawyers' professional practices prompt that Austrian legal practitioners have been exposed to ever-more intricate demands in recent years. Having outlined the "exigencies in professional practice" (Dinovitzer et al., 2015, p. 128), the following sections now elaborate on how lawyers negotiate and (co)construct their professional identity and engage with the ethical issues they consider inherent in everyday practice.

Lawyers' Self-Understanding: Entangled Professional Types

The narratives suggest that legal practitioners form their identity with reference to different socio-discursive *lawyer types* that prevail within the profession. Lawyers relate to, identify and disidentify with these in variegated ways. The analysis, as such, suggests that lawyers' articulated self-understanding is underpinned by dynamically entangled lawyer types. Types that are actively mobilised include the entrepreneurial 'service provider', the 'committed-passionate lawyer', the 'trusted advisor', the career-oriented 'posturer' and the 'lawyer technician' (Vaughan & Oakley, 2016). Further types include the 'reflexive practitioner' or the so-called good lawyer, but they are less directly addressed. In what follows, we first present the predominant types voiced in lawyers' narratives, before discussing how lawyers—ambiguously—position themselves towards them.

Out of their various formal roles, lawyers commonly consider the representation of client interests their main

responsibility. More traditional roles, such as serving as ministers of justice, are often referred to as a "relict of the past" (Rainer), even if some lawyers acknowledge that, initially, they studied law because they wanted to "counteract inequalities" (Lydia) and "get justice" (Cassie). Simultaneously they argue that, over time, one realises "how things are done" (Sven) and that "idealism isn't everything" (Lena). By this means, they re-evoke that established professional norms "affect individuals" (Sandra) and subjectify them in specific ways (Kuhn, 2009).

An in-depth analysis of lawyers' accounts, further, suggests that the safeguarding of client interests is understood in various ways. The more reflexive lawyers, for instance, refer to the disciplinary codex and emphasise that "representing the interests of individual clients to the best of one's knowledge" (Rainer) is "our professional duty" (Elton). Considered client focus is, from such a position, regarded "crucial to preserve the rule of law" (Sandra). However, most lawyers explicate their understanding of client representation differently. In line with institutional norms, they argue that "service- and customer orientation" are nowadays imperative:

> The customer is king…I think lawyers don't represent the law; they represent their clients…I want to offer a good service, and that's why I'm available 24/7. (Lydia)

Richard, likewise, notes that "the lawyer is not obliged to the public but simply the lobbyist of his client". Given such accounts, the self-understanding of many sole practitioners seems to be underpinned by the notion of the so-called *service provider*; a lawyer type that Benno explicitly addresses:

> My older colleagues may not want to hear this, but we're service providers. Clients buy our intellectual know-how…We accompany and consult them, that's it. We're nothing more than a service occupation.

However, there are differences as to how the role of service provider is performed. Prioritising client interests over other responsibilities is for some lawyers concomitant with a willingness "to do everything for the customer" (Lydia), while others are more hesitant to "become clients' accomplice" (Rainer). Lawyers' narratives, moreover, suggest that the growing relevance of the 'client-first maxim' (Gustafsson et al., 2018) coincides with demands for "becoming more entrepreneurial and business-like" (Brigitte). This is also manifested in the self-presentation of some practitioners:

> I always wanted to be an entrepreneur…I could have equally ended up as a self-employed goldsmith…But it was some kind of strategic decision to become a lawyer, an entrepreneurial lawyer. (Sven)

Other practitioners, in comparison, argue that they lack strategic-entrepreneurial "genes" and emphasise that "a good lawyer isn't necessarily a good entrepreneur" (Lena), assuming that lawyers identifying with the notion of *entrepreneurial service provider* pursue a transactional-economic client approach.

That this is not mandatory, though, is illustrated by lawyers who foreground client advocacy in their self-accounts—because they regard themselves as *trusted advisors*. The notion of the trusted advisor is not completely antithetical to the entrepreneurial service provider, but lawyers identifying with the former seem to follow a more 'proximal' client approach, as reflected in an account from Fritz:

> Our clients ask for all-encompassing support…The advice I give goes beyond my economic interests… But that's how you develop good, trustworthy relationships…They're the basis of success.

And the Viennese lawyer adds:

> I've realised that it's not easy to sell my law firm, because I'm kind of a trusted advisor for our clients… it all comes down to me. A trusted advisor…that's who I am.

Lawyers whose self-understanding is informed by the idea of trusted advisor present law as "a very person-related profession" (Paul), resembling the equally "relationship-oriented medical profession" (Archie). That lawyers' practices and self-understanding cannot be reduced to the economics-rules-all maxim is, moreover, supported by narratives of practitioners performing the *highly committed, passionate lawyer* type. This type prevails among female lawyers and defence lawyers.

Defence lawyers often refer to themselves, and are referred to, as "people with special attitudes and views" (Elton). While practitioners who do not engage with criminal law tend to distance themselves from defence lawyers and, specifically, the "milieu" (Severin) of their clients, defence lawyers themselves portray criminal law as "most exciting":

> I really like being a defence lawyer. These cases really matter…and I genuinely like to represent the partial interests of one party. (Richard)

However, it is especially female lawyers who seem fully committed to their work. Many of them consider legal practice "very rewarding" and speak of a "real connection" (Brigitte) with their profession—despite it being decidedly male-dominated. The latter implies that most women feel they must "persistently prove to be competent" (Lydia).

Some also speak of a "misogynistic profession" (Cassie) and note that "a typical woman would not survive in this field" (Brigitte). While most women lawyers struggle with structural inequalities, they still claim to "love being a lawyer" (Cassie) and to be "married" (Lydia) to their profession or legal partners.

In comparison to female lawyers, many male lawyers express a more pragmatist attitude to their profession. This is reflected in another lawyer type, the *posturer and careerist lawyer*. Lawyers whose subjectivity tends to be informed by this type, e.g., note that progression and "certain status symbols matter" (Richard) and that (im) material "recognition is all but irrelevant" (Benno). Strikingly, though, in comparison with other lawyer types, most practitioners are keen to distance themselves from the career-oriented posturer, even where it speaks through the respective narrative. Accounts such as "unlike many others, I'm not the tough, performance-oriented lawyer, looking for competition" (Richard) or "*other* lawyers want to drive a Porsche and see the title 'lawyer' on their business card" (Sven) are not uncommon. More critical-reflexive practitioners, however, explicate that "it's problematic to self-identify with the posturer position" (Severin) and ponder that "lawyers' work asks for a grounded personality" (Paul), opposing the externally oriented performative type.

There is yet another type that is evoked in lawyers' narratives. We refer to this type, in accordance with Vaughan and Oakley (2016), as the *lawyer technician*. Lawyers who present themselves as such commonly speak of themselves as a "neutral PR division" (Benno) and portray legal practice as a widely "value-free technique" (Richard). That said, practitioners whose self-understanding seems to align with the lawyer technician often state that their work is not directly affected by conflictual, challenging demands. They tend to avoid critically engaging with their own practices and the practices of their clients. Instead, they emphasise that "what matters most is that one's conduct is lawful" (Sven). Some accounts, further, prompt that the notion of lawyer technician is already endorsed at university. Following Richard, law education in Austria focuses on "the dissemination of narrow, memorisable knowledge". An engagement with, e.g., concerns of legal ethics or the nexus between law(fullness), morality and justice is, simultaneously, widely missing.

We will return to the lawyer technician below, as it allows us to develop a more nuanced understanding of how lawyers navigate ambiguous ethical demands and form their professional-ethical identity. First, though, it is important to re-emphasise that the presented lawyer types are not or very rarely isolated. Most narratives suggest that lawyers relate to, interpret and (*dis*)identify with extant types in dynamic ways, prompting that their identities are infused with *entangled types* and, as such, complex and contested. It is hence not uncommon for lawyers to refer to themselves as a "trusted advisor" (Fritz), as "entrepreneurially alert and highly committed" (Fritz), as a "neutral advocate of client interests" (Fritz) and as a "gatekeeper of justice" (Fritz).

It is to understand in light hereof that some lawyers note: "law consists of several professions" (Tom). Marianne, e.g., argues that "as lawyer, you have to perform various identities; among others, you are a jurist, entrepreneur and a social psychologist". The challenges that may accompany this "multiplicity of roles" (Tom) and further lawyers' intricate (self-)position often remain unaddressed, though. Indeed, rather than expounding how they personally deal with variegated responsibilities and demands in everyday practice, most practitioners narrate on the identity performance of other lawyers. Archie and Lena, e.g., ponder that, in the current context, lawyers' subjectivity is mainly shaped by the "good performer" or "posturer" (Archie) type, differing from the "good jurist" in that their "main competence is to successfully sell themselves" (Lena). In a similar vein, Sandra elaborates on the various lawyer types "out there":

> The dominant type is the male posturer. He seeks to represent strength, fights for the sake of it, and has his status symbols. Then there's the rather non-entrepreneurial legal expert, a diligent worker considering the engagement with law a science. Finally, there's the so-called good lawyer, who is thoughtful and reflexive, fully committed, and genuinely cares for his clients…this type is rare.

What seems telling is the distal position from which many practitioners speak of common lawyer types. Many lawyers also give decidedly critical accounts of their professional colleagues and characterise the 'typical lawyer' as "conservative and careerist" (Sandra), "self-involved" (Severin), "pretentious and myopic" (Sven) and "hardly trustworthy" (Cassie). The claim, "I do not present the typical lawyer" (Richard), overall, evokes an interesting phenomenon, which can be referred to as *othering*. To acknowledge that there are some questionable (self-)performances within the field and simultaneously highlight that, personally, one is not involved in those is part of this practice.

However, there are also practitioners who seek to go beyond simple othering and critically engage with the reasons for the emergence of contested legal types and practices. Some note in this regard that it is the very "tough, highly competitive and individualised field" (Brigitte) that 'makes up' people in a specific way. As suggested, this 'making up' starts at university, continues during the legal training and resumes once lawyers have

passed the bar exam. We would thus like to reiterate that lawyers' professional and ethical-moral subjectivity is not given but continually evolves in interrelation with the socio-discursive practices and norms that prevail in the profession. Whereas at the beginning of their career, lawyers' self-understanding often seems to be informed by aspirations such as "contributing to society" (Fritz) and "crusading for justice" (Cassie), over time, these aspirations tend to take a backseat, with lawyer types such as the entrepreneurial service provider, the posturer and ethically widely neutral lawyer technician gaining in relevance. Yet, as indicated, there are also lawyers who recurrently challenge and counteract pervasive professional models and norms. The more *reflexive practitioners*, e.g., argue that it is not sufficient to "only please your clients" or "comply with the law" (Archie) but emphasise that "personal decency still matters" (Lena) and that lawyers "have social responsibility" (Cassie) and an "important function within constitutional democracies" (Paul). Among other things, such considered self-presentations question unifying claims of lawyers 'lacking' reflexivity and a sense of professional-ethical responsibility (Vaughan & Oakley, 2016).

In view hereof, the following sub-section further explicates how lawyers negotiate questions of ethics as part of their identity formation. We will show that such negotiation is contingent and context-sensitive, suggesting that the 'space for ethics' in law is challenged but neither determined nor eroded.

Lawyers' Ethics at Work

In what follows, we discuss three main ways or modalities of how lawyers engage with ethical issues that are considered integrative in legal work: ethical 'closure' and neutralising, considerate reflection from a distance, and reframing of ethical issues. We would thereby like to emphasise that these modalities are not clear-cut or fixed. The narratives rather suggest that lawyers' 'manoeuvring' of ethics and ethical (self-)positions is dynamic and always situated in practice.

What we refer to as *closure and neutralisation of ethical matters* specifically dominates among defence lawyers, who are often highly committed to their work. Many of them note that what matters first and foremost is "to get the best possible result for the client" (Lydia), and not whether clients "are guilty or not". Some, indeed, acknowledge a preference "not to know the truth" (Cassie) and argue to "only need a credible story" (Lydia)—as "lawyers do not prioritise justice, but representation of their clients" (Birgit). Such accounts suggest that some lawyers seek to avoid engaging with the ethics at work, especially in instances wherein such engagement might be unsettling or 'disturbing'. References to lawyer types, such as the service provider and lawyer technician, are here mobilised, given that they allow to 'professionally' expound and rationalise what is (not) in lawyers' responsibility remit. An account by Cassie specifies this:

> The judge has the formal responsibility to define what's true and just. I've done my job once I've used my legal know-how to my customer's benefit.

Such transferral of responsibility is also echoed by Elton, arguing that he does "not dispense justice" and, hence, does "not need to be ethical *in that regard*". That some lawyers reify or exclude certain ethical issues inherent in legal practice is further substantiated by the following account:

> I ignore the bigger picture. You build yourself your own castle…It can happen that you suddenly think, mmhhh…that guy committed this crime. But I try to avoid thinking about such things for long…I just want to listen to the story of my client…I often have discussions with my partner, who can't understand how I can represent someone who abused a woman. I then say, 'you need to stop this'…I don't know the victims personally… Sometimes, I'm surprised about myself…that I'm not more affected. (Lydia)

Such excerpts propose that the 'ethical consciousness' of some lawyers can indeed be considered rather 'minimalistic' (Moorhead & Hinchly, 2015). Yet, from a practical ethics viewpoint, it seems important to avoid generalising talk of, e.g., 'ethical apathy'. Moments of such apathy may not only be grounded in lawyers' specific institutional-professional socialisation; the "blending out" (Richard) and impersonalisation of ethical demands might in some instances also be necessary, as Sven notes:

> General practitioners regularly deal with criminals, or with divorces where the question is who gets the children… They need to find ways to handle difficult situations…They need routines.

Referring to routines, the account suggests that, as a means of ethical closure, routines allow not to experience sensitive issues every time anew, fulfilling, as such, an important self-protective function. What is also interesting is that many lawyers who tend to 'codify' ethical questions via routines or other techniques are still keen to set certain ethical-moral boundaries, allowing them to separate their professional self from their personal self. From outside, some of these 'redlines' may seem rather opaque and arbitrary (Vaughan & Oakley, 2016); Lydia, for example, has ostensibly no problem with defending murderers and child abusers but highlights that she "would not represent someone identifying with NS ideologies". We seek to avoid judging such positions but highlight that those doing the work define ethical matters in intricate ways.

Likewise, we want to (re)emphasise that lawyers' identities and practices are not determined by lawyer types widely lacking ethical sensitivity. Indeed, several practitioners willingly ponder on ethical questions in law. In many instances, though, they *reflect on ethics from a distance* and thus intellectualise them. Business lawyers, for example, often contemplate ethical concerns in defence law:

> I don't do criminal law, but occasionally reflect on it…there's the famous example of the client telling his lawyer that he committed a murder, and then gets acquittal due to insufficient evidence…How can you live with that? That's certainly an ethical borderline case. (Tom)

One of the reasons why questions of ethics are oftentimes addressed with reference to defence or family law is their visibility in these realms. Cassie, e.g., narrates on a "serious ethical dilemma" she experienced when being asked to represent a client accused of sexual abuse, and Lena, a family and divorce lawyer, notes that she is repeatedly confronted with "complex, ethical problems". The latter is seconded by some, while other practitioners argue that serious ethical concerns are not part of the "mundane daily business" (Sven).

However, in the context of mandatory legal-aid cases, most lawyers face or address ethical tensions. The following accounts are illustrative:

> It's demanding if you're obliged to represent somebody who committed a serious crime. You have to distance yourself…I try to accurately represent the accused…but also try to act in a sensitive manner that doesn't expose the victim. (Archie)
>
> Legal aid cases are often very unpleasant…but a child abuser is somehow also a human being. In a democracy, everyone has a right to advocacy… What I don't understand though are over-engaged lawyers…I do in these cases what I must do, in view of our disciplinary codex. (Sven)

These excerpts prompt that ethical questions are differently understood and negotiated in practice. More specifically, they evoke that ethics is linked to personal choice and autonomy (Foucault, 1997). Where the latter is overly constrained, struggles over ethical-professional responsibility and decision-making emerge. This is especially manifested in the narratives of the more reflexive practitioners. They considerately reflect on their ethical position(s) and, e.g., argue to reject legal defence where they "cannot support clients' claims" (Archie). Simultaneously, they acknowledge that it is not an easy endeavour to define one's "ethical standards", not least because of demands that are "not readily resolvable" (Sandra) but in a continually "grey zone" (Rainer). In practice, it also does not seem to happen often that lawyers turn down clients due to personal-ethical considerations—and yet, it is important to some to have the *principle right* to refuse client representation, a right that is grounded in the "maybe old-fashioned value" (Lena) of professional independence and autonomy. References to such values allow lawyers to substantiate that they "take the ethics of the lawyer serious" (Lena), regardless of it being fraught with tensions.

The latter is also evoked in an account by Rainer, who addresses questions of legal ethics outside the remit of criminal law. Following Rainer, in corporate law firms, it is, e.g., common practice to advise clients on how to "avoid paying taxes". He considers such practice problematic, but adds:

> I surely wouldn't do everything and refuse to represent dubious clients…but it's not always easy to say no…As a trainee lawyer, I often faced conflictual situations…your boss tells you what to do…so you just think, 'close your eyes and get the job done'… There will always be ethical tensions, in business law and beyond… Lawyers respond to them differently.

The account further illustrates the complexity encompassing the realm of business, professional and organisational morality and challenges, as such, simplifying definitions of ethical and unethical conduct. Several narratives propose that lawyers are recurrently exposed to contested demands, from clients, employers and the 'market'. Deciding whether or not to "condone problematic demands" (Brigitte) is often experienced as all but straightforward. Especially for trainee lawyers, the *situational negotiation of ethics* can turn into a "major struggle" (Tom):

> I thought that lawyers' conduct involves certain morals but, while working in business law firms, I realised this isn't necessarily the case. As a trainee, I've been asked to sign documents including false claims. On a few occasions, I signed them. First, I didn't have the courage to speak up…but then I resigned. I no longer felt able to act as an accomplice, supporting such practices. (Sven)

Lawyers explicitly reflecting on questions of legal ethics also often ponder on the system of justice. They argue that there is no such thing as "universal justice" and, thus, emphasise that "no law and code can do justice to every single situation" (Severin). Considering that the construct of justice is "overly complex" (Rainer), "manifold and subjective" (Sandra), "full justice" and responsibility do, indeed, not seem to exist. Alongside foregrounding the situatedness of the latter, some practitioners point to the potentially conflictual nexus between formal-procedural justice in law

and personal-relational understandings of justice (Jones & Gautschi, 1992). They thereby acknowledge that "laws are, like verdicts, not always just…and comprehensive" (Paul), and still call for trying to "enact the rule of law as good and just as possible" (Marianne).

These accounts suggest that some lawyers challenge moral-legalistic regulative frameworks seeking to generally define what is 'right'. However, emphasising that "the ethics of lawyers needs to go beyond the law" (Georg) does not necessarily imply that lawyers openly and critically engage with ethics as manifested in their own professional practice. That said, from the narratives, we learn that there is yet another way in which questions of legal ethics are negotiated. We refer to this modality as the *reframing of ethics*, meaning that some lawyers (also) turn ethical matters into "intellectual questions" (Fritz), "issues of creativity" (Brigitte), or concerns of lawfulness and accountability.

That questions of ethics are *refined as questions of lawfulness and accountability* (Aulakh & Kirkpatrick, 2018) is specifically revealed in accounts from corporate lawyers. Tom, for instance, claims to be concerned that his practices comply with disciplinary codes and rules. Following him, there are, however, "lawyers who regularly find themselves in grey zones, making you wonder what can still be considered accountable practice". Simultaneously, Tom accepts that what is understood as such is not always unequivocal:

> Take the example of tax justice…what exactly is it? If we talk of illegal earnings, then the case is clear. But if a company asks you whether there's an opportunity to save on tax, I'm not sure if legal advice is necessarily problematic, morally… Everyone needs to decide this individually, but I'd say this is mainly a political problem.

The latter is echoed by Benno. While admitting that legal practices are occasionally questionable, lawyers can, in his view, not be made responsible for the existence of "legal tax loopholes". It is rather lawyers' task to "also use such loopholes". Benno, thereby, reframes contingent ethical questions as technical-legal questions asking for an "accurate application" of the law. However, where professional practices can no longer be justified as lawful, many lawyers level criticism and hint at their "ethical boundaries":

> Corporate law firms help their clients to save taxes. For me, the question is whether such assistance violates criminal codes and disciplinary rules… While some firms still manoeuvre within the limits of the law, others do not…They use every trick to cheat the system. This isn't acceptable. (Sven)

Ethical concerns are not only discussed as questions of accountability and lawfulness, though. Business lawyers also *redefine* the (ethical) complexities inscribed in law into *intellectual-creative challenges*. A final account by Sven illustrates this:

> You can approach questions of tax-sparing from an athletic viewpoint too. Some lawyers use all their intellectual know-how and creativity to come up with a novel solution benefiting their clients…One can ask where the ethical conflict starts… Most of my cases are rather abstract. I play a minor role in a complicated economic network and serve as a widely neutral consultant…The question is whether I harm anyone. But in these networks, human lives are rarely at stake…so I don't have a moral problem here. I consider this mainly an intellectual challenge.

This excerpt manifests once more how lawyers *situationally negotiate* questions of ethics. Here, the question of causing individual harm is defined as the main 'ethical substance', and not, e.g., the question of furthering corporate tax-sparing. The account further reiterates the relevance of the lawyer technician type, which shapes practitioners' attitudes and identity work and enables them to downplay or temporarily resolve conflictual demands. However, within the remit of corporate law, it seems easier to accomplish such 'resolution', given that business lawyers are compared to, e.g., family lawyers, less directly exposed to "very personal and emotional issues" (Tom). Ethical tensions can thus be turned into a widely distal phenomenon, leading "some to assume that they don't exist in corporate law, or only very subtly" (Severin). Subtlety is, however, not to be equated with non-existence.

Let us reiterate: the narratives evoke that there are different modalities of how lawyers construct and relate to matters of ethics. These modalities or ways of negotiating ethics should not be considered separate or isolated, though. They complement each other and are dynamically mobilised. Overall, we notice that the readiness to engage with ethical concerns in legal work varies, with some lawyers preferring to avoid such engagement, others welcoming it irrespective of concomitant tensions, and yet others showing a broad 'continuum of ethical sensitivity' in their conduct.

Discussion

The study has explored the professional practices, identity and ethics of Austrian lawyers in a changing institutional context. Employing an ethics-as-practice framework, it sought to contribute to existing analyses, which tend to generally define and assess the '(un)ethical' conduct of lawyers (Moorhead & Hinchly, 2015; Vaughan & Oakley,

2016). In contrast to normative-prescriptive studies, the current research was guided by an understanding of ethics as a 'lived practice'. Rather than focusing on moralistic-legalistic frameworks, practical ethics studies pay attention to the 'moral rules in use', i.e. how individuals draw on organisationally and institutionally defined codes and standards and negotiate ethical questions as they emerge (Rhodes & Wray-Bliss, 2012). Fostering an integrative practical ethics approach, the current study specifically accounted for the "contextuality and contestation of ethics…and ethical subjectivity" (Clegg et al., 2007, p. 188) by exploring on a micro-level how socio-discursively constituted practices mutually inform lawyers' identity and ethical position at work. Following Dinovitzer et al. (2015), it was thereby acknowledged that the challenges and constraints in professional practice affect how lawyers understand and enact ethics in the process of self-formation. In what follows, we elaborate on the study's core insights and contributions to, specifically, extant normative and non-normative, practice-based analyses in business and professional ethics.

Professional Practices and Lawyers' Identity (at) Work

The analysis of socio-discursively constituted *professional practices* has shown that lawyers are subjected to variegated demands (Chow & Calvard, 2021). It especially seems to be increasing competition, economic pressures and dependencies from individual clients that infuse lawyers' work. Extant practices thus suggest that there is also in the Germanic context a growing focus on 'the business of law' (Parker & Rostain, 2012), which is paralleled by the promotion of law as a service occupation and the fostering of its 'performative sides' (Allan et al., 2019; Hanlon, 1999). Such tendencies lead to recurrent conflicts over attempts to reconcile market demands and client interests, as well as traditional and more contemporary professional-disciplinary principles (including seniority, professional autonomy, integrity and accountability). In some instances, they also lead to contested legal practices. Yet, in comparison to the Anglo-American legal context, practices in the Germanic setting seem less commercialised and oriented towards financialised performance (Faulconbridge & Muzio, 2009). Many Austrian lawyers, mostly working as self-employed sole practitioners, indeed struggle with financial constraints and socio-economic uncertainties. Overall, the analysis of lawyers' situated practices prompts that they are ever-more complex and shaped by a diverse set of professional norms. As such, the study responds to calls from authors such as Dinovitzer et al. (2015), asking to explore the exigencies in professional practice beyond the context of large corporate law firms.

With regard to lawyers' *self-understanding*, we first note that convoluted everyday practices also affect how professional-ethical identity is formed and defined (McMurray et al., 2011). The narratives, more specifically, suggest that lawyers' self-understanding is infused by certain lawyer types that prevail in the professional field and speak through the narratives. These types include the entrepreneurial service provider, the trusted advisor, the committed-passionate lawyer, the posturer or performative type, the lawyer technician and the reflexive practitioner. The micro-level analysis evokes that they are dynamically entangled, with lawyers referring to, identifying and disidentifying with them in variegated ways. While notions such as the service provider and lawyer technician providing ethically neutral expert advice are recurrently evoked in the narratives, the analysis shows that lawyers' self-presentation cannot be reduced to such types. Several accounts suggest that lawyers' identity is equally shaped by idea(l)s that are, e.g., associated with the trusted advisor or the reflexive practitioner, committed to decent legal practice. The integrative practice framework guiding the analysis, moreover, revealed that lawyers understand the prevailing types differently. Identifying as a service provider does not, for instance, mean that lawyers exclusively consider themselves a "PR division" that strategically positions the "customer as king"; as illustrated, such identification can also be grounded in the duty to advocate client interests (Fasterling, 2009). At the same time, 'othering' or disidentifying oneself from types such as the careerist posturer does not necessarily pre-empt its manifestation in lawyers' self-accounts. By illustrating such multi-facedness and contestation encompassing the meaning and enactment of existing lawyer types and roles, the study challenges univocal portrayals of lawyers' professional-ethical identity and thereby enriches both extant normative (Vaughan & Oakley, 2016) as well as practice-based ethics analyses (Dinovitzer et al., 2015).

In light hereof, it is also worth reiterating that lawyers' subjectivity is continually 'made up' in the specific field of practice, with established socio-discursive codes conditioning (but not defining) the former (Clegg et al., 2007). The study has, for instance, shown that the (self-) performances of Austrian lawyers are at the beginning of their career widely directed by aspirations such as "contributing to justice"; aspirations which become less important as practitioners learn "how things are done" in the profession. As an extension of studies of lawyers' professional-ethical subjectivity conducted within the Anglosphere, the study, furthermore, suggests that lawyers' self-understanding is mainly governed by institutional codes such as the 'client-first' maxim (Gustafsson et al., 2018),

and less by organisational-managerial discourses dominating in large corporate law firms including, e.g., career and performance measurement discourses (Allan et al., 2019; Kuhn, 2009). When narrating who they are and have become, most independent practitioners thus refer to the standards that typify 'the field', and not to specific 'in-house' codes or conventions. Against that backdrop, we now elaborate in more detail on the question at the analysis' heart: how do lawyers engage with prevailing professional norms and moral demands as part of everyday practice and, by this means, seek to co-constitute their ethical subjectivity?

Negotiating Ethical Matters: On Contingent Ethical Self-Positions

The study of lawyers' micro-practices and -accounts suggests that there are three main *modalities of negotiating ethical issues*: lawyers neutralise and enclose them, reflect on them from a distance, and reframe them as intellectual-creative challenges or questions of accountability and lawfulness. Most lawyers employ more than one of these modalities, depending on the specific context and encounter (Ibarra-Colado et al., 2006). The analysis, overall, prompts that there is a wide continuum in terms of what lawyers define as ethical matter(s) and how they relate to ethical demands. While some claim "not to engage much with ethical questions", others argue that "ethics is very important" to them, and yet others emphasise the contingency and situatedness of ethical concerns, i.e. they argue that ethics matters in certain, but not all, regards and areas. Relatedly, some lawyers consider ethical tensions immanent in legal practice, whereas others note that ethical dilemmas are hardly part of the "mundane work". Among other things, such 'ethical pluralism' (Clegg et al., 2007) points to the limits of dominant normative analyses that seek to essentialise ethical conduct and manage ethics by imposing unifying standards and clear-cut dichotomies from outside (Gabbioneta et al., 2019). The framework underpinning this research, however, allowed to explore 'ethics from within' and accounts, as such, for the complexities and uncertainties that seem constitutive of ethics and ethical responsibility. The following reading of the phenomena of ethical closure, reflection from a distance, and reframing of ethical matters further substantiates how the research enriches existing studies in the field.

Irrespective of being highly committed to their work, lawyers active in legal domains such as criminal law oftentimes *respond to ethical matters by enclosing*, neutralising, or reifying them, reflected in accounts such as: "I ignore the bigger picture" or "I do not know the victims". While such accounts can be critically discussed, the current analysis suggests avoiding unequivocal judgements of lawyers 'lacking' ethics. Enclosing and, thus, excluding delicate matters from the professional-legal sphere seems to be one way of regulating them. Some lawyers indeed consider the impersonalisation of emotionally challenging demands a necessity, just as the separation between the professional and personal sphere. The insights, furthermore, prompt that lawyers who enclose or silence ethical questions still try to set certain boundaries. Even if these 'redlines' are not always readily comprehensive from an external point of view, they reveal that lawyers do not simply lack ethical consciousness and empathy (Moorhead & Hinchly, 2015), but rather manoeuvre ethics in intricate ways. Evoking such contestation and struggles over ethics is considered a central contribution of this ethics-as-practice analysis (Dey & Steyaert, 2016).

Another way of engaging with ethical issues is the *reflection on ethics from a distance*. This means that lawyers who actively address ethical matters in legal work often intellectualise and philosophise on ethics and the overall system of justice, rather than elaborate on the challenges they personally experience. However, most of these lawyers acknowledge that "grey zones" are part of legal practice, not easy to resolve and, as such, undermine simplistic recipes—something that is, e.g., explicated with reference to the matter of tax justice. What the affirmation of recurrent tensions further substantiates is that questions of professional ethics cannot be amply managed by abstract sets of rules or codes. Some reflexive practitioners, indeed, argue that the "ethics of lawyers needs to go beyond the law" and contemplate that the law can never guarantee "full justice" (Derrida, 1992). By this means, the sole practitioners refer to what seems to be at the heart of ethics and ethical decision-making: autonomy. This idea is, indeed, central in Foucault-inspired (self-)practice-based studies, foregrounding that ethics "is powerfully intertwined in an individual's freedom to make choices about what to do and who to be" (Ibarra-Colado et al., 2006, p. 45) and the social, professional and organisational "context in which those choices are situated [and] framed" (p. 45).

In our study, this nexus is reflected in how the historically significant values of professional autonomy and independence are obstructed from many directions (Dinovitzer et al., 2015), and yet sought to uphold by practitioners as, for instance, the highlighting of lawyers' formal right to refuse client representation suggests. Even though 'no-saying' does not seem to occur regularly, the analysis prompts that the opportunity to do so matters (Luban, 2010). What is more, despite scopes of autonomy being challenged, several lawyers try to "puzzle out the right thing to do" (p. 12) as part of their attempt to considerately form their identity and ethics at work. As indicated, this puzzling out occurs in a potentially persistently conflictual space (Philippopoulos-Mihalopoulos, 2015), in which decisions on (un)problematic practices and demands (from

clients, superiors, the industry, etc.) are often not conclusive. It is also for this reason that we often observe a *contingent negotiation* of ethical matters among lawyers.

That said, we wish to reiterate the specifics of *reframing ethical matters* into questions of lawfulness and accountability and/or creative-intellectual challenges. This modality is mobilised both by lawyers who tend to enclose ethical concerns and by lawyers who critically reflect on the ethics in law. When reframing ethics into a question of lawfulness and accountability, some lawyers foreground the relevance of conformity with the law and extant codes. They specifically point to lawyers' duty to acknowledge the disciplinary codes in which the profession is grounded and thereby evoke compliance as a significant part of their ethical self-position. This insinuates that codes are not necessarily detrimental to ethical conduct, even if the reflexive practitioners accept that code- and rule-following is not sufficient and does not 'guarantee' good practice. There are, however, also those lawyers for whom reference to the law and codes seems a possibility to downplay ethical tensions and grey zones inherent in legal practice. Adopting a pragmatic-neutral position, widely in line with the figure of the lawyer technician, such practitioners emphasise that what matters above all is to "act within the boundaries of the law"—something that is, according to the narratives, not always the case. While violating the law is a redline for the interviewed lawyers, there are hence some who consider the use of "political, legal loopholes" not necessarily problematic. The responsibility for their existence is here delegated to political authorities and not situated within one's own sphere.

It is such practice that leads certain authors to argue that, in contemporary law, ethical responsibility is widely replaced by managerial accountability (Aulakh & Kirkpatrick, 2018). Whereas we acknowledge that pervasive institutional standards affect lawyers' professional-ethical conduct and self-understanding, we are critical towards such generalising claims and, as such, do not equate the reframing of matters that are ethically contested with a dissolving of responsibility. Our study rather shows that moral-legalistic frameworks and codes are interpreted and used in various ways, including wide compliance with codes and the law (for both pragmatic-technocratic as well as considered ethical reasons), partial ignorance of codes, and their questioning and refining. It thereby enriches existing debates on the role of codes and regulative frameworks in normative and practice-based business and professional ethics, where such frameworks are either welcomed (in the former case) (Fasterling, 2009), or widely problematised (in the latter case) (Clegg et al., 2007; Dinovitzer et al., 2015).

That the navigation of lawyers' professional-ethical responsibilities is eclectic is, eventually, exemplified by attempts to reframe ethics as a 'creative-intellectual challenge'. This practice is mainly prevalent among lawyers specialised in corporate law who are, in comparison to, e.g., family or defence lawyers, less directly exposed to the human 'face of the other'. This, again, leads some to adopt the position of a service provider for whom the complexities and ambiguities in legal work are in the first instance an intellectual-'athletic' challenge requiring professional expertise and creativity. Widely abstracting one's professional practice from ethical questions, however, does not necessarily mean that lawyers are 'unconcerned' about ethics (Vaughan & Oakley, 2016). Lawyers with commercial clients rather argue that it is important to them that their work does "not harm single individuals". Such positions re-evoke that there is a wide spectrum regarding how lawyers construct and make sense of situations as ethically charged (Ibarra-Colado et al., 2006). Making visible what practitioners define as 'ethical substance' (Foucault, 1997) and how they negotiate such substance is indeed considered another central contribution of this study, purposefully following a non-essentialist perspective on ethical (self-)*practices*.

The Erosion of Ethos in Law

Considering the above discussion, let us recapitulate by returning to the question raised at the paper's outset: does the ethos of law erode? The claim that the ethos of law disintegrates in view of current changes in the profession is overall widespread in studies on lawyers' ethics (Aulakh & Kirkpatrick, 2018; Chow & Calvard, 2021). These studies are commonly grounded in the assumption that there is such a thing as an ethos that can be defined and evaluated on the basis of certain a priori defined values. Where these values are not manifest in practice, a 'lack' of ethos and professional-ethical responsibility is oftentimes attested. Inspired by an integrative ethics-as-practice framework undermining prescriptive-normative positions (Clegg et al., 2007), the current study, by contrast, argues that any profession is underpinned by an ethos in that there are always socio-discursive norms and values that shape a specific field and the conduct and practices of those immersed in it. While acknowledging changes and challenges within the Austrian legal profession and concomitant effects on the ethics at work, the study further refrains from assessing the latter from an external-distal position.

From a proximal position focusing on practices on a micro-level, the so-called traditional ethos of law may, besides, be more diverse and contested than often assumed (Allan et al., 2019). Accounting for partly still prevalent principles, such as hierarchy and seniority (Empson, 2007), and acknowledging that historic values such as professional autonomy and independence still matter, the current study, specifically, asks to be wary of idealising former times

as ‘glory days’. Even though professional demands seem increasingly convoluted (Dinovitzer et al., 2015), living up to the disciplinary values and professional-ethical responsibilities inscribed in legal work may at no time be considered an easy, straightforward endeavour, but one accompanied by contingent frictions and ‘grey zones’. To develop a more nuanced understanding of the latter, we suggest, in view hereof, to reconsider the question of the erosion of ethos—with the more open-ended question of what the ethos of professional groups such as lawyers looks like, in all its manifold facets, taking its place.

Conclusions

This paper was interested in exploring how changes in the legal professions affect the practices, self-understanding and ethics of lawyers in the Austrian legal system. Employing an ethics-as-practice framework (Clegg et al., 2007; McMurray et al., 2011), the analysis has shown that lawyers negotiate ethical matters in different and dynamic ways, including their active acknowledgement, downplaying, or wide enclosure. While some practices of the independent practitioners can be contested, many practitioners reflect on ethical concerns and try to reconcile them in view of continuing intricacies at work (Dinovitzer et al., 2015). Evoking such pluralism in terms of extant practices and ethical positions questions assessments of lawyers being ‘ethically minimalist’ (Moorhead & Hinchly, 2015) and typified by ‘moral inertia’ (Chow & Calvard, 2021), as well as clear-cut distinctions between ‘ethical’ and ‘unethical’ conduct prevailing in professional and, specifically, legal ethics studies.

In light hereof, we conclude by reiterating the paper’s contributions. First, it contributes to research in MOS and professional studies investigating shifts in the legal profession, especially within the Anglo-Saxon corporate law context (e.g. Faulconbridge & Muzio, 2008; Gustafsson et al., 2018). Our study of legal sole practitioners, active in the under-explored Germanic context, supports this research to some degree but likewise shows that local specifics matter and should be taken into account when exploring the meanings and effects of changing professional rationales on lawyers’ identity and practice. Second, the study extends normative analyses of (corporate) lawyers’ ethics. While it is acknowledged that work-related pressures lead to struggles over ethical positions (Kuhn, 2009), the current study eschews homogeneous model portrayals of the ‘(un) ethical lawyer’, in common with generalising evaluations of lawyers ‘lacking’ ethical sensibility and ethos (Aulakh & Kirkpatrick, 2018; Vaughan & Oakley, 2016). Instead of foregrounding abstract moralistic-legal frameworks, the present study has explored ethics as a lived, situated practice and thus focused on the question of how independent legal practitioners relate to prevailing norms and rules in everyday practice and thereby form their ethical position. By this means, the study could reveal the complexities, ongoing ambiguities and uncertainties inherent in legal work and ethics.

Third and relatedly, the research enriches existing ethics-as-practice studies within the business, professional and organisational ethics domain. While many of these studies are theory focused (Loacker and Muhr, 2009; Carter et al., 2007; Ibarra-Colado et al., 2006), the current analysis has vitalised the conceptual framework by applying it to a field dominated by normative studies. The integrative approach of the research is considered a specific contribution to extant analyses, i.e. the study has explored the mutual conditioning of socio-discursively constituted professional practices, subjectivity and ethical (self-)positions at work and, thereby, accounted for the multifarious linkages between institutional and organisational rules and norms and the broader social context. By evoking that ethics is a personal choice that is framed by the specific context in which professional practice is located, the analysis has undermined individualising ethics approaches. While exploring ethics as a dynamic, relational phenomenon is in principle characteristic for non-prescriptive studies, there are, indeed, some practical ethics studies that still aim to identify ethical-moral problems in specific fields of practice, to ‘resolve’ or ‘prevent’ future “ethical lapses” (Dinovitzer et al., 2015, p. 130). The present study, by contrast, genuinely affirmed the contingent, always context-specific and subjective nature of ethics, thus foregrounding how lawyers construct and (re)define ethical matters (for) themselves. By this means, we could, e.g., reveal the variegated understandings and enactments of lawyers’ formal roles and duties, and the polyvocal meanings and use of professional-moral codes, undermining extant dualisms between rule-following, rule relativism, and rule refusal. The latter specifically allows to nuance debates in non-normative, practical ethics studies, which tend to object to moral codes and rules (Clegg et al., 2007).

In line with Chow and Calvard (2021) and Dinovitzer et al. (2015), we would hence like to encourage further studies of practice-based ethics within the legal professions and beyond. Specifically, we call for integrative ethics studies that explore the irreducible entanglement of business, professional, organisational and individual ethics and morality and thereby acknowledge that the subtle questions of ethics are navigated and enacted on the level of local practice (Dey & Steyaert, 2016). Giving these questions more attention in business and professional ethics studies may allow the development of a more vivid and experiential understanding of the tensions that are inscribed in the ethics at work—a work that is ‘troublesome’ and continually ‘to come’.

Acknowledgements I would like to thank Sara Louise Muhr and the three anonymous reviewers for their helpful and constructive comments. I am also grateful to all legal practitioners who participated in this study.

Funding No funding was received for conducting this study.

Declarations

Conflicts of Interests The author has no relevant financial or non-financial interests to disclose. The author has no conflict of interest to declare that is relevant to the content of this article.

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