

## **BLACKSTONE'S TOWER IN CONTEXT**

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### **Abstract**

This article contextualizes the contribution of *Blackstone's Tower* within the discipline of law, arguing that its publication was both significant and radical at a time when research into legal education was much less well-developed within the legal academy than it is today. Twining's approach, acting as a 'tour guide', was also important in a period when the 'private life' of the English university law school was virtually unexamined. This article also highlights the ways in which the other contributions to this special edition demonstrate the continuities and changes that have occurred within legal education since *Blackstone's Tower* was published.

**Keywords:** legal education. law schools; legal scholarship; legal research; William Twining.

### [A] THE CONTEMPORARY CONTEXT

When William Twining delivered the Hamlyn Lectures in 1994, under the title 'Blackstone's Tower: the English Law School', it was an event which not only reflected his own eminence as a scholar, but one which held considerable significance for the sub-discipline of legal education. The prestigious Hamlyn lectures, of which Professor Twining's was the 46th series, were established in 1948 to fulfil the terms of the Hamlyn Trust, created by Miss Emma Hamlyn in memory of her father, a solicitor in Torquay. Essentially, the objectives of the Trust are to further the knowledge of the general public about the law of the UK and other European countries. The lectures are always delivered by a judge, legal practitioner, legal academic or other eminent speaker. They are also published in book form (Hamlyn Trust).

The opening sentence of *Blackstone's Tower* tells us that: 'The purpose of this book is to suggest that the study of law is becoming re-absorbed

into the mainstream of our general intellectual life, as it was from Blackstone's time until the late nineteenth century, and that this is a welcome development' (Twining 1994: xix). Professor Twining goes on to suggest that law as a discipline has been somewhat marginal to the mainstream of intellectual life, not just within the academy, but also in what he terms 'middlebrow culture', exemplified, for example, by *The London Review of Books* (Twining 1994: xix).

This theme is further explored in the first lecture: 'Law in Culture and Society' (Twining 1994: 1-22), which includes the 'Fantasy in a Bookshop' (Twining 1994: 11-13). Here, Professor Twining regales us with a conversation overheard in a second-hand bookshop, between the manager and a new assistant. The message was: 'We don't want specialist works ... only those with some appeal for the general reader.' By this test, says Professor Twining, English literature, sociology, politics, Penguin philosophy and works on oriental religions were 'in'. However, technical and scientific books, law, business studies, medicine and Christian theology were 'out'. History, anthropology, classics and modern languages were tricky—if in doubt, don't buy. Professor Twining commented that in his view this was a fair precis of contemporary ideas of general middlebrow culture and went on to imagine how he would persuade the bookshop manager why and in what respects his attitude to law was wrong. Essentially, the argument would actually be: you already stock many books which are about law; you just don't recognize them as such. For instance, you have Dickens' *Bleak House*; you have whole sections devoted to 'true crime' and detective novels; you have biographies of political prisoners, criminals, policemen, even lawyers and judges. You put Kant and Bentham under philosophy, Walter Bagehot under politics and *The Trial of Socrates* under classics. Each of these deals with important law-related themes. In addition, your idea of law books is outdated; law is now studied in its social, economic and political context, making much legal literature more accessible to ordinary readers: 'Law is far too important, too far-reaching and too interesting not to be part of general culture' (Twining 1994: 13).

Looking back more than a quarter of a century later, it is clear that the opening sentence of *Blackstone's Tower* might be regarded as somewhat over-optimistic. Indeed, Professor Twining himself still has some of the same concerns which troubled him in 1994. Writing to the authors about this special edition, he said of the invitation to deliver the lectures:

I was, of course, pleased to be asked. I approve of the aims of the Hamlyn bequest and saw it as an opportunity both to summarise my then views on the scene in England and Wales and to make the case for

the discipline of Law being better integrated into general (intellectual) culture in the spirit of Hamlyn. I feared at the time that it would not reach such an audience and my fears were justified ... the lectures were delivered orally in the Law Faculty at Manchester University and as far as I know only one non-lawyer attended (because he wanted to buttonhole me on another matter). Since then the Hamlyn Trustees have made efforts to reach wider audiences ... but with what success? I tried to write for non-specialists, but ... (Twining 2020).

Professor Twining's reflections point to his continuing concern that law as an academic discipline is not at the forefront of public engagement activity, a theme to which he returned when he delivered the Society of Legal Scholars Centenary Lecture in 2009 (Twining 2009). Under the title 'Punching our Weight? Legal Scholarship and Public Understanding' he notes that legal academics are already making contributions to public life (as legal advisors, as grass-roots activists, as arbitrators, magistrates and tribunal members, for example). However, he continues, there is very little systematic knowledge of the extent or nature of that contribution. And when it comes to legal writing, very little that is published, whether in the form of books or journal articles, is read by anyone other than academic lawyers (Twining 2009: 524). So, for Professor Twining, academic law has still not been 'absorbed into the mainstream of our general intellectual life' in the way in which he clearly wishes it had (Twining 1994: xix).

However, for the discipline of law, arguably the most significant aspect of *Blackstone's Tower* was that it focused almost exclusively on legal education. This is a topic which is often neglected by lawyers, whether academics or practitioners, and, in that context, it is unsurprising that, in the 45 series of Hamlyn Lectures preceding *Blackstone's Tower*, there had been none which had addressed legal education, and that remains true of all the subsequent series of lectures (Hamlyn Archives). This state of affairs may partly reflect the terms of the trust deed of the Hamlyn Trust, but it is equally likely that it reflects the suspicion with which research into legal education has been routinely regarded by the legal academy.

Legal scholars have written about legal education since the mid-19th century when law was becoming established as a discipline in English universities (Sugarman 1986: 29). There are, for example, multiple contributions on legal education in the first ten years of publication of the *Law Quarterly Review* (first published in 1885) and in the first ten volumes of the *Journal of the Society of Public Teachers of Law* (initially published in 1924). However, many of these contributions were largely (sometimes entirely) descriptive, lacking references to the relevant academic literature and failing to provide any analysis of the issues involved

(Cownie & Bradney 2017). Arguably, that approach has continued to be characteristic of much writing about legal education ever since. Gower, writing in 1950, remarked that: 'The subject of legal education is one which has aroused singularly little interest in England in recent years and the general professional attitude to it is one of complacent apathy' (Gower 1950: 137). By 1982 there did not seem to be much progress, with Professor Twining himself commenting that '[v]irtually no serious research on legal education has been undertaken in this century' (Twining 1982: 212). In this context, Professor Twining's Hamlyn lectures were all the more important, representing a serious effort to demonstrate that legal education, if correctly approached, was just as rigorous an intellectual field as any of the more traditional areas of substantive law which formed the subjects of the other Hamlyn lectures.

## [B] AN INSIGHT INTO AN OPAQUE FIELD

In his seminal work, *Academic Tribes and Territories* (1989) Tony Becher mapped the territories of academic knowledge and explored the characteristics of those who inhabit them. In the second edition of the book, co-authored with Paul Trowler in 2001, the authors note that when they turned to the discipline of law 'with the exception of an interesting discussion by Campbell and Wiles (1976), the attempt at a literature search drew a complete blank' (Becher & Trowler 2001: 53; see also Cownie 2012: 63). This is a somewhat surprising statement, given that it post-dates much of Professor Twining's own work and that *The Law Teacher* journal was already well-established by this point. However, taken together with Professor Twining's example of the bookshop manager, it clearly illustrates a general lack of insight into the scope and breadth of the discipline, suggesting that law, and particularly legal education, has traditionally been perceived as a specialist, somewhat opaque, area of scholarly interest. More recently, Stolker refers to there now being a myriad of work on legal education generally (without reference to the quality of said work), but notes that 'law schools *as such* [author's italics] – their research, education and governance – have not often been the topic of an entire book' (Stolker 2014: 2). For Professor Twining to have proposed acting as a 'tour guide', providing an introduction to the realities of English university law schools, a full 20 years earlier, can thus justifiably be described as radical and groundbreaking (1994: xxi).

In *Blackstone's Tower*, Professor Twining performs his duties as tour guide by providing an introduction to both the 'public' and 'private lives' of the law school (Twining 1994: xx; Trow 2010: 369). He does this using the device of an imaginary English university law school within

the fictitious University of Rutland (Twining 1994: chapter 4). We are introduced to Rutland as a ‘civic university of the middling sort, founded in 1930’ (Twining 1994: 66). Since then both the university and the law school have expanded, with the law school now comprising 33 staff (including five professors) and 600 students on LLB, joint honours and postgraduate programmes (1994: 67). We are given an insight not only into its formal structure and composition, but also into its physical components (buildings, office layout), its staff, its events and the complex web of hierarchies, relationships and attitudes, all of which feed into its culture and both internal and external perceptions of its role and functions. Writing from an American perspective, Schlegel suggested that: ‘Together the pieces give an American reader a sense that, if plunked down in an English law school, though one might not know exactly how to act, one could at least have a reasonable idea of what the game was’ (1996: 983).

The opportunities for dispute resolution offered by the race for limited parking spots, the name and title of the school, the neatly presented noticeboards, the more individualistic office spaces, the busy corridors, the decor and ambience, the secretaries, students and academic staff, faculty appointments and open days are all touched upon within this lecture. The notion of a tension between liberal and vocational perspectives within legal education is also referred to, with the adherence of the school’s staff to ‘the academic ethic’, the vocational nature of student culture, the contents of the undergraduate law degree and the emphasis of the recruitment literature all hinting at the performance of a complex balancing act between the academic and the vocational, despite a ‘professed belief’ on the part of the school that no incompatibility exists (1994: 78). The lecture ends by referring to the school as being in a state of ‘transition’, seeking to diversify but struggling to find a clear pathway. Professor Twining comments that, as a result, ‘a narrow and probably deluded set of vocational attitudes’ seems set to doom Rutland to be ‘little more than a mediocre nursery school for the profession’ (1994: 85).

Although the idea of a case study, a snapshot of one particular initiative or intervention within a law school, has become almost ubiquitous in legal education publishing, this more holistic overview of a law school was a radical approach in 1994 and remains little-used today. Often it is the very focus of a case-study approach on a single initiative or intervention within a law school which means the resulting work is more accurately characterized as scholarship rather than research (Cownie 2020). The narrow focus makes the results of limited applicability and (in some cases) interest—a common criticism of contemporary research into

higher education (MacFarlane 2011: 127). Instead, Twining used a single example to tease out the constituent elements which form and shape the notion of legal education itself, as well as the role and function of a law school. He took the minutiae, and sometimes the apparently mundane, contained within his observations on Rutland and used them to provide an accessible, yet illuminating, way to begin to explore the discipline of law and legal education as a whole, and to challenge the notion of it as opaque and remote from public engagement.

The 'tour guide' approach is one that Professor Twining returns to several times in subsequent publications which are more clearly aimed at a legal audience (1995: 1998). In his later paper on 'Rutland Reviewed' (1998: 3), he conceptualizes this approach as one which is focused on 'institutions' rather than 'process' (see also 1995: 292). This is on the ground that '[a] process perspective, however liberal, almost inevitably focuses discussion of legal education on the early stages of professional formation – as happens with most official committees and reports because of their remit' (1998: 3). This might seem a somewhat surprising comment given that the 1996 report of the Lord Chancellor's Advisory Committee on Legal Education and Conduct (ACLEC) had clearly prioritized the provision of a form of liberal legal education (Arthurs 1997; Bradney 1998). However, in doing so, it was arguably swimming against the growing tide of neoliberalization in higher education. The 1997 National Committee of Inquiry into Higher Education report (commonly known as the 'Dearing Report') strongly emphasized the economic and vocational importance and benefits of a degree. This was followed by developments such as the introduction of university tuition fees (Brown 2010), an increased reliance on market forces to provide quality assurance (Maisuria & Cole 2017: 605) and the introduction of the Teaching Excellence Framework (Gunn 2018). Given the focus and impacts of the Legal Education and Training Review (LETR), the effects of which have yet to be fully realized, Professor Twining's comment continues to be an accurate one (LETR 2013).

In focusing on 'institutions' instead of 'processes', Professor Twining is at pains to note that an 'institutions' approach cannot be viewed as homogeneous or static, and that it is important to acknowledge the wider university, national and international context. However, in 'Rutland Reviewed' he suggests that 'individual law schools are significant units in respect of finance, prestige, culture, student choice and forward planning' (1998: 4). He uses his somewhat dismal prediction of Rutland's future as a 'mediocre nursery school' as a springboard from which to argue that it is necessary for law schools to effectively transition to, or reinvent themselves as, 'a more self-conscious multi-functional model that serves

a varied clientele, while maintaining a balance between educational, scholarly and social objectives' (1998: 4). In other words, the type of institute which is, as Professor Twining termed it in *Blackstone's Tower* itself, 'the legal system's ... House of Intellect' (1994: 54). This means, as he wrote a year later, less prioritization of undergraduate students and an expansion into new markets, from 'legal literacy to judicial training' (1995: 292). In one sense, therefore, Professor Twining is suggesting a way to navigate through, and possibly even reconcile, the tensions between the liberal and vocational, notably by 'undermining the assumption that the only function of law schools is to teach undergraduates (the primary school model) and that the only law students are those taking single-subject first degrees in law' (Twining 1996: 1010). In presenting extracts of Rutland's new mission statement, Twining is effectively suggesting practical ways in which this new approach can be applied to one 'middle-ranking English law school' (1998: 11). Unfortunately, as Vaughan implies in his contribution to this special edition, it is questionable whether this suggestion has taken root. As he suggests, there has remained within law schools a reliance on the law degree as preparation for the legal profession, despite the Solicitors Regulation Authority's lack of regulatory interest in undergraduate legal education.

Of course, the limitations of Professor Twining's focus on 'institutions' (which he himself acknowledges) cannot be ignored. Since *Blackstone's Tower* and those visits to Rutland there have been significant developments within the wider landscape of higher education, with neoliberal marketization, narratives around students as consumers and the introduction of processes involving high levels of managerialism, such as the Research Excellence Framework (REF) and Teaching Excellence Framework (Giroux 2010; Ball 2015; Gunn 2018). All of these developments try to exert influence over legal education, law schools and higher education more generally, with varying degrees of success (see, for example, Thornton 2011; Collier 2013). However, whilst such wider factors are arguably more significant than ever, it is within the individual law schools that the implications of these will be teased out, their influence mediated (and perhaps moderated—Bradney 2003; Cownie & Bradney 2005: 283) and the consequences experienced. As Professor Twining himself describes it: 'The fault seems to me to lie in how our discipline is institutionalized and the stereotyped thinking that underlies that. My remedy is a radical rethinking of the premises of the law school enterprise' (1996: 1016).

## [C] THE CONTEMPORARY CONTEXT

*Blackstone's Tower* was significant and radical in its time both in terms of its 'institutions' approach and as an example of high-quality legal education research. When revisiting it in the contemporary context, it prompts two questions in particular. Firstly, to what extent has the rethinking of legal education which Professor Twining advocated taken place? Secondly, how has research into legal education fared in the subsequent 27 years? In the following section, we look at these two important questions in turn.

### The Subsequent Development of Legal Education: Has There Been a Substantial Rethink?

Looking at the growth in popularity of legal education in the UK since 1994, it is tempting to conclude that there has been a substantial level of change. In 1994 there were 86 providers offering undergraduate and/or postgraduate provision in law (Harris & Jones 1997: 44). In 2021 there are 121 providers offering Qualifying Law Degrees (SRA 2021c). According to the Higher Education Statistics Agency (HESA) in 1994–1995 there were 32,424 undergraduate students in England, 1,809 in Wales, 3,305 in Scotland and 529 in Northern Ireland studying a first degree in law (HESA 1995). In 2018–2019, this had risen to 61,600 in England, 3,140 in Wales, 6,585 in Scotland and 1,770 in Northern Ireland (HESA 2020). This suggests a further expansion of the sector comparable to the post-war expansion detailed in *Blackstone's Tower*. In terms of legal practice courses, there has been a more modest increase from 'about 20' in 1993 (Twining 1994: 40) to 27 providers now listed (SRA 2021b).

Despite this growth in the student population, if we are to take Professor Twining's 'institutions' approach to analysing the contemporary law school, it is arguable that any changes which have taken place have been relatively slow-paced and minor. A useful starting point for evaluating the extent of shifts and changes within legal education is to consider the later work of Professor Twining himself. He acknowledges that in the late 1990s he 'virtually deserted' the field of legal education for 'about 15 years' (Twining 2018: 244). However, since his return he has raised a number of key critiques (Twining 2009; 2015; 2018), characterizing himself as 'mainly an activist rather than scholar' (Twining 2019: 269).

In fact, much of Professor Twining's later commentary has focused upon the role of legal academics (Twining 2011; 2014). In terms of numbers, in 1994 *Blackstone's Tower* indicated that there were 'slightly under 2,000' full-time academic lawyers (1994: 39). The Society of Legal

Scholars notes that in early 2017 it had 3,000 members (Society of Legal Scholars 2021). This suggests an increase of around a third. In addition, it seems likely that the make-up of this group has shifted as the expectation that academics will have a PhD and be research-active has increasingly become established, with fewer having a legal practice background (Twining 2011: 167; Bradney & Cownie 2020: 239). Despite these shifts, Professor Twining argues that ‘law teachers both collectively and individually have not attained the mature professionalism that is needed to maintain a balance between the demands for excellence in law, education, scholarship, and politics–administration’ (Twining 2011: 166). In other words, there is a sense of the legal academy as a work in progress, evolving but not yet having reached its full potential. This is perhaps unsurprising given the extent of the demands of contemporary higher education outlined above, including the need to demonstrate specific forms of excellence in both teaching and research and the emphasis on evidencing their fulfilment within the neoliberal university. Collier explores this theme in his article in this volume, considering the ways in which wellbeing has become increasingly acknowledged, but also increasingly compromised, in the legal academy in recent years.

In terms of the content of legal education, in his later work Professor Twining has raised again his concerns over the ‘heavily over-loaded curriculum’ of undergraduate law degrees (Twining 2018: 246). He attributes this, at least in part, to the interpretations law schools have placed on the ‘Joint Statement on the Academic Stage of Training’ issued by the Law Society of England and Wales and the General Council of the Bar under the Courts and Legal Services Act 1990 (SRA 2021a). Despite the relatively permissive nature of the statement, it appears that many law schools implement the requirements in a relatively rigid and uniform manner. A survey by Vaughan (2019) suggested that out of 86 providers (at that time) only 12 made a Qualifying Law Degree optional for students and that most providers taught in modules or blocks based around the foundation subjects. Sanders also suggests that the focus of law schools remains largely doctrinal, rather than embracing socio-legal and other critical perspectives (Sanders 2015: 144), although this is disputed by others, with a range of examples of socio-legal approaches being integrated into both foundation and optional subjects (Hunter 2012). In this special edition, Adebisi develops a richer critique, suggesting that doctrinal legal education has been, and remains, an example of ‘disciplinary decadence’ due to its lack of acknowledgment and exploration of its own history and subjectivities and its failure to examine its role in wider societal epistemologies.

Although there has been much speculation about the potential impact of the proposed Solicitors Qualifying Examination (SQE) on the undergraduate curriculum (see, for example, Morrison 2018), recent research has suggested that the impact is likely to be less radical than initially speculated. In his survey of the websites of providers of Qualifying Law Degrees, Gilbert (2020) found that 'three-quarters of websites do not currently indicate that the SQE will have any impact on law courses offered from autumn 2021'. Although he notes that some changes will be awaiting formal approval and that other institutes may be 'biding their time', this does suggest that for a majority it will effectively be a form of 'business as usual', perhaps partly because a law graduate will still require a Qualifying Law Degree for entry into the barristers' profession (Bar Standards Board 2021). As of yet, there appears to be little discussion of, or appetite for, the lengthening of law degrees to four years, the solution proposed by Professor Twining to allow students a more balanced and in-depth curriculum (Twining 2018: 247).

A notable change has been the growth in the number of law schools providing undergraduate students with training in professional legal skills (as opposed to academic legal skills) (Harris & Jones 1997; Harris & Beinart 2005), although this appears to mirror the wider shift in the sector as a whole towards vocationalism (discussed above), rather than representing a specific departure for law. Professor Twining himself notes that the 'heavily over-loaded' undergraduate curriculum in law is added to by 'constant inflation of the concept of "graduateness", now going beyond intellectual skills to include such concerns as employability, teamwork, elementary technical skills, IT literacy and so on' (2018: 246). However, the Quality Assurance Agency (QAA) Subject Benchmark Statement for law remains firmly committed to academic legal skills, referring to 'skills and qualities of the mind', despite references to 'self management' and 'professional development' (QAA 2019: 5-6).

In terms of delivery of teaching, existing large-scale surveys of law schools also suggest a focus on continuity rather than radical change (Harris & Jones 1997; Harris & Beinart 2005; Bone 2009). There are individual case studies of innovative pedagogical approaches (for example, the problem-based learning approach of York Law School). However, overall there has been no sense of a whole-scale shift in approaches to delivery since 1994. Interestingly, it is perhaps only in 2020 that a more significant shift has occurred, through the current (at the time of writing) move within higher education to online and blended learning necessitated by the worldwide Covid-19 global pandemic (see, for example, Watermeyer

& Ors 2020). The impacts of this are touched on by Collier (in relation to legal academics) within this volume.

In many ways, the shifts that have occurred since 1994 suggest that changes within law schools have largely emanated from much wider trends and changes within higher education, in particular the neoliberalization process discussed above. It is arguable that such trends and changes have had significantly more impact upon law schools, particularly the law degree, than those reports specifically focused upon legal education and training, such as ACLEC (1996) and the LETR (2013). It is difficult to quantify the impact of the learned societies in law (which include the Society of Legal Scholars, the Socio-Legal Studies Association and the Association of Law Teachers) upon legal education. However, the events, funding and dialogue they offer, together with *The Law Teacher* and *Legal Studies* journals, suggest there is the potential for the associations to have an impact upon the culture surrounding legal education and within law schools. Whether this is sufficient to fill the gap left by the dissolution of the UK Centre For Legal Education (UKCLE) is unclear (Twining 2011: 169; Twining 2014: 99). Professor Twining argues for the creation of a 'national (preferably UK-wide) Institute for Legal Education and Training (or Learning about Law), with sustainable funding' (2018: 247) to replace the current procession of one-off reports and assist the legal academy in their role as educators. It is unfortunate that one of the significant changes since *Blackstone's Tower*, the discontinuation of UKCLE, has been a negative and retrograde one, rather than a positive and constructive step forward.

It is arguable that more radical change has occurred through an increasing acknowledgment of some issues which are not present in *Blackstone's Tower* itself. Within this special edition, this is illustrated not only by the work of Adebisi in her discussion of decolonization, but also by the contributions of Ashford and Pearson. Ashford discusses the ways in which gender and sexuality have become established areas of legal discourse and scholarship and notes their powerful potential to have a much wider impact upon legal education as a whole. Pearson argues for the importance of recognizing disability and promoting inclusivity within legal education, including its incorporation into the legal curriculum. It would be almost unthinkable for a contemporary law school 'tour guide' to omit to refer to these topics given the contemporary recognition of the importance of equality, diversity and inclusion issues (even if the achievement of these aims is as yet incomplete). Similarly, the inclusion of Guth's contribution in this special edition reflects the fact that, since the publication of *Blackstone's Tower*, an increasing amount of attention

has been paid to the views of students about their experience of higher education, including in particular the growth of initiatives involving students as partners or co-creators (see, for example, Seale & Ors 2015). All these topics, together with Collier's contribution (focusing on wellbeing) reflect topics which have come to the fore as subjects of interest within the legal academy in the decades since the publication of *Blackstone's Tower*. While the attention paid to these issues does not amount to a 'substantial rethink' of legal education in the way that Professor Twining was suggesting, they do reflect significant additional concerns which must be taken into account by any law school aspiring to take up the challenge of becoming the legal system's 'House of Intellect'.

### How Has Research into Legal Education Fared in the Subsequent Twenty-seven years?

Turning to the second question prompted by our reflections on *Blackstone's Tower*, it might be thought, looking at the volume of publications alone, that research into legal education in England and Wales has flourished since 1994. In terms of monographs, several of the major legal publishers have demonstrated that they are open to publishing legal education research. Hart has several legal education titles on its current list, as does Cambridge University Press, and Routledge currently has two book series dedicated to legal education (*Legal Pedagogy* and *Emerging Legal Education*). *The Law Teacher* continues to be the main outlet for legal education articles, and since 2017 the number of issues published each year has increased from three to four, suggesting confidence on the part of its editors and publishers of the availability of additional material worthy of publication. Other general law journals also publish legal education research from time to time; for example, between 2014 and 2018 both *Legal Studies* and the *Journal of Law and Society* published multiple articles on legal education (five and four respectively). The Society of Legal Scholars and the Socio-Legal Studies Association both have conference streams dedicated to legal education research, while the Association of Law Teachers' Annual Conference is always wholly dedicated to the topic of legal education. The Legal Education Research Network provides a range of training opportunities for academics interested in researching legal education, especially for those wishing to enter the field. In many ways, it would appear that legal education research has taken its place alongside more traditional areas of legal research, and that it has been absorbed into the mainstream activities of the legal academy.

However, the question which lies behind these snippets of empirical data is the extent to which the nature or quality of legal education research

has developed from being ‘obsessively repetitious’, ‘inward-looking’ and ‘cocooned’, as Professor Twining characterized it in *Blackstone’s Tower* (Twining 1994: 27). Can it now be regarded as contributing ‘serious research’ (something that Professor Twining himself doubted in 1982, as we indicated above (Twining 1982: 212)). To be regarded by the academy as ‘serious’, research into legal education must be judged by the same standards as those which are applied to other areas of the discipline, and not be found wanting. Arguably, the best means of comparison is to consider the performance of legal education research in the REF (acknowledging that the REF is by no means perfect, but for present purposes is a reasonable way to compare the quality of research in different legal areas). The most recent iteration of the REF to report was the 2014 exercise. In its post-audit Overview Report, the Law Sub-Panel commented: ‘the sub-panel was pleased to receive submissions relating to legal education, but the methodological rigour and significance exhibited by some of these outputs was uneven’ (Law Sub-Panel 2014: 71, paragraph 6). The key criteria used to judge the quality of research in the REF are originality, significance and rigour (REF 2014a), so this comment is hardly a ringing endorsement, suggesting that, in Professor Twining’s terms, much legal education research is still not regarded as ‘serious’ by the legal academy.

This is an issue which is not unique to writing about higher education within the discipline of law. It is one which is shared by scholars from a range of disciplines who research and write about the processes, institutions and people involved in higher education. The REF Education Sub-Panel signalled in its Overview Report that ‘The sub-panel found growing strength in research on HE (sic)’ but commented that ‘weaker work tended to be focused on provision or student experience in particular universities and to lack analytical rigour’ (REF 2014b). This criticism was clearly directed at the type of case-study approach which is potentially a limitation of the approach taken by Professor Twining in his visit to the law school at Rutland. Rowena Murray, a specialist in the area of academic writing, is blunt in her assessment of the situation: ‘higher education journals have moved beyond descriptive accounts of innovation. “Show and Tell” is no longer enough’ (Murray 2008: 128). However, as we have indicated above, in *Blackstone’s Tower* as a whole, the ‘institutions’ focus taken is far broader than the traditional case studies which critics such as Murray have in their sights.

So, what is it about so much legal education research which suggests it is still not generally accepted by the academy as ‘serious research’? It is undoubtedly the case, drawing on the evidence provided by the

REF sub-panels in law and in education, that *some* research into legal education shares the weaknesses identified in higher education research generally. Essentially, it is descriptive, rather than analytical, does not pay sufficient attention to method (and in particular, fails to justify use of a case-study approach) and tends to repeat existing knowledge (albeit sometimes in a new context) rather than contributing new knowledge. The continuing existence of this type of output has serious consequences for legal education research as a whole; there is a tendency for *all* research into legal education to be characterized in this way. As Macfarlane has commented: 'The only important distinction is between good research and poor research. However, it is hard to undo the now widespread perception that research about "learning and teaching" *of any kind* exists in some kind of separate box marked "second rate"' (MacFarlane 2011: 128; emphasis in original).

Research into legal education needs to throw off this mantle of inferiority if it is to succeed in being taken as seriously as subject-based research. For this to happen, arguably both authors and assessors of research about legal education need to reach higher standards of expertise in the area than is currently the case. It is clear that legal education researchers must situate their work in the academic literature and engage with current intellectual debates in such a way as to contribute new knowledge, as is the case with researchers who focus on substantive legal topics. However, what is often neglected is the need for assessors of legal education research to understand that research into legal education is a sub-discipline which draws on a range of academic literature outside the discipline of law. Anyone assessing legal education research needs to be familiar with this literature, which, as Tight has shown, covers a range of topics, from the student experience (including the 'on-course' experience, success, non-completion, the experience of different student groups and the transition from higher education to work) to what he terms 'system policy', which includes the policy context, national policies, comparative policy studies, historical policy studies and funding relationships (Tight 2003: 7). All in all, Tight identifies eight broad themes which between them capture the main topics of contemporary research into higher education. The methods and methodologies used to explore these themes are very varied, encompassing all those commonly used by social scientists. Assessors of legal education research need to understand these too. Finally, the theoretical frameworks used by legal education researchers can range from those related to method (such as grounded theory or phenomenology) to those more particularly associated with education (the work of Vgotsky or Dewey, for example). It is *not* the case that just

because an academic lawyer has themselves done *some* teaching, they are able to accurately assess the quality of legal education research. There must be at least some familiarity with the relevant literature, method/methodology and theories before an accurate assessment can be made, so that, as Macfarlane argues, good research can be distinguished from poor research (Macfarlane 2011: 128). Without assessment being informed by the relevant expertise, it is impossible to see how an accurate judgement can be made, and the danger is that assessors will fail to recognize high-quality research into legal education, thus perpetuating the myth that all such research is second rate.

## [D] CONCLUSION

The publication of *Blackstone's Tower* in 1994 was important in drawing attention to the need to take seriously the English law school and its tribe of scholars and students, to ask fundamental questions about the discipline of law and to make suggestions about its future. In 'Reflecting on Blackstone's Tower' the contributors have risen to the challenge laid down by William Twining all those years ago, which still remains relevant today. Their contributions prompt us to reflect on aspects of the law school which are sometimes similar to, sometimes very different to, those which Professor Twining brought to our attention in 1994. However, their fundamental purpose is one that they share with Professor Twining. It is to prompt a serious consideration of the legal academy from a number of different perspectives, in the hope that this will stimulate debate which will bring about the intellectual development of their discipline, whether this is at the macro level of relations with the legal profession, when considering the curriculum and its relationship to decolonization, or in the exploration of the lived experience of individual students and academics and the collective experiences of cohorts.

What it means to engage in serious consideration of our position as members of a university law school is particularly clearly reflected in Anthony Bradney's article on the concept of the tower. Professor Twining eschewed a detailed analysis of the concept because his focus was primarily on an analysis of the law school rather than the idea of a tower. He explained that he had chosen the metaphor of Blackstone's Tower for a number of reasons, including its ability to be 'argumentative, dialectical, filled with lively debate; but ... not as chaotic as Babel' (Twining 1994: 3). But Bradney has used the concept to demonstrate how 'towers, whether real or figures of speech, may be useful in thinking about what our lives as academics and people should be' (Bradney, in this volume). Bradney's contribution is in many ways a call to action, an invitation to all readers to

reflect on *Blackstone's Tower*, and, having reflected, do what is needed, in the context of the English university law school, to enhance and develop the discipline of law. That is the purpose of this extended reflection on *Blackstone's Tower*, and we hope that all readers will find that this special edition prompts them to engage in that reflection ... and that it will help them to contribute to the development of their discipline.

## References

- Advisory Committee on Legal Education and Conduct (1996) *First Report on Legal Education and Training* London: ACLEC.
- Arthurs, H W (1997) 'Half a League Onward: The Report of the Lord Chancellor's Advisory Committee on Legal Education and Conduct' 31(1) *The Law Teacher* 1-12.
- Ball, S J (2015) 'Living the Neo-liberal University' 50(3) *European Journal of Education Research, Development and Policy* 258-261.
- Bar Standards Board (2021) '[Academic Component of Bar Training](#)'.
- Becher, T (1989) *Academic Tribes and Territories: Intellectual Enquiry and the Culture of Disciplines* Milton Keynes and Bristol: PA, SRHE & Open University Press.
- Becher, T and P Trowler (2001) *Academic Tribes and Territories: Intellectual Enquiry and the Culture of Disciplines* 2nd edn London: Routledge.
- Bone, A (2009) 'The Twenty-first Century Law Student' 43(3) *The Law Teacher* 222-245.
- Bradney, A (1998) 'Law as a Parasitic Discipline' 25(7) *Journal of Law and Society* 1-84.
- Bradney, A (2003) *Conversations, Choices and Chances: The Liberal Law School in the Twenty-First Century* Oxford and Portland OR: Hart Publishing.
- Bradney, A and F Cownie (2020) 'The Changing Position of Legal Academics in the United Kingdom: Professionalization or Proletarianization?' 47(2) *Journal of Law and Society* 247-243.
- Browne, J (2010) [Securing a Sustainable Future for Higher Education: An Independent Review of Higher Education Funding and Student Finance](#).

- Collier, R (2013) 'Privatizing the University and the New Political Economy of Socio-Legal Studies: Remaking the (Legal) Academic Subject' 40(3) *Journal of Law and Society* 450-467.
- Cownie, F (2012) 'Law, Research and the Academy' in P Trowler, M Saunders and V Bamber (eds) *Tribes and Territories in the 21st Century* Abingdon and New York: Routledge chapter 5, 57-67.
- Cownie, F (2020) 'The Reception of Legal Education Research in the (Legal) Academy' in B Golder, M Nehme, A Steel & P Vines (eds) *Imperatives for Legal Education Research: Then, Now and Tomorrow* Abingdon and New York: Routledge.
- Cownie, F & A Bradney (2005) 'Gothic Horror? A Response to Margaret Thornton' 14(2) *Social and Legal Studies* 277-285.
- Cownie, F & A Bradney (2017) 'An Examined Life: Research into University Legal Education in the United Kingdom and the Journal of Law and Society' 44 (SI) Special Supplement: Main Currents in Contemporary Sociology of Law *Journal of Law and Society* S129-S143.
- Gilbert, A (2020) '[Preparing for the Exam? – Law School Websites and the SQE](#)'.
- Giroux, H A (2010) 'Bare Pedagogy and the Scourge of Neoliberalism: Rethinking Higher Education as a Democratic Public Sphere' 74(3) *The Educational Forum* 184-196.
- Gower, L C B (1950) 'English Legal Training: A Critical Survey' 13 *Modern Law Review* 137-205.
- Gunn, A (2018) 'The UK Teaching Excellence Framework (TEF): The Development of a New Transparency Tool' in A Curay, L Deca & R Procopie (eds) *The European Higher Education Area: The Impact of Past and Future Policies* Cham: Springer chapter 31, 505-526.
- [Hamlyn Archives](#).
- [Hamlyn Trust](#).
- Harris, Phil & Sarah Beinart (2005) 'A Survey of Law Schools in the United Kingdom, 2004' 39(3) *The Law Teacher* 299-366.
- Harris, Phil & Martin Jones (1997) 'A Survey of Law Schools in the United Kingdom, 1996' 31(1) *The Law Teacher* 38-126.
- Higher Education Statistics Agency (1994/1995) '[Higher Education Statistics for the UK 1994/5](#)'.

- Higher Education Statistics Agency (2018/2019) '[Higher Education Student Statistics: UK, 2018/19 – Subjects Studied](#)'.
- Hunter, C (ed) (2012) *Integrating Socio-Legal Studies into the Curriculum* Basingstoke and New York: Palgrave Macmillan.
- Law Sub-Panel (2014) '[Research Excellence Framework 2014: Overview Report by Main Panel C and Sub-Panels 16 to 26](#)' [2015].
- Law Teacher, The*.
- Legal Education and Training Review (2013) *Setting Standards: The Future of Legal Services Education and Training Regulation in England and Wales* London: Solicitors Regulation Authority/Bar Standards Board/Ilex Professional Standards.
- MacFarlane, B (2011) 'Prizes, Pedagogic Research and Teaching Professors: Lowering the Status of Teaching and Learning through Bifurcation' (2011) 16 *Teaching in Higher Education* 127.
- Maisuria, A & M Cole (2017) 'The Neoliberalization of Higher Education in England: An Alternative is Possible' 15(5) *Policy Futures in Education* 602–619.
- Morrison, D (2018) 'The SQE and Creativity: A Race to the Bottom?' 52(4) *The Law Teacher* 467-477.
- Murray, R (2008) 'Writing for Publication about Teaching and Learning in Higher Education' in R Murray (ed) *The Scholarship of Teaching and Learning in Higher Education* Maidenhead: Open University Press, chapter 13, 128-138.
- National Committee of Inquiry into Higher Education (1997) *Higher Education in the Learning Society* (Dearing Report).
- Quality Assurance Agency (2019) [Subject Benchmark Statement Law](#) 4th edn London: QAA.
- REF 2014 (2014a) [Assessment Framework and Guidance on Submissions](#).
- REF 2014 (2014b) [Education Overview Report](#).
- Sanders, A (2015) 'Poor Thinking, Poor Outcome? The Future of the Law Degree after the Legal Education and Training Review and the Case for Socio-legalism' in H Sommerlad, S Harris-Short, S Vaughan & R Young (eds) *The Futures of Legal Education and the Legal Profession* Oxford and Portland OR: Hart Publishing 139-168.

- Schlegel, J H (1996) 'Talkin' Dirty: Twining's Tower and Kalman's Strange Career' 21(4) *Law and Social Inquiry* 981-1000.
- Seale, J, S Gibson, J Haynes & A Potter (2015) 'Power and Resistance: Reflections on the Rhetoric and Reality of Using Participatory Methods to Promote Student Voice and Engagement in Higher Education' 39(4) *Journal of Higher and Further Education* 534-552.
- Society of Legal Scholars (2021) '[Welcome to the Society of Legal Scholars](#)'.
- Solicitors Regulation Authority (2021a) '[Joint Statement on the Academic Stage of Training](#)'.
- Solicitors Regulation Authority (2021b) 'Legal Practice Course (LPC) Providers'.
- Solicitors Regulation Authority (2021c) '[Qualifying Law Degree Providers](#)'.
- Stolker, C (2014) *Rethinking the Law School: Education, Research, Outreach and Governance* Cambridge: Cambridge University Press.
- Sugarman, David (1986) 'Legal Theory, the Common Law Mind and the Making of the Textbook Tradition' in W Twining (ed) *Legal Theory and Common Law* Oxford: Basil Blackwell chapter 3.
- Thornton, M (2011) *Privatising the Public University: The Case of Law* Abingdon and New York: Routledge.
- Tight, M (2003) *Researching Higher Education* Maidenhead: SRHE & Open University Press.
- Trow, M (2010) *Twentieth-Century Higher Education. Elite to Mass to Universal* Baltimore MA: John Hopkins University Press.
- Twining, William (1982) 'The Benson Report and Legal Education: A Personal View' in P Thomas (ed) *Law in the Balance: Legal Services in the 1980s* Oxford: M Robertson.
- Twining, William (1994) *Blackstone's Tower: The English Law School* London: Stevens & Sons/Sweet & Maxwell.
- Twining, William (1995) 'What Are Law Schools for?' 46(3-4) *Northern Ireland Legal Quarterly* 291-303.
- Twining, William (1996) 'Rethinking Law Schools' 21(4) *Law and Social Inquiry* 1007-1016.
- Twining, William (1998) 'Thinking about Law Schools: Rutland Reviewed' 25(1) *Journal of Law and Society* 1-13.

- Twining, William (2009) 'SLS Centenary Lecture: Punching our Weight? Legal Scholarship and Public Understanding' 29 *Legal Studies* 519-533.
- Twining, William (2011) 'Professionalism in Legal Education' 18(1-2) *International Journal of the Legal Profession* 165-172.
- Twining, William (2014) 'LETR: The Role of Academics in Legal Education and Training: 10 Theses' 48(1) *The Law Teacher* 94-103.
- Twining, William (2018) 'Rethinking Legal Education' 52(3) *The Law Teacher* 241-260
- Twining, William (2019) *Jurist in Context. A Memoir* Cambridge: Cambridge University Press.
- Twining, William (2020) 'Private Correspondence with the Authors' (published with permission from Professor Twining)
- Vaughan, Steven (2019) 'How Law Schools are Letting Down Law Students' Presentation, CILEx Legal Education Round Table Event.
- Watermeyer, R, T Crick, C Knight & J Goodall (2020) '[COVID-19 and Digital Disruption in UK Universities: Afflictions and Affordances of Emergency Online Migration](#)' *Higher Education* [online].