

TWINING'S TOWER AND THE CHALLENGES OF MAKING LAW A HUMANISTIC DISCIPLINE

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Abstract

This article provides a survey of the life and scholarship of William Twining, focusing largely on his contribution to the broadening of legal education and scholarship. Part I reviews his background, personality and education, then explores the significance of Africa and his anti-colonialism, the inspiration of American legal realism, his teaching in Africa, Belfast, Warwick and UCL, his law reform efforts and his scholarly output. Part II examines his intellectual hallmarks and his struggle to recast law as a humanistic discipline. Part III considers the current efficacy of the notion of law as a humanistic discipline with law schools as purveyors of humanistic education.

Keywords: William Twining; legal education; legal biography; intellectual history; colonialism; postcolonialism.

INTRODUCTION

The trailblazing contribution of William Twining to the broadening of legal education and scholarship has been pivotal, and barely needs any introduction. He has served as an exceptional mentor, role model and friend to many from Australia to Zimbabwe, been an international leader in fields as diverse as jurisprudence (Twining 1973; 2009a), evidence (Twining 1985; Twining & Hampsher-Monk 2003; Anderson & Ors 2005; Twining 2006), globalization (Twining 2000; 2011) and legal education (Twining 1967; 1994b; 1997; 2002; 2018; 2019), and an activist reformer and polemicist (Twining 2019). Paradoxically, his

¹ This article is for Phil Thomas on his 81st birthday. I would like to thank William Twining for his helpful comments and Léonie Sugarman, who made valuable points about the way in which this article was expressed. All interpretations are mine, unless otherwise indicated.

engagement with law and legal education is so eclectic, multilayered but seemingly specialized—and in important respects, technical, intellectually demanding and occasionally labyrinthine—that it is difficult to gauge in the round, especially as his work has evolved and some of his views changed over time. Seen in this light, William's record as an intellectual and activist constitutes 'Twining's Tower', analogous to 'Blackstone's Tower' the metaphor he used to describe English law schools (Twining 1994b).

William has inspired many law students, practitioners and academics, myself included, by doggedly and perceptively giving voice to our baffling disillusionment with our own legal education, to why so much English legal education and scholarship has been overly narrow, unadventurous and boring, to why law is important and fascinating, and how it might achieve its potential as a humanistic discipline. William's influential inaugural lecture of 1967, 'Pericles and the Plumber', animated by these concerns (Twining 1967), challenged the prevailing assumption in the UK that law was a hermetically sealed discipline, separate from society and the operation of law in practice. He further argued that the comparison between US and UK legal education was invidious, advocating that some American developments should be taken seriously in the UK (cf. Twining 2019: 219). It was in this context that William sought to rehabilitate Karl Llewellyn and the American legal realist movement, specifically their efforts, some successful, to treat law in its social context, to study 'law in action' and to integrate law within the social sciences. This contradicted the one-dimensional or inaccurate treatments of American legal realism that characterized Anglo-American scholarship at the time—something he would develop in more detail subsequently. He championed the idea of law as a potentially excellent vehicle for liberal education, and how a liberal education is crucial for intending practitioners. He encouraged us to 'look outward' and incorporate non-legal methodologies and insights into our work.

PART I

A biographical approach will help us to understand William's longstanding effort to challenge the legal orthodoxy and recast law as a humanistic discipline.

William was born in Kampala in 1934 into a middle-class family. He spent his first ten years initially in Uganda and then in wartime Mauritius. For the subsequent ten years, while his parents remained abroad, he was educated in English boarding schools and at Oxford University

(Twining 2019: 7-30). His mother had forced her way into medical school just after the First World War (Twining 1994a). His father, a distantly related member of the Twining tea family, was first an army officer and subsequently a colonial civil servant who was knighted in 1949. His highly successful career culminated in being appointed governor of Tanganyika and becoming one of the first life peers. William stressed that his family life differed significantly from what might be assumed from his father's career within the British establishment: 'I come from a family [who] ... on the whole ... were ... not inclined to accept authority' (Twining 1994a).

William saw his own anti-authority and anti-regimentation tendencies as instinctive rather than political. They were mediated, I would suggest, by what I discern to be his early education in diplomatic survival skills: 'I wasn't rebellious at school ... I saw it as a jungle of rather hostile forces in which I had to survive and develop techniques of survival ...' (Twining 1994a).

It was these diplomatic skills, allied to his belief in dialogue, open-mindedness, inclusivity and pluralism, that would subsequently enable him to mobilize and work with people of many different backgrounds and beliefs without being labelled as overtly left-wing, communist or radical.

In terms of background, personality and education, there is a strong sense of William's developing autonomy, aided and abetted by a love of reading and a fascination with things intellectual. His relative autonomy was allied to the fact that, feeling both an insider and an outsider, he experienced a degree of estrangement from his own society and from Anglo-American parochialism: 'I really felt like an expatriot for [much of my life] so I never looked at the context of my professional life through the eyes of someone who is solely a local' (Twining 1994a). He continues to regard East Africa 'as an important reference point' (Twining 1994a).

In discussing his father, I sensed that William felt he had a lot to live up to. After some sharp differences as to William's future career this was eventually resolved:

Why did I become an academic? It was to get out of the shadow of my father ... He wanted me to be an administrator ... He was rather upset that I got a First which, as it were, opened the door to following an academic career. In fact, he once said that it was the worst thing that ever happened [to me] ... And the answer was that I would have [followed an academic career], but I wouldn't have thought that I could have had one. But ... [the First] opened the possibility and I grabbed it (Twining 1994a).

Despite his lengthy separation from his parents, their careers and lifestyle nonetheless modelled the importance of public service, and the

recognition that professional status carried with it the obligation of civic service and *noblesse oblige*.

William arrived in Oxford in 1952 to read law with a modest academic record, no special interest in the subject and no thought of an academic career. He did not enjoy the first two years of his legal studies, in no small part because of the dominance of doctrine-only textbooks:

I was not in the least engaged or interested [in law] until I went to Herbert Hart's lectures and [read] his inaugural ... It was ... the first time that I'd come across something in law that was exciting as ideas ... Basically, I wanted to return to Africa and do something ... about education (Twining 1994a).

The pull of Africa was underpinned by an anti-colonialism that had gripped him since adolescence. As he would subsequently observe: 'I had a colonial childhood, an anti-colonial adolescence, a neo-colonial start to my career and a post-colonial middle age' (Twining 2019: 8; cf. Twining & Sugarman 2020: 199-200).

By 1956 he decided to learn more about jurisprudence and see something of the United States before pursuing an academic career teaching law in Africa. Following a suggestion from Harry Lawson (Oxford's Professor of Comparative Law and William's mentor) that he work with an American jurist, William secured funding from the University of Chicago to work with Karl Llewellyn. William's year at Chicago (1962-1963) proved pivotal. He learned much from Llewellyn's down-to-earth approach, his concern to relate theory and practice, and his emphasis on skills and what lawyers do as serious subjects of study. Llewellyn's anthropological *The Cheyenne Way* (Llewellyn & Hoebel 1941) deepened William's interest in 'law jobs' and social and legal rules, while fostering his engagement with legal pluralism. Above all, perhaps, William was inspired by Llewellyn's insistence on developing one's own ideas and beliefs towards something approaching a personal 'whole view' reflecting Llewellyn's main realist precept: 'see it fresh, see it whole, see it as it works' (Twining 2019: 36-37).

Llewellyn and his wife, Sonia Mentschikoff, were 'the two most important people in my professional life' (Twining 2019: 38). Nonetheless, whilst he became a disciple of Llewellyn, and Llewellyn influenced his subsequent teaching, William never jettisoned his admiration for, and commitment to, Hart and the skills associated with analytical jurisprudence and analytical thinking more generally.

During the late 1950s and 1960s, a cadre of fledgling British law teachers, inspired by legal realism and their experience of American or other legal education, elected to teach law in Africa, frequently along

with American expatriates supported by the Ford Foundation. William was one of these. The experience of teaching, researching, writing and institution building, alongside grappling with an alien legal system and culture, demonstrated that law could only be understood in the light of history, culture, politics and economic conditions. This 'US–African moment' also fostered an interest in legal education and its politics. On returning to Britain, these expatriates adapted for British audiences the intellectual and pedagogical innovations fashioned for African audiences. The broadening of legal education and scholarship in England from *circa* 1965 onwards, and the establishment of a generation of radical law schools in the 1970s and beyond, owes much to the North American and African experience of several of its leading lights (Sugarman 2011; Harrington & Manji 2017; Twining 2019: 39-77; Sugarman 2021).

In 1958 William applied to the law faculty of the University of Khartoum. He was appointed to a lectureship, and his three years in Sudan served as an important preliminary stage in his apprenticeship as an academic lawyer. It challenged what he had learnt and the way he had been taught at Oxford, heightened his sensitivity to the importance of context, reinforced his fascination with archives, and provided vital space to experiment and innovate substantively and pedagogically under the mentorship of Patrick Atiyah (Twining 2019: 39-56).

William moved to Tanzania in 1961, where he helped to establish a law school at the new University College in Dar es Salaam (UCD). As Acting Dean for 18 months, William relished the opportunity to shape the direction of the law school, to experiment with law teaching, to research and teach local (customary) law and resolve controversies, not least whether the professors should wear their Oxford MA gowns (Twining 2019: 57-77). Although he found it immensely exciting, managing his colleagues was both enjoyable and challenging:

Inevitably, over time there were tensions between elitism and egalitarianism ... and between safeguarding security and national sovereignty and liberal ideas of the rule of law. ... Later ... UCD became a centre of Marxist critiques of [President] Nyerere's pragmatic socialism ... Indeed in one period from 1975 the faculty was sharply divided between Marxists and others and there was a rapid turnover of staff (Twining 2019: 59).

William left Dar in 1965 to spend six months at Yale Law School, mainly working on his book on Llewellyn. And it was there that Robert Stevens and William dreamt up a new series of books called 'Law in Context' that would challenge the 'expository orthodoxy' of the 'doctrinal tradition' of legal writing in England and Wales. They persuaded Weidenfeld & Nicolson

to take the series, thereby breaking the near monopoly of law publishing then held by Butterworths and Sweet & Maxwell (Twining & Sugarman 2020: 211-215). In important respects the Law in Context series is a product of the 'US–Africa moment'. In half a century, over a hundred books have been published in the series, starting with Patrick Atiyah's pathbreaking, *Accidents, Compensation, and the Law* (Atiyah 1970).

In January 1966, William took up the position of Chair of Jurisprudence and Head of the Department of Law and Jurisprudence at Queen's University, Belfast, at the exceptionally young age of 31. As luck would have it, Queen's had a four-year undergraduate honours law degree and a strong commitment to legal theory. William found himself responsible for three compulsory theory courses—an almost unprecedented opportunity for a Professor of Jurisprudence. These courses became the main vehicles for developing his knowledge, thinking and teaching about jurisprudence (Twining 2019: 93-103). The first-year course on juristic technique provided an arena for developing ideas about rules, interpretation and reasoning that became over time *How to Do Things with Rules* (with David Miers), the first of William's several important contributions to the 'skills revolution' in legal education (Twining & Miers 1976). Queen's also offered him the space both to consider 'What might a legal theorist contribute to the project of broadening the study of law from within?' (Twining & Sugarman 2020: 201)

Towards the end of his time in Belfast during 'the Troubles', he became involved in public debates about emergency powers and torture, something which linked closely with his growing interest in Jeremy Bentham's utilitarianism and normative jurisprudence, that is, questions about values such as law and morality, justice, rights and legitimacy. It proved an important part of his intellectual journey (Twining 2019: 96-98).

The Queen's four-year undergraduate degree persuaded William that the Achilles' heel of primary legal education in England and Wales was, and remains, the three-year degree for 18-year-olds, and that most of the unsatisfactory polemics about legal education have been due to trying to squeeze too much into a three-year course. He concluded that: 'There is little hope for undergraduate legal education in UK until four-year degrees become the norm' (Twining & Sugarman 2020: 103).

It was during this period that William was involved in several efforts to reform law, legal education and training, including his membership of the Armitage Committee on Legal Education in Northern Ireland (1973) and submissions to the Law Commission and the Ormrod Committee

(1971), the Society of Public Teachers of Law (SPTL)² and the Statute Law Society.

After six years in Belfast (1966-1972), and together with several colleagues from Dar es Salaam, William was presented with the opportunity, to help shape a second new law school, this time in the UK.

William and Geoffrey Wilson had recognized each other as allies since their first meeting in 1966. They viewed English legal education as narrow, insular and rule-bound. When Wilson was appointed the founding Chair at Warwick Law School in 1968, he set about the project of ‘broadening law from within’, constructing a curriculum that was both radical for the times and exciting (Twining 2019: 147-156). William joined him at Warwick in 1972 and immediately became Acting Chair and then Chair of the Law School—roles he did not enjoy.

Much of my energy as chairman was devoted to keeping the law school running, though not always smoothly ... [The] teaching went well, research less so. Some of my younger colleagues were more interested in micro-politics than serious research: there was even a suggestion that research and publication were ‘careerist’, an idea quite contrary to ... my own ethos ... Some saw committee work as a source of power (Twining 2019: 151-152).

Having spent a decade at Warwick (1972–1982), William was appointed Quain Professor of Jurisprudence at the University of London, based at University College London (UCL), from 1983 until 1996 (Twining 2019: 190-205). After a period as Research Professor, he became Emeritus in 2004. From the outset, he sought to reconstitute the undergraduate and postgraduate programmes at UCL and the London LLM in a more innovative, challenging, interdisciplinary fashion, but with mixed results. He successfully revamped the undergraduate course on jurisprudence at UCL in a way that was progressive; but his efforts to overcome intercollegiate rivalry on the LLM ultimately failed. He chaired the Bentham Committee (1982–2000) and his main writings on Bentham date from this time. From 1983 he chaired for almost a decade the Commonwealth Legal Education Association. During the same period, he also published extensively on legal education, notably his 1994 Hamlyn Lectures, *Blackstone’s Tower* (Twining 1994b). This period also saw the publication of his principal work rethinking evidence (Twining 2006)—combining ‘skills’ and ‘context’ to transcend traditional rule-based approaches—with the commencement of his ‘Globalization and Law’ project (Twining 2000). He continued to

² William played a signal role in the transformation of the SPTL from something of a gentleman’s Conservative club towards a scholarly society that aims to promote equality, diversity and inclusion across legal academia (Cownie & Cocks 2009: 104-109, 124-129, 138, 156-160, 161).

travel widely and regularly to facilitate his research, as a consultant and advisor, in his capacity as a legal education activist and to teach, notably, his regular stints of teaching Evidence with Terry Anderson at the University of Miami Law School (Twining 2019: 214-216).

Finally, at UCL, in 1984 William initiated an optional postgraduate programme for present and intending law teachers, the Law Teachers Programme, that proved much more successful than initially anticipated (Twining 2019: 225). Avrom Sherr attended some of William's lectures, which he recollects thus:

An avuncular senior professor appeared at the lectern, as if by magic, at the appointed hour, wearing the expected pullover, which might have escaped from 'Xmas festivities. A motley collection of UCL Masters students assembled in readiness to learn the secrets of teaching law, of teaching anything, and getting a Certificate for Attendance ...

The Professor treated them as equals. There would be no exam, though there would be some take-away exercises. It would be a mixed programme of learning about legal education and learning how to do legal education ... There would be some readings. There were few such courses at that time [and it proved] innovatory. Twining invited students to think about their own legal education up till then and consider what was good and what was not; who they liked as teachers and why; what they thought they might do as teachers. And then it gave them an opportunity to write about their thoughts, learn about the literature on legal education, and practice a few possible approaches which were different from either the lecture or the seminar. The atmosphere was somewhere between an Oxford tutorial, a Warwick Socratic lecture and afternoon tea with the friendly vicar. William was well loved and admired by those students attending; and by and large, all had fun (Sherr 2021).

Following his retirement in 1999, William's scholarly output has increased exponentially. He has continued to make important contributions to evidence as a multidisciplinary field, legal education, globalization, law in general and the de-parochialization of our juristic canon (Twining 2012). His 'unfinished agenda' includes a project on 'Linguistic Diversity and Social Justice'; broadening the concept of 'legal reasoning' (or judicial reasoning on questions of law); follow-up activities on his 'Human Rights: Southern Voices' project; and his ongoing involvement in the preservation and management of 'Legal Records at Risk' (Twining 2019: 259-273).

PART II

The picture that emerges from the interviews with William, together with his scholarship, is of an intellectual whose reading and sources of inspiration are exceptionally eclectic. His writing, like its author, is

generous, humane and rational. His analysis tends to be sharp and analytical, demanding and challenging. He draws on a range of disciplines including intellectual history, educational research, social anthropology, psychology, and contemporary ideas about globalization. His ‘gurus’ include Italo Calvino, R G Collingwood, Herbert Hart, Karl Llewellyn and Jeremy Bentham (Twining & Sugarman 2020: 203-204).

William’s considerable involvement in legal education reform has spanned much of his life. In addition to his initiatives in Khartoum, Dar es Salaam, Belfast, Warwick and UCL, he has served as a member of several advisory bodies that honed his ideas and extended his experience of the politics of legal education reform, while also shaping contemporary debates about legal education. Of particular importance is his participation in the International Legal Center (ILC) Report, *Legal Education in a Changing World* (ILC 1975). In 1972 the New York-based ILC asked an international group of legal scholars, distinguished in part for their contributions to legal education in one or more countries in Asia, Africa or Latin America, to examine the progress and problems of legal education in those regions of the world. The Committee reviewed a considerable body of material and delegated the preparation of this report to a five-person task force that included William. This opportunity allowed William, in the company of an impressive international team, to stand back, draw on his experience of legal education on three continents and conjure ‘blue sky thinking’ at a time when law and legal education reform was in the air in the UK and elsewhere. From its outset the Report warned that it:

may disturb some because its portrayal of the present situation – the existing characteristics of legal education in many countries – is cast in critical terms, and because it seems to call for a rather drastic re-thinking of objectives and methods ... [and] may require a ‘new breed’ of law teachers who will bring new perspectives and skills to the discipline. In spelling out ‘the case for legal education’ the report argues the importance of conceiving and developing law as a sophisticated discipline with strong links to others, and as a vehicle for examining many problems of social change as well as new ideals of justice. The report stresses the importance of multi-disciplinary research to facilitate better understanding of legal cultures, law and the actual workings of the legal system, and it faults legal education for the limited scope of most legal research undertaken by law teachers today (ILC 1975: 9).

Membership of the ILC, says William, ‘was a game-changer ... During the next twenty years I used it as the starting point and framework for analysing legal education policy and for several specific projects’ (Twining 2019: 219).

Building on the ILC Report, *Blackstone's Tower* advocated a model of law schools 'as multi-purpose centres of learning ... as the legal system's, as opposed to the legal profession's, House of Intellect'—what William called 'the I.L.C.'s model' (Twining 2019: 54; see further, Twining 1994b: 52, 58-60, 85, 195-98; cf. Bradney 2003: 76-78)—that is distinctive for its diversification of the constituencies that legal education might serve. In preparing and delivering *Blackstone's Tower*, William knew that the Lord Chancellor's Advisory Committee on Legal Education and Conduct (ACLEC) review of legal education and training, on which he served as a consultative panel member, was under way and it was partly written with the review in his sights. Ambitious in aim although modest in tone, *Blackstone's Tower* was incisive in its dissection of what is wrong with legal education and what needs to be put right. It proved something of a milestone. Love or loathe it (Goodrich 1996), it immediately became the go-to account of the modern English law school—its history, ambiguous role, peculiar culture and, crucially, the model it could and should imbibe.

ACLEC's first report reflected important elements of *Blackstone's Tower* as the foundation for a fundamental reform of legal education and training at both the academic and professional stages.³ Yet, like its predecessors and successors, the report enjoyed a distinctly qualified success, more welcomed in academia (although not without qualification) than by the legal profession.⁴

William's involvement in the Legal Education and Training Review (LETR) was less high profile (LETR 2013)—although his scholarship proved influential, and it is rumoured that he was invited in the final stage of the Review to comment on the recommendations.

Although he regards the report as in some important respects an improvement on its predecessors in England and Wales, he has expressed dissatisfaction not only about the report and the periodic review process in legal education but also the general discourse in the field as a whole. Since about 2016 he has begun to develop ideas about how the whole field of 'learning about law' might be reframed to provide a basis for thinking,

³ William's scholarship was expressly used to underpin the views of the Committee: see ACLEC (1996) at paragraph 2.5 and note 21; paragraph 2.6 and note 22; paragraph 2.8 and note 25; paragraph 3.26 and note 48; paragraph 4.3 and note 51; and paragraph 6.7 and note 90. In his account of the ACLEC review, Sir Bob Hepple, a leading member of the Committee, singled out *Blackstone's Tower* for particular mention, saying that the Committee had benefited from it: Hepple 1996: 470 note 2.

⁴ However, they frequently influence future events and contribute to the ways in which academics see their position *vis-à-vis* the legal profession and *vice versa*.

research and policy making in the coming years, building on the ILC Report (Twining 2014; 2019: 270).

Whilst he stands by most of his detailed arguments on legal education, William has begun to address what he regards as a major flaw in his own thinking since ‘Pericles and the Plumber’. In essence, he advocates a broader conception of ‘legal education’ and of the role of university law schools within it than what he terms ‘the primary school model’ of legal education:

Learning about law is lifelong, from cradle to grave, and nearly all of that learning is informal in the sense that it takes place outside institutionalized ‘formal’ instruction. On the other hand, nearly all research, public discourse, debate, and policy making about Legal Education has focused on law schools, law teaching, law teachers, and law students. To an extraordinary extent, as academic lawyers, we have focused obsessively, sometimes narcissistically, on primary legal education and initial professional admission to private practice – one quite small part of a total picture of formal learning about law, let alone learning about law through all of the seven ages of man (and belatedly woman) in society as a whole ... I am not saying that formal primary legal education or law schools are unimportant although that might be true in the greater scheme of things ... [But] I now want to look at the whole field from a different perspective and set particular topics in a much broader context (Twining & Sugarman 2020: 214, see, further 213-215; Twining 2019: 270-173—this builds on William’s earlier work championing ‘law for non-lawyers’ and ‘public understanding of law’: Twining 2005a; 2009b).

PART III

Jurist in Context (JIC) (Twining 2019), William’s rich and detailed intellectual memoir, his recent book on *General Jurisprudence* (Twining 2009a) and his interview of 2019 (Twining & Sugarman 2020) together provide the best entry point to his life and thought, illuminating the continuities and changes in his views since *Blackstone’s Tower*. As I read it, JIC argues that ‘much legal scholarship is normative and opinionated ... partly because it is weak contextually, empirically and theoretically’ (Twining 2019: 105), and that theorization, centrally important to the health of the discipline of law and socio-legal studies, needs refinement on matters such as legal reasoning. William’s theoretical originality and importance is illustrated by his application of some of the best facets of analytical jurisprudence, Llewelyn-inspired legal realism, legal pluralism and perspectives that eschew insularity and Eurocentric universalism. In effect, JIC makes the case for the added value that this mix brings to socio-legal research and the discipline of law and their ability to respond

to the new challenges posed by globalization and the like. This is directly related to William's long-standing crusade to widen and deepen Oxford-style analytical jurisprudence, and to build a bridgehead between it and socio-legal studies, bringing benefit to both sides. Its central theme is that all academic lawyers should be concerned with, and take responsibility for, the health of our discipline. JIC introduces new audiences to William's ideas and aims to enlist them to the cause of turning the field of law into a humanistic discipline.⁵

JIC continues William's efforts to decentre legal doctrine as a core to the discipline of law and look seriously at the system as a whole. He restates his view that rules are as central to the study of law as they are in disciplines which describe and interpret human behaviour, such as anthropology, sociology, psychology, or linguistics. However, his idea of rules is much wider than 'legal doctrine'. JIC demonstrates the value of the analytical tradition and analytical approaches in the study and teaching of law in society. Rather than an adjunct of legal positivism and doctrine-centred teaching and scholarship, JIC demonstrates how the analytical tradition can play a vital role in transcending the idea that legal doctrine delimits or differentiates the discipline of law.

So, where, almost two decades since the publication of *Blackstone's Tower*, now stands the notion of law as a humanistic discipline with law schools as purveyors of humanistic education?

Academic law in the UK is livelier and more diverse than ever (Cownie 2004). Law and socio-legal review articles and textbooks have come a long way since the 1960s, mostly for the good. Although socio-legal studies has yet to become an accepted and established feature of all university law schools, it nonetheless is flourishing as never before, exhibiting an intellectual self-confidence and ambition which at its best addresses big questions of identity and power, for example, on a much greater scale than hitherto (Wheeler 2020). Law teachers are not so different from other academics in the humanities and social sciences. Postgraduate studies have grown overall, and the interdisciplinary turn has constituted a 'dangerous supplement' to the doctrinal mainstream, whilst fostering closer ties between law schools and the rest of the university.

And yet, much of William's vision remains unfulfilled. As I have argued elsewhere (Sugarman 2020), law schools and legal scholarship are still overwhelmingly preoccupied with doctrine, case law and the judge-

⁵ For a succinct overview of, and a critical engagement with, JIC, see Sugarman 2020; Twining & Sugarman, 2020.

centred model of the legal process, albeit, in an attenuated form. The core subjects remain greatly over-represented in the curriculum (Bartie 2010). The tendency toward organizational, cultural, demographic and financial homogeneity within the discipline of law persists, as does its dependence on student numbers and tuition income.⁶ Despite important changes since the 1990s, much remains the same. Law schools, like the universities and the societies within which they operate, continue to be hierarchical and ethnocentric. Importantly, the conditions that sustain current models of university legal education have remained constant: notably, student demand and finance; the cost of education; and the need for legal education to be sufficiently harmonious with the interests of the legal profession, of their principal clients, universities and government. Innovation in legal education operates within these confines (Gordon 2002); and most are beyond the control of legal academics (Arthurs 2019: 136-138).

The restructuring of universities and academic identities by corporatization and commodification has been subject to a welter of different interpretations (Collier 2005). Socio-legal studies may have benefited more than most other disciplines from the new political economy governing academic life (Wheeler 2020), but this is not writ in stone and could easily change in the future.

The alienating tendencies within contemporary higher education have been replicated in the legal services industry. Disconcerting trends include the McDonaldization, commodification, corporatization, excessive specialization and bureaucratic routinization of legal services; and the privatization of legal education (Sommerlad & Ors 2015b; Sommerlad & Ors 2020; Dunne 2021). Arguably, these trends render *de facto* redundant much of the common platform of legal knowledge underpinning academic and profession legal education. Whilst they may represent both an opportunity and a threat to the law as humanistic model, their consequences for this model have, with notable exceptions (such as Tamanaha 2012 and Sommerlad & Ors 2015a) yet to receive serious attention. Although fewer law students than ever are entering the legal profession, the character and culture of legal practice is important. As Robert Gordon observes:

In the precincts of ordinary law practice, tolerance for anything but the most bread-and-butter instrumental approaches to practice is at what may be a historic low. Especially in corporate practice, the

⁶ On the tendency towards isomorphism and its detrimental impact on US legal education, see Coquillette & Kimball 2015; Kimball & Coquillette 2020.

stresses of competition and around-the-clock client demands, and the extreme pressures to produce profits and billable hours, have created a very hostile climate for self-critical reformist lawyers committed to reflection on the broader contexts and objectives of practice and the long term. The problem of how to remake professional environments such as law firms into more hospitable environments for constructive 'lawyer-statesmen' should be high on the profession's agenda, including the legal academy's. There will not be much point to the law schools turning out broad-based and reflective humane professionals if all their humane instincts are going to be squashed once they get into practice (Gordon 2006: 166).

There remain several branches and niches of professional practice where 'broad-based and reflective humane professionals' may seek fulfilment. But the cut-backs in legal aid and state funding of the justice system, the curtailment of access to justice, proposed restrictions on judicial review, and the 'culture wars' demonizing personal injury, human rights and allied lawyering have diminished the opportunities for and challenged the legitimacy of humane professionalism in legal practice.

Meanwhile, the perennial clash between what students want and expect and what their teachers want to give them has probably intensified as the financial cost of higher education, the level of student debt, and job insecurity have all mushroomed.

Are law schools principally for producing lawyers; knowledge for its own sake (Bradney 2003); useful knowledge; 'the advancement and dissemination of understanding and knowledge about law in all its aspects' (Twining 2005b: 670-671)? Or, is the ultimate goal 'to cultivate humane, independently-minded individuals, alert to the impact of law and the legal system on society and involved in reforming them so that they operate more effectively and justly' (Gordon 2006: 158); or, some or none of the above? What might be feasible, as distinct from desirable? William's conception of law as a humanistic discipline and of multifunctional law schools turns on the achievement of sufficient independence from the legal profession and practice-bound LLB students, something law schools have yet to actualize.

Given this challenging and paradoxical juncture, a reconsideration and re-evaluation of *Blackstone's Tower* is timely. How does it speak to us today; which of its strengths remain inspirational and relevant; what were its blind spots; and how could we do better? If this special issue prompts further debate about these questions it will have achieved a great deal.

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