Blackstone's Tower Revisited: Legal Academic Wellbeing, Marketization and the Post-pandemic Law School

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Abstract

The years since the publication of *Blackstone's Tower* have witnessed an explosion of international scholarship on university law schools and legal academics. More recently, the UK, as elsewhere, has seen the emergence of a distinct interdisciplinary body of work termed 'critical university studies' seeking to explore multifarious dimensions of what has been widely termed the marketization of universities and their law schools; a process well under way by the time *Blackstone's Tower* first appeared but which has since gathered pace. This article will explore the nature of these changes and, more specifically, assess their impact on a subject that has itself become the focus of increasing political and policy debate across the higher education sector over the past decade; the *wellbeing and mental health* of those who inhabit the contemporary university.

Focusing specifically on legal academics, the subject of a growing body of recent research, the article will chart both changes and continuities that have occurred within understandings of legal academic wellbeing since *Blackstone's Tower* was published; and, interweaving a discussion of the impact of the global pandemic of 2020 on wellbeing in university law schools, taking place at the time of writing, consider how Covid-19 is reshaping our understandings both of the 'private life' of the law school, as discussed by Fiona Cownie, and of legal academic wellbeing as a focus of socio-legal study.

Keywords: legal academics; wellbeing; mental health; UK universities; legal profession; marketization; critical university studies.

[A] INTRODUCTION

The publication of *Blackstone's Tower: The English Law School*, Cownie & Jones note in their introduction to this volume, proved significant and radical in 1994, a period when research into legal education was less developed and respected within the legal academy than it is now. The response to Twining's work, celebratory and critical (e.g. Goodrich 1996), reflected the political and theoretical terrain of legal studies of the moment; a field marked by the growing impact, for example, of socio-legal research, feminist legal theory, critical legal studies, sexualities/gender scholarship (Ashford, this volume) and, if to a lesser degree in the UK than elsewhere, critical race theory. Each, in different ways, shares with Twining's work a concern to interrogate the nature of legal scholarship, its history and the political, economic and cultural contexts in which legal research is undertaken (also Twining 1996; 1997); to advance, more generally, a 'law in context' perspective that might challenge the borderlands of the legal discipline and ask what, ultimately, university law schools are *for*.

The years since 1994 have witnessed an explosion of work within higher education studies and, in law schools, the sub-discipline of legal education (e.g. Bradney 2003: Jones & Cownie 2020). A sustained and distinctive strand of qualitative, quantitative and theoretical research, meanwhile, has examined diverse aspects of the lives of legal academics (Cownie 1998; 2004; Wells 2001; Thornton 2012; Collier 2013; 2004). Over the past decade, however, this work on the legal academy has been increasingly informed by a body of scholarship recently termed 'critical university studies' (henceforth CUS: for a flavour see Barcan 2016; Hall 2018; Pesta & Ors 2017; Taylor & Lahad 2018). This refers to a methodologically diverse engagement with—and challenge to (see below)—multifarious dimensions of structural changes that have occurred in the political economy in which universities operate. More specifically, CUS scholarship constitutes an attempt to better understand the impact of changes associated with the marketization of higher education (henceforth HE), a network of processes that have served to introduce entrepreneurial competition into public institutions (Levidow 2002). It explores their consequences for the cultures, practices and values of universities and the lives of those who inhabit them, staff and students. This includes, in the case of law, law students (Guth & Ors, this volume) and, my focus here, legal academics.

The narrative of the marketization was well-established and under way by the time *Blackstone's Tower* appeared. Twenty-five years earlier not dissimilar concerns were being expressed in Thompson's *Warwick*

University Ltd (Thompson 1970). In 'Thinking about Law Schools: Rutland Reviewed', four years on from *Blackstone's Tower*, Twining sought to extend his discussion of the institutional functions and goals of law schools, recognizing the growing significance of metrics, league tables, modularization and drives to 'massification' (Twining 1998). In the years since, however, these processes have gathered pace exponentially in a period that has seen, importantly, major reform to the structure of funding of universities in England and Wales. These changes, taken together, have been perceived by some legal scholars as reinforcing an institutional view that law is a broadly applied subject and relatively in-demand commodity within an emerging new educational marketplace; a market model of education in which the *value* of a university degree is pitched, increasingly, in terms of future earnings potential and employability (Thornton 2012; Collier 2013; Thornton 2007). The resulting tension between models of 'legal education as certification' and 'legal education as a means of societal transformation' is addressed elsewhere in this collection (Adebisi, this volume: see further below).

This article reflects on *Blackstone's Tower* in the context of new approaches to understanding how 'the institutional is political' in universities (Gillies & Lucey 2007). It seeks, more specifically, to examine the subjective consequences of these changes for the 'private lives' of legal academics (Cownie 2004). It does so via interrogation of a topic that barely registered on the agenda of legal studies at the time *Blackstone's Tower* appeared but one which is, I shall argue, now at the *forefront* of contemporary political and policy debate across the UK HE sector, including within the discipline of law; the wellbeing and mental health of those who inhabit the contemporary university, the staff and students who, to use a Twitter hashtag widely in use during the 2018 dispute over pension reforms, *are* the university. This includes, in the case of law, legal academics.

The scale of change that has occurred since *Blackstone's Tower* could not have been envisaged by Twining in his 'tour' of the university law school. At the time of writing, in the context of rapidly evolving governmental and institutional responses to the Covid-19 pandemic, the consequences of the marketization of HE is an issue central to discussion about the financial sustainability of the current model of funding of universities and the management of public health, safety and community transmission of the virus (Marginson 2020). The wider consequences of new platforms of knowledge production and education wrought by Covid-19, and longer-term impact of the pandemic on the wellbeing and mental health in universities, cannot be known (see further Parry & Ors

2021). What is clear, however, is that questions of student *and* staff wellbeing have become central to debates about the nature of any post-pandemic university.

The article will argue there has been both change and continuity in understandings of legal academic wellbeing since the time *Blackstone's Tower* was published. Interweaving reflections on the impact of the pandemic, I wish to consider what a wider 'wellbeing turn' across the international legal community over recent years can tell us about changes in the political economy in which law schools operate. This is a geopolitical conjuncture very different to that which shaped Twining's account from 'the standpoint of a not entirely respectful local guide'. If the current moment is marked by continuities with the law school depicted in *Blackstone's Tower,* then understandings of what it means to 'feel academic' (Taylor & Lahad 2018) have been reshaped in significant ways by the processes of marketization over the past 25 years.

[B] CRITICAL UNIVERSITY STUDIES AND ACADEMIC WELLBEING—A BRIEF TOUR OF THE TOWER

Over two decades into the 21st century it would not be possible to adopt Twining's approach of 'tour guide' to the law school without at least reference to the multitude of books and articles, special issues of journals, reports and data sets interrogating diverse aspects of what has become known in the literature as the 'neoliberal' university (for an overview in law, see Thornton 2012). The sheer scale of work on this topic is indicative of how the politics of HE has evolved since the mid-1990s. Twining's tour of the ideal-typical, middle-tier, fictitious law school, of its activities, composition and ethos, its libraries and architecture, was framed by an attempt to bring law into the intellectual mainstream; to locate law within a wider academy as part of our intellectual heritage (Twining 1994). The university in which this tower is located is broadly recognizable as a product of the model of funding that had shaped the post-war period of expansion of HE. At a political and policy level much CUS work is informed by an attempt to defend a model of this 'public university' (Bailey 2011); one that, for all the shifts underway at the time of *Blackstone's Tower,* is positioned as the product of social and political forces and a model of funding different from the present (see, e.g. Campaign for the Public University).

What of the legal academics who inhabit the law school? Over the past five years, in particular, a sub-strand of CUS scholarship has

emerged concerned with the subjective impact of changes associated with marketization on those who work in universities. The interconnections between the neoliberal university and poor academic wellbeing and mental health has received increasing attention across disciplines, the focus of a plethora of articles, online blogs, conferences, workshops and networks. If an engagement more developed in some fields than others, it has also, intriguingly, become a marked feature of recent legal scholarship (Baron 2014; Collier 2014; 2016; Field & Ors 2016: Wilson & Strevens 2018).

If a legal academic or law student were to take Twining's tour in the early 2020s what might they find discussed about wellbeing? Looking beyond the law school they would see growing concern about wellbeing across the silos of the legal community (Collier 2020a), encompassing law practitioners (Jones & Ors 2020) and students (Field & Strevens 2019). They would find a cultural landscape and policy debate around mental health issues transformed since the time Twining was writing in the 1990s; a concern that the Covid-19 pandemic has accelerated in far-reaching ways (see below). With regard to university law schools, they would see increasing attention paid to the wellbeing of law students against the backdrop of heightened political and policy concern over the past decade about student mental health. Even before the profound challenges raised to the mental health of university students by Covid-19 (National Union of Students (NUS) 2020) discussion was taking place about the place, purpose and responsibilities of universities with regard to student wellbeing; questions different to those framing the everyday life of Twining's law school (e.g. Higher Education Policy Institute (HEPI) 2016: Guthrie & Ors 2017: Thorley & IPPR 2017: Universities UK 2018a; 2018b).

Our tour of the contemporary law school would find a conversation about legal education increasingly shaped by consideration of the ethical obligation of law schools to better engage with the wellbeing of their students and 'educate for wellbeing' (Field & Strevens 2019); to address how law student wellbeing might be embedded within the law curriculum via 'intentional design' (Field & Ors 2016); to reconsider the place of the emotion and affect in legal education and legal practice (Jones 2019: also Woods 2010), to reassess the role therapeutic jurisprudence, positive psychology, self-determination theory and integrative law might each have in improving law student wellness, resilience and 'humanizing' law schools. It is notable, looking at responses to *Blackstone's Tower*, how the law schools of earlier periods had provided, for some, a profoundly *de*-humanizing experience; a legal education that fostered a 'progressive disappointment' which 'robbed me of any surviving sense of the relevance of my inner world, of poetry, desire, or dream' (Goodrich, 1996: 59).

If a nascent international legal wellness literature was, by 1994, tentatively identifying interconnections between poor lawyer wellbeing, lawyer attributes and what happens in law schools (see further Jones & Ors 2020), the contemporary UK law school is grappling with a 'wellbeing question' transformed from the time of *Blackstone's Tower* in terms of cultural visibility and political urgency; a growing recognition that not only have traditional law school teaching practices and cultures impacted in deleterious ways on law students, the processes of marketization discussed above are themselves closely interlinked with the kinds of problems being described within this recent literature (Thornton 2016).

We need at this stage to be more specific about these links between marketization and *academic* wellbeing. What would the recipient of Twining's tour of the contemporary law school find said about this topic? Recognizing the diversity of UK law schools and heterogeneity of the legal academic community, and how the wellbeing of law students and of those who teach them interlink in a myriad of ways, a number of themes emerge.

[C] A TROUBLED TOWER? LEGAL ACADEMICS AND THE RISE OF THE 'ANXIOUS UNIVERSITY'

Drawing on the CUS scholarship, the central problem can be simply stated. Albeit inflected by concerns that resonate in different ways across disciplines, a substantial research base addressing the emotional and affective consequences of the marketization of the UK higher education sector suggests that the organized practices, structures and cultures of universities are enmeshed with concerns now being expressed about academic wellbeing and mental health (e.g. Kinman 2001; 2014; Kinman & Wray 2015; Peake & Mullings 2016; Morrish 2019; HEPI 2019; Grove 2018). A range of national surveys using Health and Safety Executive Management Standards and other measures have examined levels of psychosocial hazards in academia (for example job demands, control, manager support, peer support, relationships, change) and the mental health of academics against national benchmarks. They point to a picture of poor mental health among academic staff against benchmarks (Kinman & Wray 2021). The specificities of law schools, their location in a market for legal education and, at an individual level, contingencies of age, stage of career and social background, I argue elsewhere, mediate how the impacts of marketization are experienced 'on the ground' (Collier 2014; 2020a). Nonetheless, looking to our tour of the ideal typical law school of today, research from diverse sources, adopting different methodologies,

would suggest there is no reason to think UK legal academics are inoculated from the pressures and concerns described within the CUS scholarship and research on academic wellbeing.

What, therefore, has been said? The years since *Blackstone's Tower* have witnessed an intensification of interconnected processes around the metricization of academic labour (Burrows 2012; 2016: Knowles & Burrows 2014) and growth of national and global ranking industries; a rankings-driven 'High-Ed-Biz' (Corver 2019). There has occurred a proliferation of metric assemblages encapsulated in the idea of the 'Data University' (Knowles & Burrows 2014). Organizational restructurings across the sector and institution of new models of metric-driven performance management (Lynch 2015: Watts 2017), meanwhile, have resulted in 'quantified control' of academics (Lupton 2013; Knowles & Burrows 2014) and commodification of the outputs of academic labour (Davies & Bansel 2010; Burrows 2012; Hall 2018; Pack 2018) These developments have, in turn, reshaped the 'structures of feeling' (Burrows 2012) of contemporary universities and understandings of the nature of academic work (Chubb 2017; Taberner 2018).

Academic workplaces have become increasingly marked across whole swathes of academic activity by the logic of the market and embedding of corporatization, commercialization and competition (whether for students, esteem, funding, time to undertake research and so on: Robertson 2010). University academics, it is argued, have increasingly taken on the status of an 'entrepreneurial self', positioned as self-promoting subjects within a model of the 'university as business' (Bröckling 2015); individuals who are, to varying degrees, complicit and resistant in processes that have reshaped, if not eradicated (see below), the kinds of academic cultures and values (including a value of knowledge for its own sake: Chubb 2017) that interweave through Twining's anthropological 'impressionistic tour' (Twining, 1994: 66) of a mid-1990s law school.

An array of theoretical and autobiographical accounts within the recent CUS literature, meanwhile, have sought to flesh out the findings of empirical research on poor academic wellbeing and explore *why*, at a subjective level, emotional distress is seemingly commonplace amongst many university academics (Smith & Ulus 2019). The literature identifies a number of relevant themes; for example, the emergence of a pervasive culture of 'hyper-performance' and normalization of long working hours interlinked to the metric tide, rankings and performance management (Bothwell 2018); forms of working, and academic identity, qualitatively different to the ideas of autonomy and commitment associated with

earlier ideas of academic vocation (Bradney 2003). The work describes an academic subject forged at a nexus of metric assemblages marked by a subjective sense of being constantly monitored and assessed (Pereira 2017); widespread feelings of imposter syndrome, rejection (Day 2011: Horn 2016) and insecurity (Breeze 2018) linked in the literature to organizational imperatives to be consistently 'excellent', always seek out new quantifiable opportunities and constantly give *more* to institutions in perpetual cycles of competition with others (Grove 2020).

Both universities and individuals, meanwhile, are engaged in a multidimensional management of risk across a plethora of metrics; constantly guarding, for example, against declining institutional/school ranking, poor student enrolment and levels of external funding, poor research rankings, the (dis)satisfaction of the student as consumer (Nixon & Ors 2018) and associated measures of national/global status, judged against the ultimately nebulous notions of 'prestige', 'reputation' and 'excellence' fostered by rankings. The discussion that has taken place following the suicides of UK academics (Cassidy 2014: Pells 2018) encapsulates how these themes coalesce in the idea that 'hidden injuries' have attached to the neoliberal university (Gill 2009: Gorczynski 2018). Within work on academic wellbeing we find accounts of emotional and affective reactions to overwork including isolation, exhaustion (Sibai & Ors 2019), stress, shame, unhappiness, insomnia, guilt, feelings of worthlessness, anxiety, burnout, depression and, in some instances, suicidal ideation.

Covid-19 has heightened these concerns around academic wellbeing. If prior to the pandemic work-related stress and worsening mental health had become an issue of concern across HE, as above, major shifts in the management and delivery of teaching and student support resulting from the pandemic suggest additional pressures, and actions taken by universities to control the virus are having implications for the wellbeing of academic and professional services staff (Wray & Kinman 2021). The pandemic has revealed how marketization has fostered divisions, not only between universities and their law schools but also sub-sets of the academy; for example, those in more secure employment and the significant numbers of academics employed on precarious contacts, the 'new precariat' who, it is important to remember, in many institutions constitute the majority of university teaching staff on fixed-term, hourly paid or temporary contracts (Inge 2018); divides between teaching and non-teaching, academic and professional services (Carvalho & Videria 2019), senior management and 'jobbing' academics. Encapsulating each of the above themes, what has emerged at an organizational level is no

less than an 'anxious university' (Berg & Ors 2016; Hall & Bowles 2016; Beer 2019; Morrish 2019), an 'accelerated academy' (Carrigan 2015) interlinked to wider processes of social acceleration (Rosa 2013).

In the next section I wish to explore these changes in more depth and the extent to which our tour of the contemporary law school would, in fact, see the change *and* continuity referred to by Cownie & Jones in their introduction. The argument is not that marketization is a fixed and finished process; nor, importantly, is it to see the law school of 1994 through 'rose-coloured' glasses (cf. Dixon 2020). It is to recognize that the engagement with wellbeing in legal education is of a different order to that of *Blackstone's Tower*.

[D] ACADEMIC WELLBEING, CHANGE AND CONTINUITY: THE LAW SCHOOL AND THE POST-PANDEMIC UNIVERSITY

The transformation that has occurred in universities and their law schools over the past three decades, I argue elsewhere, has been double-edged and complex with regard to the subject of academic wellbeing (Collier 2020c). The changes discussed above do not lend themselves to one single over-arching narrative in the case of law. To turn to *Blackstone's Tower*, our tour of the contemporary law school, for example, would reveal much to be warmly welcomed from the perspective of legal academics who, like this author, would seek to defend a model of liberal legal education (see further Bradney 2003; Cownie 2004). If Twining's 'radical' engagement in 1994 was inflected by a sense of optimism about the future of socio-legal research, it is an idea of progress borne by the way the law curriculum has, over the past two decades, across many if not all UK university law schools, evolved so as to embrace philosophical and moral perspectives and engage with cultural and political questions.

A visit to today's law school would find, for example, areas of scholarship some of which were in their infancy at the time of *Blackstone's Tower*, alongside feminist legal studies, already well-established across many law schools, work in areas such as law and literature, film and popular culture, on intersectionality, race, ethnicity and class, post-colonial scholarship, sex/gender and queer theory, trans-jurisprudence, disability studies, elder law, law and wellbeing, vulnerability, legal masculinities, sports law and much more. This work attests to an intellectual terrain and recognition of the importance of theory to law teaching (Cownie 2000) that has undergone significant shifts since the early 1990s (Jones & Cownie 2020).

How does this connect to wellness? Noting the links between subjective wellbeing, self-determination and workplace autonomy, this reading may suggest that many legal academics are researching, perhaps even teaching, in areas of intrinsic interest in topics that sit uneasily with the narrative of the marketized, increasingly commercialized law curriculum. This suggests, rather, a pluralistic approach to research where legal academics can still, notwithstanding marketization, follow their own interests, beliefs and enthusiasms (Bradney 2003). At the same time, staff of university law schools, if not without qualification (see below), have become more diverse than they were, if not in 1994, then in the not-too-distant past; a period when universities were marked by a white, middle class, male dominance, a governance *by* men and largely *of* men (Collier 2021); a habitus in which the social, cultural and economic capital of certain groups of men, in particular, made academia, in a term once said to me by a leading critical legal scholar during the 1990s, a particularly attractive career for the enquiring 'gentleman' of inherited means.

Reflecting on the legal academic career of a 'Wandering Jurist' (Twining 2019) which began in the 1950s, therefore, it is necessary to locate changes in law school cultures in the context of shifting intersections of class, gender and race in universities. The significant growth since 1994 of research on women legal academics, for example, is indicative of how these demographic changes have fed into work on legal education. Recent histories of women in law schools (e.g. Schultz & Ors 2021), of feminist law professors, of sexualities (Ashford, this volume) and interrogations of men and masculinities in the legal academy (Collier 2021) cast new light on the gendering of the jurisprudential tradition addressed in *Blackstone's Tower*. Increasingly encompassing voices from the Global South these developments are indicative of a 'Tower' reflective about its demographic profile (Vaughan 2016) and professional history. We have seen significant changes in how universities, and their law schools, prioritize and engage with equality, diversity and inclusion, embrace identity-based student and staff networks and seek to challenge abusive behaviour. Our tour of the law school would see initiatives aimed at supporting students and staff to report incidents of sexual violence, hate crime, disability, sex, race and age discrimination, transphobia, homophobia; a recognition of new kinds of behaviour injurious to health such as student initiation ceremonies/rituals. This is an engagement with practices directly relevant to the subjective wellbeing of individuals that is, I suggest, of a different order to the early 1990s.

Our visitor would also see questions of wellbeing central to attempts to *resist* these processes of marketization (Anderson 2008; Aubrecht 2012),

encompassing organizational challenges to the institution of targets-based performance management (Heath & Burdon 2013; Analogue University 2019) and initiatives to mobilize collective action (Morrish & Analogue University 2017); to rethink academic labour conceptually (Hall 2018) and the boundaries of what constitutes 'proper' knowledge in the neoliberal university (Pereira 2012; Mountz & Ors 2015). Research is exploring what it might mean to foster different, healthier, ways of working in this 'accelerated academy' (Hartman & Darab 2012; Berg & Seeber 2016); to bring to academic journal space long-neglected questions about emotion and the politics of care (Askins & Blazek 2017), recognition of the:

> emotional suffering of individuals' experiences … the taboos of speaking openly about mental health and emotional well-being in academic institutions … [the] new wounds created by cruelly competitive, winner-takes-all structures … *we lead from the rawness and pain of disclosures to emphasize that structural factors are experienced within the individual, psychological and sociocultural aspects of mental health and wellbeing.* It is the embodied individual who is living these experiences (Smith & Ulus 2019: 840-841, my emphasis).

Recent work in the field of autoethnography is seeking to 'talk back' to audit culture by making visible subjective anxieties that have become part of the structures of feeling of contemporary academia (Ruth & Ors 2018). Work is seeking to defend and reimagine not only the idea of HE as a public good (Lewis & Shore 2019), as above, but to rethink what a 'good university' might be (Connell 2019). The latter is a question the Covid-19 pandemic has, once again, made all the more pressing.

If the above reading points to a broadly positive interpretation of change that has occurred since *Blackstone's Tower* with regard to wellbeing, however, another account of the 'hidden injuries' of the marketized university is possible. Two examples will be used to illustrate this point.

Interrogating Legal Academic Wellbeing: The Example of the Life Course, Age and Stage of Career

In ways that mirror the relative neglect of the life course in legal studies generally (Herring 2021), the contingencies of age and its intersections with social class, gender, race, sexuality, health and disability remain a dimension of social experience that rarely features in accounts of legal academic wellbeing. Recent studies of age at work, however, are drawing attention to the ways our subjective experiences of changes in organizations over time—such as, let us say, universities—intersect with life-course transitions and ageing as an embodied process and

movements through stages of career (Hearn & Parkin 2021). At the same time differential access to social, cultural and economic capital, research suggests, can shape distinctive *kinds* of professional identity formation and, with it, understandings of 'belonging' (or not belonging) in legal communities (Davies 2018: see further Wakeling & Savage 2015).

Why is this relevant to wellbeing and the changes around marketization since *Blackstone's Tower*? The experiences of those, such as this author, who have lived through these processes of marketization, and who were initially inculcated into the values and cultures of a legal academy far less aligned to the 'university-as-business model' of today, are not necessarily the same as those of a younger generation of legal scholars. Constructions of professional identity on the part of young/er academics can be quite distinct to those of previous generations (Archer 2008). Set against the growing structural divisions within universities noted above, it is significant, therefore, that it is early career academics and casualized staff who, studies suggest, can face particular problems relating to these hyper-performative cultures and the need to 'prove oneself' (Bristow & Ors 2017; McKie 2020); negotiating institutional pressures relating to the demands of beginning a career in 'the neoliberal university' (Robinson & Ors 2017) and securing research outputs. In the context of Covid-19, meanwhile, age and career are similarly mediating our situated experiences of the pandemic (Parry & Ors 2021). The early career legal academic of today may well be entering a legal academy in which, compared to the time of *Blackstone's Tower*, 'law in context' and socio-legal approaches are embedded across law schools. At the same time, however, these are scholars likely to be facing demands of an intensity and a precarity of employment different to those of the mid-1990s (Prasad 2013).

Covid-19, the 'Student as Consumer' and Academic Wellbeing

Marketization, we have seen, has fostered an idea of legal education as a private good, something to be measured against indices of employability and future earnings potential (Thornton 2012). Interlinked to proliferation of rankings, our tour of the contemporary university would find a law school, compared to *Blackstone's Tower*, increasingly engaged in a branding of legal education as a discrete (if broadly homogeneous) product within a global marketplace for students. What is being sold is not just an education but a commodified 'uni-experience' and lifestyle; a cultural shift reflected across campus architecture, investment in new buildings and infrastructures of student support services that, whilst

broadly familiar, is also in many respects qualitatively different from that of Twining's ideal-typical law school.

Today's visit to 'Denning House—Faculty of Laws' would see, for example, platforms of delivery, use of information technology and virtual forms of communication very different to the noticeboards with information about student timetables, sale of student textbooks, recruiting visits by law firms and the like depicted in *Blackstone's Tower*. In 1994 the internet, as we know it today, did not exist. The law student experience of legal education has been transformed in a multiplicity of ways by online and blended platforms, the use of smartphones, search providers, the possibilities of 24/7 digital communication with staff, online storage, streaming services, social media groups and so on. Law libraries are, in many ways, familiar yet also unrecognizable from those of 25 years ago. At the same time, interlinked to the proliferation of metrics and rankings, technology has transformed models of knowledge production and the management of academic performance, as above (Gonzales & Nunez 2014). With regard to wellbeing, our tour would soon come across not only discussion of the detrimental effects of rankings on the mental health of academic staff (Fazackerley 2018) but also new concerns about digital wellbeing, the rolling-out of online mental health support and enhanced provision of information from employers to academics about the importance of 'looking after yourself' (see below).

The landscape of HE is being reshaped, meanwhile, Czerniewicz & Ors (2021) suggest, by a convergence of the disaggregation of educational provision into its component parts (partnership with private providers for example: Macfarlane 2011), marketization and digitization processes. These developments were, prior to Covid-19, raising new questions about staff workloads, digital inequalities and the ownership and control of academic labour as new forms and models of teaching and learning come into existence (Czerniewicz & Walji 2019). Even the physical structure of legal education would appear different. The law school that Twining's contemporary visitor will find is far more likely to be located, not in the 'homely' converted Victorian terrace house of past decades, or the 1960s annex to buildings of university administration, but a purpose built, 'state of the art' glass structure, a simulacra of corporate law firm offices; a law school more likely to have lost separate faculty status and to be closely aligned at an organizational level, in particular although not exclusively in post-1992 universities, with the disciplines of business and commerce.

This is the backdrop against which the Covid-19 pandemic has brought to the fore how the logic and consequences of marketization

have, in the years since *Blackstone's Tower*, not only transformed the experiences of law students but also legal academics. The twin drivers of the technological development, emergence of new digital platforms associated with the internet and reforms to the funding structure of HE, have turbo-charged cultural shifts around the 'student as consumer'. These developments, I suggest, do not stand apart from but are integral to the debate now taking place about wellbeing and mental health in law schools. Underscoring the narrative of the 'mis-sold' university education—encapsulated in the circulation across national and social media of the images of '9K for what' that became emblematic, during the course of 2020, of the impoverished student experience resulting from the pandemic—is the model of the student as consumer produced by marketization (Nixon & Ors 2018; also Page 2019); a process that has reshaped relational boundaries between academic staff and students (Chory & Offstein 2016) and impacted on academic performance in a myriad of ways (Bunce & Ors 2017), bringing an acute ambivalence to the role of academics as 'educators and performers' (Wong & Chiu 2017). The anxieties circulating at the time of writing this paper around the financial sustainability of some UK universities (and, with it, their law schools) as a result of Covid-19 are themselves inseparable from questions about how (and, importantly, *why*) a market model of education is being expected to operate more or less as normal in the midst of a global pandemic (Marginson 2020; also Collier 2020b).

Looking to the future, meanwhile, if *Blackstone's Tower* sought to make the case for law to move towards a balance of educational, scholarly and social objectives, there is reason to think that a combination of economic and political forces may heighten the pressure still further on many law schools, if not all, to make their degrees more vocational and to align and work with private providers of legal education. The consequences of the Solicitor's Qualifying Examination (beyond the scope of this article) may well be felt in different ways across institutions. If the law degree is no longer to be 'the normal route of entry' to becoming a solicitor or barrister, however (Vaughan, this volume), and noting how the purchase the profession has on law schools still remains strong, then, set in the context of debate about whether we are now experiencing the 'end of the university as we know it' (McCowan 2017), the implications for the changes outlined above may be far-reaching for our understandings of what constitutes a liberal legal education.

[E] CONCLUDING REMARKS: FROM RUTLAND TO BANTSHIRE? …

> The University of Rutland is a civic university of the middling sort, founded in 1930 … During the 1960s it rapidly outgrew its original suburban campus, captured further territory, some neighbouring and some far-flung, where it demolished, converted and erected a motley collection of unmemorable buildings (Twining 1994: 66).
>
> Bantshire was founded in 1969 by [name redacted due to ongoing court proceedings]. It was the 25th member of the Russell Group, until it was expelled in 1970 for being a bit shit. However, it has turned itself right-the-fuck around and now ranks No.1 for Canteen Facilities in the CEF 2020, and brings joy to thousands of punters via its Twitter website (University of Bantshire).

Twining's imaginary ethnography in *Blackstone's Tower* had a serious point. In a similar vein, resistance to marketization within UK universities has produced an array of cultural artefacts amongst which the fictitious (but essentially serious) 'Bantshire University' is one example. Twining's tour guide captured a moment when the study of the 'private life' of legal academics (Cownie 2004) was in its infancy and the relationship between law and wellbeing rarely examined. What is distinctive about the present moment, I have argued, is how an array of issues and concerns encompassing diverse questions about the value and purpose of legal education and shifting conditions of academic work are now being framed via a 'wellness lens'. Growing concern about academic wellbeing is evident not just in the heightening of demand being placed on occupational health services, employment assistance programmes, online digital therapies, wellbeing support and the like (Morrish 2019); a trend the tide of mental health issues raised by Covid-19 has exacerbated as more academics report problems around stress and mental health (Wray & Kinman 2021). Rather, questions of student *and* staff wellbeing are now routinely embedded in the policies, procedures, mission statements and related charters of universities in ways qualitatively different to the time of *Blackstone's Tower*. In law schools, questions of wellbeing resonate through the discussions taking place about the ethical obligations of law schools to promote the mental health of their students as part of their university experience and, increasingly, how already hard-pressed legal academics can ensure that wellbeing is at the core of their legal education.

This is an engagement the visitor to Twining's 'Tower' would find difficult to recognize. A cursory look at the political terrain of contemporary HE, meanwhile, reveals a sector beset by concerns interlinked to marketization around casualization and employment precarity (Inge 2018); about

cultural sexism in academia (Savigny 2014), campus sexual violence, discrimination, harassment, institutional racism and how intersections of gender, race, ethnicity, health and socio-economic background continue to mediate the contours of academic careers. This brings us to the bigger picture of the political-economic context in which our Tower stands and the geopolitical 'global tides' of an increasingly 'market world' (Connell 2014). Our tour of Rutland (or, indeed, Bantshire) may well reveal a more diverse staff demographic and evidence of a liberal legal education. The progressive strands of legal scholarship discussed above, however, exist in a political and cultural context in which the arts, social sciences and humanities in universities have come under sustained attack over the past decade and where a new configuration of 'culture war' is, at the time of writing, positioning such work as 'woke'. The visitor would discover a law school where Covid-19 has exposed the fragility of the model of 'student as consumer' and commodification of the 'uni-experience'. The pandemic is raising broader questions relevant to wellbeing, however; about the future of work–life integration and changing forms of identity management resulting from new teaching platforms and modes of delivery; the increasingly interconnected networks of 'private life', intimacy, work, leisure and health and what are, for so many, precarious '24/7' employment cultures (Parry & Ors 2021).

A nexus of forces, I have argued, underscores the pervasive exhaustion and poor mental health in universities charted across research studies of academic wellbeing (Wray & Kinman 2021). These developments must themselves be set in the context of a modelling of responsibility for wellbeing that reflects neoliberal modes of self-governance and new technologies of management (Ivanova & von Scheve 2020); one in which, crucially, the 'empowered employee' is accorded an increasingly central role shaped by a commodification of the very idea *of* wellbeing (Esposito & Perez 2014: Davies 2015: Franco-Santos & Ors 2017) and new technologies of wellness (the rise of smartphone apps, digital surveillance and the like: Gill & Donaghue 2016; Zuboff 2018); a landscape

> which academics have had to navigate even as it shifts beneath their feet … [a] reformulated narrative of HE and even its purpose, inevitably involving digital technology, increasingly including private companies, and deepening inequalities among students … these changes are producing emergent forms of teaching and learning and also question academic roles with regard to who has ownership and control over the teaching and learning process. These changes are affecting and are affected by academics … (Czerniewicz & Ors 2021).

If it is the case the majority of students say their mental health has declined since the Covid-19 pandemic began, with pre-existing mental health conditions exacerbated by a combination of online learning, self-isolation, loneliness and anxiety (NUS 2020), what is at issue in discussing wellbeing in the law school is far more than the ability of universities to offer 'more support' to students. If we are to follow Twining and recognize how our own 'personal odyssey' is situated in the locales that are the settings of our work and careers as legal academics, then there is reason to think that institutions of HE, like other employers, may be dealing with the consequences of the disruptions caused by Covid-19—experiences of isolation, loneliness, anxiety and, for many, grief and mourning—for some time to come; that 'a combination of increased demands and reduced resources will have serious implications for a profession already at risk' (Wray & Kinman 2021: online). As discussion of university performance in the age of Covid-19 increasingly focuses on how best to ensure staff and students can thrive in new learning environments, the consequences for universities and their law schools may be far-reaching. If it is the case that scholarly attitudes can shape a discipline, and that such attitudes are worthy of study (Cownie 2004), then research on legal education will be impoverished if it does not engage with the social forces that have produced this 'wellbeing turn'.

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