



# Education, education, education ...

Fiona Cownie

Keele University

Correspondence email: [f.cownie@keele.ac.uk](mailto:f.cownie@keele.ac.uk).

Teaching is a serious business, but I have always found it to be interesting and enjoyable. And that's what I wanted my students to think about my teaching too. I have been involved in education all my life – as a pupil, student, teacher, lecturer and professor. My parents were both teachers, and so were some of my cousins. Surrounded by educationalists, it's not surprising that I decided to become a primary school teacher, and later a university lecturer. It was important to me to spend my life doing something I considered worthwhile; my Quaker upbringing gave me a strong sense of wanting to contribute to social justice in society, and teaching fitted the bill. As an academic, I was equally interested in research, but it was teaching which drew me into academia in the first place.

Being asked to reflect on legal education is not an easy task for someone who would prefer to be facilitating others to do that, rather than sharing my own thoughts. However, having agreed to do this,

I'll do my best to say something worth reading. The perspicacious reader will find, in those few phrases, some clues about my educational practice. For me, teaching is not about me; it's about those whom I am teaching. And it's about acting as a facilitator, to allow students to think about and gain understanding of new ideas, facts, skills. Even more importantly, it's about making that learning interesting enough to motivate even reluctant learners to start thinking for themselves. This might be described as a 'student-centred approach', or 'active learning', and in my case it's based on the theory of social constructivism, influenced by the work of Jean Piaget, Lev Vygotsky and Jerome Bruner.<sup>1</sup> While, like all pedagogic theories, social constructivism has its proponents and critics, it provided me with a satisfactory theoretical framework on which to base my everyday teaching. Thus, my first reflection would be that I have always thought it important to have a theoretical framework

1 There is a vast academic literature on all of these theorists. A useful discussion can be found in Steve Olesegun Bada, 'Constructivism learning theory: a paradigm for teaching and learning' (2015) 5(6) IOSR Journal of Research and Method in Education 66–70.

for my practice, rather than just ‘doing’ teaching.

Equally, I think it’s important to have thought about one’s philosophy of education – about the broader ideas which underlie the choice of pedagogic theory but also in relation to your own values and beliefs about education, its purpose and worth. Very broadly speaking, my own philosophy of education is liberal in character, informed by the values I was brought up with and my Quaker heritage – equality, fairness and ‘doing a good job’ were all important to me. I set high standards for myself and had high expectations of my students, while always trying to indicate to my students that I valued them all, whatever their abilities (or lack of them).

When you teach, you don’t leave theory behind. It informs *how* you teach. And, for me, at its most basic, I have always tried to empathise with the students who are coming to the content I am delivering for the first time. I can well remember how I felt myself during my own first year studying law. I was a mature student; I already had a degree in English, so I was familiar with university life – but suddenly finding yourself faced with texts which turn you from an expert reader into a novice reader is disorienting. I just wanted to be

able to decode everything I was faced with, so I could start thinking about what it meant. However, no one seemed interested in directly addressing our ignorance.

When I became a law lecturer, those initial experiences made me particularly interested in teaching academic legal skills. I didn’t want students to be held back because they didn’t understand how to read a case, or a statute, how to write a legal essay or answer a problem question. When you are faced with a judicial decision for the first time, there are so many things on the page which you don’t understand. What is a headnote? What is the significance of what appear to be key words in italics at the top of the page? If this case is an appeal, how do I find out where it’s being appealed from? If you get stuck at that stage, you won’t get far with deciding what the judgment is about.

Since the participation rate in higher education is currently so high – compared to much of the twentieth century when only a small proportion of the eligible cohort could benefit from a university education – I think the ability to teach law in such a way that less academically able students have a real chance of increasing their understanding and achieving some measure of success is very important.<sup>2</sup> I don’t think

---

2 For insights into participation rates in higher education in the mid-twentieth century, see Dominic Sandbrook, *Never Had It So Good: A History of Britain from Suez to the Beatles* (Abacus 2006) 425–426. For current participation rates, see ‘Widening Participation in 2025: Annual Statistics on Young People’s Participation in Higher Education, Including their Background Characteristics’ (Department for Education 25 July 2025).

it is acceptable to deliver teaching which you know will not be of much help to a significant proportion of the students who experience it. Trying to cater for all academic abilities throughout a seminar or lecture is pretty impossible, so you have to have a balanced content, capable of being understood by the less academically able, but with some more stimulating elements to challenge and develop the understanding of the more able.

Unsurprisingly, given what I have written above, I taught, among other things, academic legal skills. And, informed by Vygotsky's socio-cultural theory, I devised interactive workshops, where the students worked on tasks which step-by-step supported them to understand how to do all those things they needed to be able to do in order to function successfully as a law student. In other words, each workshop contained tasks that provided the students with what educationalists would call a 'scaffolded' approach to the topic.

'Scaffolding' as a teaching strategy draws directly on Vygotsky's approach and, in particular, his concept of the zone of proximal development (ZPD). The ZPD is the distance between what the learner can do by themselves and the next stage of learning which they can be helped to achieve with appropriate assistance. In other words, the activities provided in scaffolded learning are just beyond what the learner can do

for themselves, so that, by the time they have successfully completed the learning task, they have gained knowledge, skill or understanding (or all three).<sup>3</sup> Really, scaffolding is all about that idiom: 'You can't run before you can walk.' Whenever students learn something new, they need to have scaffolded teaching, which gradually leads them from little or no knowledge to greater understanding.

Not only were the learning tasks I created scaffolded; one of the basic premises of the constructivist theories I was working with is that students create knowledge and meaning based on their experiences. So, providing authentic learning tasks is crucial. For instance, if you want students to be able to write a legal essay, they need to learn to do the things they will really have to do when writing it. Therefore, one of the things you need to teach them is what a footnote is, why it's important in terms of evidencing what they write, where to place footnotes, and what sort of content is appropriate in order to provide the evidence they will need. You need to devise learning materials which allow them to discover these things for themselves, namely to experience how to create and use footnotes. For example, you could present students with a piece of legal writing and ask them to indicate where footnotes should be placed, and what kind of evidence would be appropriate. (A reference to a judicial decision? A section of

3 Rachel R Van Der Stuyf, 'Scaffolding as a teaching strategy' (2002) 52(3) *Adolescent Learning and Development* 5–18.

a statute? An academic journal article or monograph?). All the things you want to teach them about writing an essay – structure, how to research, how to take notes, to skim read ... whatever you think is necessary – have to be broken down into small steps, the aim being that gradually the students will change from novice to competent legal essay writers.

Creating scaffolded teaching materials isn't easy. And I am aware that there are a number of reasons why people may choose to ignore the approach I am putting forward. They may be pretty uninterested in teaching, preferring to focus on their own research as much as possible, because that's what they are really focused on. Also, as Jay Feinman and Marc Feldman said 40 years ago, many legal educators are anti-intellectual about legal education. They are reluctant 'to reflect on the goals of legal education, the content of the curriculum, the methods of teaching'.<sup>4</sup> The lack of interest shown by many law teachers in the pedagogical literature is a recurring theme in legal education debates. When in 1974 Professor William Twining was invited to talk to the Young Members' Group of the Society of

Public Teachers of Law (SPTL; now the Society of Legal Scholars), his contribution to the event was to circulate to his audience a three-section questionnaire, asking them whether they had ever read any of the 15 books and articles about education he had listed, whether they had ever reflected on their teaching (for example by watching a video of themselves teaching or sitting one of their own examination papers under exam conditions) and if the questionnaire were a test of educational professionalism for law teachers, what grade they thought their performance deserved!<sup>5</sup> I often wonder how the majority of law teachers would fare if faced with a similar questionnaire today. Lack of real engagement with the pedagogical literature appears to be a perennial challenge for law schools.

Of course, there are many more academics now than in previous decades who have had the opportunity to become acquainted with the relevant literature. In 1997 the Dearing Report recommended that all new academic staff should have to undertake professional training in teaching as a condition of successfully completing probation.<sup>6</sup> And in 2010 the

4 J Feinman and M Feldman, 'Pedagogy and politics' (1985) 73 *Georgetown Law Journal* 875.

5 W L Twining, 'Questionnaire used in connection with a talk to the Young Members' group of the Society of Public Teachers of Law, 1974' (private papers of W L Twining, shared with the author; set out in full in F Cownie, 'Twining, teachers of law and law teaching' (2011) 18(1–2) *International Journal of the Legal Profession* 121–138, 124–125.

6 National Committee of Inquiry into Higher Education, *Higher Education and the Learning Society, Report of the National Inquiry into Higher Education* (National Committee of Inquiry into Higher Education, HMSO 1997) 56–62, para 8.

Browne Report recommended that compulsory teacher training for all new academics with teaching responsibilities should be a condition of government funding.<sup>7</sup> Now, postgraduate courses in pedagogy have become an accepted part of the higher-education landscape. But there are still legal academics who have never undertaken any pedagogical training – and they may therefore feel that they lack the skills to scaffold their students' learning. Even for those who have completed the relevant training, the quality of that which is on offer is likely to differ greatly. As Professor Twining noted in a reflection on legal education in 2011:

Being a professional legal educator is not just a matter of picking up a few techniques – mastering PowerPoint presentation, how to make large classes participatory, devising assessments that fit the stated learning objectives, and how to be audible and interesting.

As he acknowledged, these are all necessary, but they are not much

help in identifying the theoretical basis of an approach to teaching or offering an opportunity to consider different pedagogical approaches. He went on to say:

educational professionalism in higher education also involves acquaintance with learning theory and some understanding of the history, ideology, structure and organisation of universities generally and of law schools in particular.<sup>8</sup>

Another problem with the training courses provided by universities is that they are likely to be generic, offered to a whole cohort of early career academics from many different disciplines. As long ago as 2002, Paul Trowler and Ali Cooper identified that, if there are incompatibilities between aspects of the training offered and an individual's disciplinary teaching culture, this can result in a range of negative responses on the part of the trainee.<sup>9</sup> Connecting academics' disciplinary knowledge to their professional development as educators remains a challenge.<sup>10</sup> Until this is overcome, training of

- 
- 7 J Browne et al, *Securing a Sustainable Future for Higher Education: An Independent Review of Higher Education Funding and Student Finance* (The Browne Report) (Department for Business, Innovation & Skills 2010) 48.
  - 8 William Twining, 'Professionalism in legal education' (2011) 18(1–2) Special Issue: Symposium in Honour of William Twining, *International Journal of the Legal Profession* 165–172, 168.
  - 9 P Trowler and A Cooper, 'Teaching and learning regimes: implicit theories and recurrent practices in the enhancement of teaching through educational development programmes' (2002) 21(3) *Higher Education Research and Development* 221, 235.
  - 10 Esther E van Dijk et al, 'Connecting academics' disciplinary knowledge to their professional development as teachers: a conceptual analysis of teacher expertise and teacher knowledge' (2022) 86 *Higher Education* 969–984.

academics to teach in universities is likely to be less effective than would otherwise be the case.<sup>11</sup>

In terms of the individual academic, there is often a major practical barrier to teaching involving the theoretically informed pedagogical approach which they may wish to use. It's likely that, unless they are the module leader, they will be using materials which someone else has created. My personal answer to that problem is to engage in a certain amount of subversive activity. If the materials you are supposed to use aren't up to scratch when compared to your carefully worked-out educational philosophy and pedagogical theory, then adapt them so they are. You have to bear in mind that you need to cover the same content because the students will be assessed on that. However, assuming your primary goal is to support the students to learn effectively, I think a little subversion is justified.

There is another reason why teaching to someone else's materials can be problematic. Teaching is a very personal activity. Looking at teachers in a school context, Kari Dahl explains that there seems to be a general consensus that the most important factor for student learning is the teacher as a person.<sup>12</sup> There is no reason

to think that the professionalism of university teachers is greatly different. If that is the case, teaching to someone else's materials is a deeply inauthentic experience, devaluing one's individuality and arguably infringing one's academic freedom.

The personal, social nature of the student–teacher relationship is clear when you consider the way in which the teacher comes under continuous scrutiny. I am a trained primary school teacher, and, when I taught at that level, many children revealed just how intense that scrutiny was: 'I don't like those tights you're wearing, Miss; I like the green ones with the pattern on.' 'Miss, why do you wear gloves? My mum never does.' We might think it's different with undergraduates, but, when I first started lecturing, the feedback revealed that some students were only interested in telling me which of my pairs of earrings they liked best. While it has long been acknowledged that the way in which you dress is a communicative act, I certainly didn't dress to impress my students. Regardless, they noticed! However, while not dressing to impress, I knew from the academic literature on everyday dress that, when I chose what to wear at work, I was sending out a message.<sup>13</sup>

11 See also Cownie (n 5 above).

12 Kari Kragh Blume Dahl, "The person and the teaching profession": personal-professional journeys into teaching for Danish schoolteachers' (2025) *Professional Development in Education* 1–16.

13 Ian King, 'Dress and the body: an essential reciprocal relationship in everyday aesthetics' in Lisa Giombini and Adrian Kvakacka (eds), *Everydayness: Contemporary Aesthetic Approaches* (Roma Tre Press/University of Prešov 2021) 99–101.

And from my own research, I was aware of the ways in which female academics self-censored their dress, ensuring it was never too revealing or provocative.<sup>14</sup> My own solution to the ‘dress problem’ was reasonably conventional (though I liked to wear some bright colour as part of my outfit); but my brooches and earrings were much more quirky – a common approach for women in academic life.<sup>15</sup>

Another aspect of the personal nature of teaching which I soon came across when I started working in a university was that I was dissatisfied with the available textbooks. I realised that, if I wanted to teach my subjects in the way I thought they should be taught, I’d have to write my own materials. In terms of legal skills, that involved me contributing to *How to Study Law*, though I also designed a lot of other materials for my own students which didn’t form part of the book.<sup>16</sup> My other main teaching subject was English Legal System. Again, I designed my own materials and, in time, they developed into my contribution to the textbook, *English Legal System in Context*, that Tony Bradney

and I co-authored for six editions (latterly with Professor Mandy Burton).<sup>17</sup> It was important to us to have a theoretical framework to guide the students’ understanding, and, reflecting our socio-legal approach, it needed to encompass not just the formal legal system, barristers, solicitors and judges, but informal dispute resolution and legal actors who were not lawyers. For that reason, we chose legal pluralism to illuminate, in addition to the topics you might expect to find (statutory interpretation and precedent, the civil system and the criminal system) topics such as alternative dispute resolution, private security and other non-police agencies, and the university law school and law students.

One of my main objectives in teaching is to enable the students to develop their capacity to think about law for themselves; we therefore included lots of footnotes in the book so that students had the opportunity to follow up the ideas we put forward and engage with the relevant literature (though I’m not suggesting that they all took advantage of that opportunity!). The opening words of the ‘Preface’

14 Fiona Cownie, *Legal Academics: Culture And Identities* (Hart Publishing 2004) 191–192. See also Christiana Tsaousi, “‘That’s funny ... you don’t look like a lecturer!’ Dress and professional identity of female academics” (2020) 45(9) *Studies in Higher Education* 1809–1820, 1817.

15 Eileen Green, ‘Suiting ourselves: women professors using clothes to signal authority, belonging and personal style’ in Ali Guy, Eileen Green and Maura Banim (eds) *Through the Wardrobe: Women’s Relationships with their Clothes* (Berg 2001) 111.

16 Anthony Bradney and Fiona Cownie, *How to Study Law* 9th edn (Sweet & Maxwell 2021).

17 Fiona Cownie, Anthony Bradney and Mandy Burton, *English Legal System in Context* 6th edn (Oxford University Press 2013).

to the first edition of the book, written in 1996, give a flavour of what we were trying to do: ‘Law is an argument not a statement. It is not a fact to be learnt as we all once learnt our multiplication tables. Rather it is something to be debated and discussed.’<sup>18</sup>

However, mention writing textbooks to legal educators and it is soon apparent that it presents difficulties. Generally, textbooks don’t include original research – rather, they summarise (and maybe critique) existing knowledge. If that is the case, publishing a textbook is unlikely to be acceptable for the Research Excellence Framework (REF). Does that mean that you should never write a textbook? It’s a personal choice, clearly. But the increasing pressures of academic life make it a much more difficult decision than it was in pre-REF days.<sup>19</sup>

For individual legal academics, the emphasis placed on the REF can be stressful and they may feel they must focus on research at all costs. Personally, I refused to let it overwhelm me to the extent that my teaching suffered. I didn’t feel that the existence of the Teaching

Excellence Framework made much, if any, difference to the way in which teaching was regarded, in my own institution at least. Sure, you could change your contract of employment and choose to follow a ‘Teaching Route’ in terms of your career. But if you didn’t want to give up research, you just had to suck up the additional pressure. Not necessarily great for wellbeing, as Richard Collier, Emma Jones and Caroline Strevens have pointed out.<sup>20</sup> And it appears that in the sector as a whole, certainly in the Social Sciences and Humanities, there are barriers to progression (sometimes contractual) for colleagues on ‘teaching-only’ contracts, including being barred from doing research or for applying for grants.<sup>21</sup> In their report for the British Academy on the teaching–research nexus, Shona McIntosh and colleagues conclude that ‘while research remains the dominant marker of academic quality, those working on the rising number of teaching-only contracts will be disadvantaged’.<sup>22</sup> And while this remains the case, one can only think that, if the culture of law schools remains that way, there

18 F Cownie and A Bradney, *English Legal System in Context* 1st edn (1996 Butterworths)

19 F Cownie, ‘Are we witnessing the death of the textbook tradition in the UK’ (2006) 3 *European Journal of Legal Education* 79–82.

20 Richard Collier, ‘Blackstone’s Tower revisited: legal academic wellbeing, marketization and the post-pandemic law school’ (2021) 2(3) *Amicus Curiae* 474–500; Caroline Strevens and Emma Jones ‘Perceptions of wellbeing among heads of university law schools’ (2024) 58(4) *The Law Teacher* 606–625.

21 S McIntosh, J McKinley and A Mikołajewska, ‘Critical examination of the teaching–research nexus: academic contracts in UK universities’ (2021 September) *British Academy* 2–39, 24.

22 *Ibid* 34.

will continue to be legal academics who focus on their own research, rather than developing their teaching expertise.

But I refuse to end this reflection on a gloomy note. While people interested in teaching (and in researching legal education!!) may be regarded by others as ‘second class citizens’, I have never thought of myself or my colleagues in that way. Legal education is important – and deserves the attention of first-class researchers. Those people who choose to research legal education need to be encouraged, for the benefit not just of students, but of the discipline as a whole, as their work has the potential to increase knowledge and understanding for everyone involved in university legal education.

Above all, legal educators should be thinking about ‘cultivating humanity’ – helping their students to contribute to an ever-changing multicultural world, in which artificial intelligence (AI) plays an increasing role.<sup>23</sup> And for those who think this may be idealistic ‘pie in the sky’, I would argue that I am not alone in suggesting that imaginative critical thinking in the tradition of broadly based ‘liberal

arts’ degrees is the most valuable thing we can offer our students by way of higher education. Recently, Daniela Amodei, co-founder and President of Anthropic, an American AI company, was asked by the *Wall Street Journal*: ‘What advice would you give your kids about the jobs of the future?’ Having talked about the importance of human qualities such as empathy, relating to, and communicating with, other people, she went on:

Of course, pupils need to understand AI and to use it wisely ... But thriving in such a world will depend less on mastering whatever tool happens to dominate this year, and more on habits of mind and character that endure: intellectual flexibility, curiosity about ideas and people, sound judgement, and a genuine pleasure in creating and sharing work with others.<sup>24</sup>

It is, in my experience, relatively rare for the worlds of academia and commercial technology to agree. But, in this instance, my final reflection is that liberal education, far from being dead, is alive and kicking, and holds out real promise for future generations.

---

23 Martha C Nussbaum, *Cultivating Humanity: A Classical Defense of Reform in Liberal Education* (Harvard University Press 1997).

24 Daniela Amodei, quoted in Lauren Weber, ‘What executives tell their own kids about the jobs of the future’ *Wall Street Journal* (New York 26 February 2026).