The importance of theory in law teaching
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This article considers the importance of engaging with theory, but in the context of the teaching of law in university law schools. For those working in university law schools, knowledge of the theory and philosophy of education is just as important as knowledge of the theory underpinning substantive legal knowledge.

One of the distinguishing features of higher education is that it is concerned with the development of elaborate conceptual structures, or theories. At different times, many different views about the nature of universities have been put forward; not all of them have agreed that theory or purely intellectual concerns are so central to the concept of higher education.

Universities are places in which scholars are engaged in research, discovering new knowledge. It is theory which allows knowledge to be organised in ways which bring new insights, and thus theory itself is a central concern of the university. Law schools, like the rest of the university, should be concerned with the theory of things. The university law department should search for a certain kind of knowledge, knowledge that is equated with theory and distinguished from facts.

Knowing more does not mean merely being able to describe more facts; it involves the ability to organise our knowledge of facts using theories, and if our existing theories are inadequate, it means that we should be developing better ones. It is not that all legal academics should spend all of their time doing jurisprudence; rather that they should be knowledgeable about theory and should be concerned with it as a matter of course in their research and teaching. Theory should be a natural and integrated part of their thinking and teaching about law.

In practice, the inquiring approach and the desire that legal academics should seek to know more has resulted in universities that are overwhelmingly concerned with research. Within the liberal tradition, teaching has commonly been seen as a less important function of the university. Since the essence of a university is the contribution it makes to the advancement of knowledge, teaching is secondary in importance to research. However, the fact that research is the most important activity in which legal academics are engaged does not mean that it is the only important activity they carry out. Teaching is important too; the community of scholars found in universities includes students. Dissemination of knowledge is also a hallmark of the university.

The scholarly aspect of teaching that is generally completely ignored by the very academics that, in relation to their research, value scholarship so highly. Yet there is no intellectual reason why this should be the case; it is not only excellent research which should be grounded in theory; excellent teaching also needs a firm theoretical basis.

Ironically, it is the liberal tradition's concern with the theory of things which has led to its ignoring theory when it comes to teaching. The emphasis on research means that those who are the most influential members of the peer group are not perceived as regarding teaching as a serious intellectual task. Engaging in research leaves academics with little creative energy to devote to teaching, while the fact that teaching has traditionally been regarded as a private activity means that it has frequently been argued that competence as a teacher is not easy to assess.

The consistently low status accorded to teaching as an activity is particularly problematic, because it is accompanied by the opinion that teaching is something which can be done without any knowledge of the theory which lies behind it, without any need to learn the techniques associated with it and without any real attention being paid to its intellectual challenges.

If knowing more is the central concern of legal academics, why is it obvious that the desire to know more has to be restricted to curiosity about substantive law? If legal academics are rigorous in their approach to research, surely it is illogical, to say the least, that when it comes to their function as teachers, they are not concerned with the theory of things but are anti-intellectual?

A thorough knowledge of theory could also be used to enable legal educators to engage in a meaningful debate about the model of legal education which they wish to pursue.

The capability approach seeks to supplement evidence of task-oriented competence with other data which are capable of eliciting more direct evidence of the substantive knowledge underpinning competence, the cognitive processes constituting professional thinking and commitment to appropriate standards of professional service which may exceed the merely competent. A holistic approach regards the relationship between theory and practice as reflexive; this involves acknowledging that the division between knowledge and practice is artificial, and that it limits our understanding of the phenomenon of law in action. Holistic learning is associated with experiential learning, the acquisition of knowledge through personal encounter, reflection and experimentation. An important aspect of this style of learning is its capacity for developing self-awareness and awareness of others.

The call for theory to be taken seriously is more than a bid to raise the quality of student learning; it is a call for law teachers to take seriously their position as academics, as members of a university, which is a place concerned with the theory of things.

Theory and practice in professional legal education
P A Jones
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Professional education is necessarily about practice. It is dominated by the practical considerations of professional bodies, by the ad hoc theorising of practitioners and ex-practitioners and by practical considerations of costs, structures, institutions and interests. It works within a vocabulary which is itself saturated with