

Jurist in Context

This is the engaging and accessible intellectual memoir of a leading jurist. It tells the story of the development of his thoughts and writings over sixty years in the context of three continents and addresses the ironies and ambiguities of decolonisation, the Troubles in Belfast, the contextual turn in legal studies, rethinking evidence and the implications of globalisation which have been central to his life and research. In propounding his original views as an enthusiastic self-styled 'legal nationalist', Twining maps his ideas of Law as an exciting discipline, which pervades all spheres of social and political life while combining theory and practice, concepts and values, facts and rules in uniquely illuminating ways. Addressed to academic lawyers generally and to other non-specialists, this story brings out the importance and fascinations of a discipline that has changed, expanded and diversified in the post-war years, with an eye to its future development and potential.

Born in Uganda, educated in Oxford and Chicago and wanting to work in Eastern Africa, William Twining started in Sudan, because it had the only law school in acceptable Africa and teaching Law was all that he was qualified to do. After three years he moved to Dar es Salaam in the heady days of Independence, but later concentrated on Anglo-American Jurisprudence, based mainly in the UK and the United States. He is now well known transnationally as a leader of the Law in Context movement and as an influential thinker with a distinctive voice. Sceptical but committed, original and provocative, he is always nudging the mainstream and challenging settled assumptions. He is sharply aware of the parochialism of much Western academic law. His recent books include *Karl Llewellyn and the Realist Movement* (2nd edn), *Rethinking Evidence* (2nd edn), *How to Do Things with Rules* (with David Miers, 5th edn), *General Jurisprudence, Globalisation and Legal Scholarship*, and *Human Rights, Southern Voices*. As an intellectual autobiography, this book is a departure from these, but it provides a clear, vivid, often amusing context for all his writings.

The Law in Context Series

Editors: William Twining (University College London),
 Maksymilian Del Mar (Queen Mary, University of London) and
 Bronwen Morgan (University of New South Wales).

Since 1970 the Law in Context series has been at the forefront of the movement to broaden the study of law. It has been a vehicle for the publication of innovative scholarly books that treat law and legal phenomena critically in their social, political and economic contexts from a variety of perspectives. The series particularly aims to publish scholarly legal writing that brings fresh perspectives to bear on new and existing areas of law taught in universities. A contextual approach involves treating legal subjects broadly, using materials from other social sciences, and from any other discipline that helps to explain the operation in practice of the subject under discussion. It is hoped that this orientation is at once more stimulating and more realistic than the bare exposition of legal rules. The series includes original books that have a different emphasis from traditional legal textbooks, while maintaining the same high standards of scholarship. They are written primarily for undergraduate and graduate students of law and of other disciplines, but will also appeal to a wider readership. In the past, most books in the series have focused on English law, but recent publications include books on European law, globalisation, transnational legal processes, and comparative law.

Books in the Series

Acosta: *The National versus the Foreigner in South America*
 Ali: *Modern Challenges to Islamic Law*
 Alyagon Darr: *Plausible Crime Stories: The Legal History of Sexual Offences in Mandate Palestine*
 Anderson, Schum & Twining: *Analysis of Evidence*
 Ashworth: *Sentencing and Criminal Justice*
 Barton & Douglas: *Law and Parenthood*
 Beecher-Monas: *Evaluating Scientific Evidence: An Interdisciplinary Framework for Intellectual Due Process*
 Bell: *French Legal Cultures*
 Bercusson: *European Labour Law*
 Birkinshaw: *European Public Law*
 Birkinshaw: *Freedom of Information: The Law, the Practice and the Ideal*
 Brownsword & Goodwin: *Law and the Technologies of the Twenty-First Century: Text and Materials*
 Cane & Goudkamp: *Atiyah's Accidents, Compensation and the Law*
 Clarke & Kohler: *Property Law: Commentary and Materials*
 Collins: *The Law of Contract*
 Collins, Ewing & McColgan: *Labour Law*
 Cowan: *Housing Law and Policy*
 Cranston: *Legal Foundations of the Welfare State*

Darian-Smith: *Laws and Societies in Global Contexts: Contemporary Approaches*
 Dauvergne: *Making People Illegal: What Globalisation Means for Immigration and Law*
 Davies: *Perspectives on Labour Law*
 Dembour: *Who Believes in Human Rights?: Reflections on the European Convention*
 de Sousa Santos: *Toward a New Legal Common Sense*
 Diduck: *Law's Families*
 Estella: *Legal Foundations of EU Economic Governance*
 Fortin: *Children's Rights and the Developing Law*
 Ghai & Woodman: *Practising Self-Government: A Comparative Study of Autonomous Regions*
 Glover-Thomas: *Reconstructing Mental Health Law and Policy*
 Gobert & Punch: *Rethinking Corporate Crime*
 Goldman: *Globalisation and the Western Legal Tradition: Recurring Patterns of Law and Authority*
 Haack: *Evidence Matters: Science, Proof, and Truth in the Law*
 Harlow & Rawlings: *Law and Administration*
 Harris: *An Introduction to Law*
 Harris, Campbell & Halson: *Remedies in Contract and Tort*
 Harvey: *Seeking Asylum in the UK: Problems and Prospects*
 Hervey & McHale: *European Union Health Law: Themes and Implications*
 Hervey & McHale: *Health Law and the European Union*
 Holder & Lee: *Environmental Protection, Law and Policy: Text and Materials*
 Jackson & Summers: *The Internationalisation of Criminal Evidence: Beyond the Common Law and Civil Law Traditions*
 Kostakopoulou: *The Future Governance of Citizenship*
 Lewis: *Choice and the Legal Order: Rising above Politics*
 Likosky: *Transnational Legal Processes: Globalisation and Power Disparities*
 Likosky: *Law, Infrastructure and Human Rights*
 Lunney: *A History of Australian Tort Law 1901–1945: England's Obedient Servant?*
 Maughan & Webb: *Lawyering Skills and the Legal Process*
 McGlynn: *Families and the European Union: Law, Politics and Pluralism*
 Moffat: *Trusts Law: Text and Materials*
 Monti: *EC Competition Law*
 Morgan: *Contract Law Minimalism: A Formalist Restatement of Commercial Contract Law*
 Morgan & Yeung: *An Introduction to Law and Regulation: Text and Materials*
 Nicola & Davies: *EU Law Stories: Contextual and Critical Histories of European Jurisprudence*
 Norrie: *Crime, Reason and History: A Critical Introduction to Criminal Law*
 O'Dair: *Legal Ethics: Text and Materials*
 Oliver: *Common Values and the Public–Private Divide*
 Oliver & Drewry: *The Law and Parliament*
 Picciotto: *International Business Taxation*
 Probert: *The Changing Legal Regulation of Cohabitation, 1600–2010*
 Reed: *Internet Law: Text and Materials*
 Richardson: *Law, Process and Custody*
 Roberts & Palmer: *Dispute Processes: ADR and the Primary Forms of Decision-Making*
 Rowbottom: *Democracy Distorted: Wealth, Influence and Democratic Politics*

Sauter: *Public Services in EU Law*
 Scott & Black: *Cranston's Consumers and the Law*
 Seneviratne: *Ombudsmen: Public Services and Administrative Justice*
 Seppänen: *Ideological Conflict and the Rule of Law in Contemporary China*
 Siems: *Comparative Law, 2nd Edition*
 Stapleton: *Product Liability*
 Stewart: *Gender, Law and Justice in a Global Market*
 Tamanaha: *Law as a Means to an End: Threat to the Rule of Law*
 Turpin & Tomkins: *British Government and the Constitution: Text and Materials*
 Twining: *Globalisation and Legal Theory*
 Twining: *Rethinking Evidence: Exploratory Essays*
 Twining: *General Jurisprudence: Understanding Law from a Global Perspective*
 Twining: *Human Rights, Southern Voices: Francis Deng, Abdullahi An-Na'im, Yash Ghai and Upendra Baxi*
 Twining & Miers: *How to Do Things with Rules*
 Ward: *A Critical Introduction to European Law*
 Ward: *Law, Text, Terror*
 Ward: *Shakespeare and Legal Imagination*
 Wells & Quick: *Lacey, Wells and Quick: Reconstructing Criminal Law*
 Zander: *Cases and Materials on the English Legal System*
 Zander: *The Law-Making Process*

International Journal of Law in Context: A Global Forum for Interdisciplinary Legal Studies

The *International Journal of Law in Context* is the companion journal to the Law in Context book series and provides a forum for interdisciplinary legal studies and offers intellectual space for ground-breaking critical research. It publishes contextual work about law and its relationship with other disciplines including but not limited to science, literature, humanities, philosophy, sociology, psychology, ethics, history and geography. More information about the journal and how to submit an article can be found at <http://journals.cambridge.org/ijc>

Jurist in Context

A Memoir

WILLIAM TWINING

University College London



CAMBRIDGE
 UNIVERSITY PRESS

Shaftesbury Road, Cambridge CB2 8EA, United Kingdom

One Liberty Plaza, 20th Floor, New York, NY 10006, USA

477 Williamstown Road, Port Melbourne, VIC 3207, Australia

314–321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre, New Delhi – 110025, India

103 Penang Road, #05–06/07, Visioncrest Commercial, Singapore 238467

Cambridge University Press is part of Cambridge University Press & Assessment, a department of the University of Cambridge.

We share the University's mission to contribute to society through the pursuit of education, learning and research at the highest international levels of excellence.

www.cambridge.org

Information on this title: www.cambridge.org/9781108480970

DOI: 10.1017/9781108645911

© William Twining 2019

This publication is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press & Assessment.

First published 2019

A catalogue record for this publication is available from the British Library

Library of Congress Cataloging-in-Publication data

Names: Twining, William, 1934– author.

Title: Jurist in context : a memoir / William Twining, University College London.

Description: Cambridge, United Kingdom ; New York, NY, USA : Cambridge University Press, 2018. |

Series: The law in context series

Identifiers: LCCN 2018038595 | ISBN 9781108480970

Subjects: LCSH: Twining, William, 1934– | Law teachers – England – London – Biography.

Classification: LCC KD632.T86 A3 2018 | DDC 340.092 [B]–dc23

LC record available at <https://lcn.loc.gov/2018038595>

ISBN 978-1-108-48097-0 Hardback

ISBN 978-1-108-70367-3 Paperback

Cambridge University Press & Assessment has no responsibility for the persistence or accuracy of URLs for external or third-party internet websites referred to in this publication and does not guarantee that any content on such websites is, or will remain, accurate or appropriate.

Cover Picture: The Thinker (Yerakdu), by Simon Gambulo Marmos and Jo Mare Wakundi (1996.362.16)

© Iris & B. Gerald Cantor Center for Visual Arts at Stanford University; Gift of Joan Evans and George Gibbs.

The cover picture depicts a Papua New Guinea (PNG) interpretation of Rodin's 'The Thinker'. While we were at Stanford in 1999–2000 we paid several visits to the open air Papua New Guinea Sculpture Garden on campus (<https://museum.stanford.edu> and other links). In the mid-1990s a group of PNG sculptors worked on trees imported from PNG. At first, they carved their trees in traditional ways, but as they began to look outward, they became curious about Rodin in the Cantor Museum also on campus. 'The Thinker', in particular, intrigued them and Simon Gambulo Marmos is reported as saying: 'I can do this even better.' He and Jo Mare Wakundi then transposed Rodin to the PNG imagination. The sculpture echoes some central themes in the book: North–South relations in a post-colonial era; diffusion of ideas; hybridity; globalisation; and above all, the jurist as thinker. 'Ironically, the Garden fostered the Western appreciation of non-Western art by substituting one western category ['master-carver'] for another ['primitive' art]. One of the great aesthetic joys of the Sculpture Garden is the visual contemplation of the ironies that arise from the cross-cultural dialogue and categorization of artworks in the contemporary, transnational or globalized world.' (Wikipedia entry on Papua New Guinea Sculpture Garden. See further www.facebook.com/pages/Papua-New-Guinea-Sculpture-Garden/287527781305652.) Modern commentators have suggested that Rodin's original expresses grief rather than reflection. Perhaps the background story suggests both: constructive thinking about the future after a disaster.

Cambridge University Press & Assessment
978-1-108-48097-0 — Jurist in Context
William Twining
Frontmatter
[More Information](#)

To Trevor Rutter

Contents

Foreword by Nicola Lacey	<i>page</i> xi
Preface	xiii
Acknowledgements	xxi
List of Abbreviations	xxii
1 Jurisprudence: a personal view	1
2 Childhood and schooling (1934-52)	7
3 Oxford and after (1952-7)	17
4 University of Chicago I (1957-8)	31
5 Khartoum (1958-61)	39
6 Dar es Salaam (1961-5)	57
7 Llewellyn again: American interludes (Chicago 1963-4, Yale 1965, Philadelphia 1971)	78
8 The Queen’s University Belfast (1966-72)	93
9 Normative Jurisprudence	104
10 Standpoint, questioning and ‘thinking like a lawyer’	116
11 Social and legal rules	136
12 Warwick (1972-82)	147
13 Jurisprudence, law in context, realism and doctrine	159
14 Rethinking Evidence	175
15 Bentham’s College (1983-99)	190
16 Four contrasting relationships (Bentham, Dworkin, MacCormick, Anderson)	206
17 Legal Education	217
18 Globalisation and Law	228
19 General Jurisprudence	244
20 ‘R/retirement’	258
Notes on the plates	283
Notes to the text	285
Index	371

Colour plates can be found between pages 168 and 169

Foreword

For over sixty years, William Twining has been at the centre of legal education and legal scholarship in the English-speaking world. Beginning in East Africa in the early days of emergence from colonial rule, and going on to span several of the most influential law schools in both the UK and the United States, Twining's remarkable career has witnessed a transformation of legal education and of the scholarly world of the legal academy which has been, in its own way, quietly revolutionary to no less a degree than the political context amid which his professional life opened. The length, distinction and geographical span of this career would in themselves make its subject's observations and reflections on this period intensely interesting to legal academics, as well as from the point of view of intellectual and social history. But in Twining's case, this interest is intensified by the fact that he has been not merely a witness to but a key agent in the relevant transformation.

When I read law at UCL in the late 1970s, the curriculum – as was standard in most law departments at the time – was dominated by doctrinal legal scholarship, leavened by a moderate helping of analytical jurisprudence and sociology of law. This was still largely the case when Twining arrived as Quain Professor of Jurisprudence in 1983. But by then, the 'law in context' movement which he and his colleagues had nurtured at Warwick and in a few other departments had begun to change the shape of the discipline, with a smattering of socio-legal courses developing across the sector, enabled in significant part by new journals and by the distinctive and influential 'Law in Context' series which Twining and Robert Stevens had established at Weidenfeld and Nicolson. And that development has continued – and diversified – steadily, interacting with genres such as socio-legal studies and theory; feminist and critical race theory; and critical legal studies. Adapting the old saying about legal realism, contextualism is certainly *not* dead, and there is a real sense in which all legal scholars have to take aspects of context into account today.

In this memoir, Twining sheds fascinating light on the intellectual and – with small p – political origins of this approach in both his experience of living and teaching in the radically different legal and social worlds of colonial and post-colonial Africa, the United States, Northern Ireland during the Troubles, and England; in the key relationships which he formed with colleagues,

mentors and students in each of these countries; and in the main intellectual resources which shaped his thinking from early adulthood on. Hart, Collingwood, Llewelyn and Mentschikoff emerge as perhaps the dominant figures in this intellectual history: but many others also feature prominently, underlining the ways in which the trajectory and impact of a single life are strongly shaped by both relational and institutional context.

Twining is beguilingly open – indeed self-critical – about aspirations which could not be met and projects which remain incomplete: the continuing lack of true dialogue and mutual respect between philosophically inspired jurisprudence and Twining's more socio-legal genre of legal theory being one; his ambitious multidisciplinary approach to evidence being another. And while he conveys forcefully his deep commitment to teaching, and the central role which pedagogy has played in not only the communication but also the formation and developing of his ideas, he modestly underplays his own impact as a mentor, institution-builder and supporter of younger scholars. Having myself been a beneficiary of these qualities of his, not least as someone he commissioned to write a book for the Law in Context series early in my career, it gives me great pleasure to write this Foreword to his intriguing memoir; to commend it to legal scholars as a fascinating window on legal academic praxis in the late twentieth and early twenty-first centuries; and to acknowledge and celebrate his influence, his scholarly contribution and his generosity.

Nicola Lacey

London School of Economics and Political Science

June 2018

Preface

Pick up today's newspaper and you will probably find law on every page not only accounts of transnational, international, regional, national and local news, but items that need a legal lens to interpret them or that use vocabularies drawn from the law: murder, in-laws, genocide, contract, mortgage, shares, corruption, hearing, rights.

That is how I have addressed English law students at the very start of their formal legal education. Before they have even registered in the University, they were asked to do some preliminary reading, to visit at least one court, and to complete 'The Newspaper Exercise'. For the former they were supplied with some questions to answer. The instructions for the latter asked them to read every word of a non-tabloid newspaper, such as *The Times*, *Guardian* or *Telegraph* – now *The i* will do – and to mark all passages that appear to be 'law-related' and then to answer a number of specific questions. On the surface this focuses attention on some particular points: that 'law-related' is an elusive category; that law, even narrowly conceived, features throughout a daily newspaper: footballers are bought and sold; the arts pages may contain issues of copyright, contract, and even libel; the business pages rely heavily on legal categories, such as companies, mergers and bankruptcy; contract is everywhere; European Law and human rights pop up in unexpected places; and to understand foreign news one needs to know something about non-English traditions and systems of law. Even in England one encounters *shari'a*, *imams* and *fatwas*.

In some passages law is presented as a good thing; in others it may just be there as a fact of life; in others it may be presented as an instrument of injustice or oppression. What is law for the purpose of this exercise? In this context it may be best to beg such questions; if one defines the term 'law' narrowly it pre-empts reflective answers; if one defines it very broadly this makes the exercise more difficult. Most, but not quite all, of the examples above are examples of the kinds of 'law' that law students in England in fact study, even if the concept is not precise or coherent.

The underlying objective of the exercise is to remind students that they have experienced law throughout their lives, not only on TV but also as actors. It also suggests that it is interesting and relevant to them. A standard

pedagogical device is to look at the entering class on the first day and say: ‘Hands up anyone who has never committed a crime; . . . or libelled someone on Facebook or Twitter . . . Is there anyone here who has not entered into a contract in the last 24 hours?’ If a hand goes up in regard to committing a crime, or a tort, an appropriate response might be: ‘What never?’, unless it would embarrass the student. If, as expected, no one volunteers, I go on to say: ‘I have before me a bunch of contractees, trespassers, in-laws, tenants, owners, constitution-makers, copyright violators, twittering defamers . . . and CRIMINALS.’ Law is not a new subject for them, as it is frequently portrayed. Rather the subject matters of legal studies are pervasive in social life, dynamic, important, and above all interesting – not esoteric, dry, abstracted from human realities.

It is important to distinguish between the discipline of Law (the name of a subject) and the subject matters of the discipline (law with a small l). In the previous paragraph I suggested that law (with a small l) is pervasive, dynamic, and so on. Theorising about law and ‘law’ in this sense is an important part of Jurisprudence, as we shall see. But phrases like ‘the discipline of Law’, ‘Harvard Law School’, or ‘the Common Law of Torts’ (in the syllabus of a Law degree) are merely field concepts; that is, rough labels for an area of study, usually with no firm or stable boundaries and little analytical purchase.¹ It would be strange, perhaps dangerous, to try to explain any of these phrases, by reference to a particular abstract theory or definition of law: for example, there is unlikely to be a consensus within the Harvard Law School about such matters and it would be foolish to try to impose or distil one. All that the word does in this context is roughly to differentiate one institution from others such as the Faculty of Arts or Cardozo Law School.

This point is significant here because this book is centrally about the health of the discipline of Law and only incidentally about the nature or essence or concept of law. The central thesis is that the mission of Law as an academic discipline, like other disciplines, is to advance and disseminate understandings of its subject matters, but that it has some way to go to realise its potential as a marvellous and important subject. Those subject matters are extensive, ill-defined and changeable.

This book advances a particular conception of Jurisprudence as a sub-discipline of Law and argues that so conceived it can contribute to the health of the discipline in several important ways (Chapter 1). In particular it can help both law and its study to respond to many challenges in a period of accelerated globalisation and technological change. In short, Jurisprudence can be an important engine for more particular activities within the discipline of Law, provided that it is treated as an integral part of the discipline.

Why *Jurist*? Oliver Wendell Holmes Jr said that ‘The law is the calling of thinkers.’² ‘Jurist’ is a broad term referring to a thoughtful or learned person whose main subject, field or profession is Law, and who reflects about it strategically or in relatively abstract ways. The term applies to judges and

reflective legal practitioners³ as well as to legal educators, scholars and theorists. For all of them Law is their primary discipline and the main basis for their expertise.⁴ I am one kind of jurist, in that I am a career scholar-teacher of Law who counts Jurisprudence among his special interests. I am not trained as a philosopher or a historian nor as a social theorist or social scientist, but I believe that all of the humanities and social sciences and even other subjects like Neuroscience and Psychology as well as the direct experiences of many legal actors, not only professionals, are relevant to understanding law.

This book is an intellectual memoir addressed to anyone concerned with law, in particular law students and academic lawyers in general. The aim is to present a restatement of my views as a jurist in the form of a narrative of the development of my ideas and a justification of a number of theses. When the idea for this book was first suggested to me, I thought immediately of R. G. Collingwood's *An Autobiography* which made a striking impact when I read it shortly after I first graduated. As we shall see it was seminal in my intellectual development from then on. Collingwood's memoir must be one of the most popular philosophical books in the English language, but when it was published in 1939 it was not expected to do well. The author warned Oxford University Press that it was 'destitute of all that makes autobiography saleable'. It was going to be a 'dead loss', he said, and in a preface he offered a pre-emptive apology: he was a philosopher by vocation – had been as long as he could remember – so the story of his life could not be anything more than a compendium of abstract ideas.⁵ William Faulkner was more succinct, suggesting that the biography of an author should be short: 'He wrote books, then he died.'

Like Collingwood's *An Autobiography* this aims to provide a succinct, accessible and assertive restatement of a position. It will try to show where I am coming from, why I believe what I believe about law and its study, and where this might lead. It will be a narrative of ideas, not an intimate autobiography. However, I am more of a contextualist than Collingwood, so my story is firmly located in particular times and places.

My main academic subject, Jurisprudence, sounds abstract and daunting; much of it is, but my picture of the activity of legal theorising is that it should often be quite down-to-earth, realistic, practical and comprehensible. Since the subject seems esoteric and I have worked somewhat outside the mainstream, Chapter 1 summarises my conception of Jurisprudence for non-specialists. I hope that this will help both to make the rest accessible and persuade readers that it is relevant to them.

Chapters 2–4 give brief accounts of my formal and informal education up to the age of about 30, including apprenticeship in learning and teaching in Oxford, Khartoum and Dar es Salaam. These chapters introduce some of my African background and experience and three figures who played a major role in my early development as a jurist: Herbert Hart, R. G. Collingwood and Karl Llewellyn.

I chose to spend the first seven years of my career teaching in Sudan and East Africa because I was interested in education and Africa, and Law was the only subject I could teach. The experience of teaching, institution building, law reporting, and coming to grips with an alien culture and legal system led me to become interested in legal education, contextual approaches to understanding law and, after I had been responsible for putting Karl Llewellyn's papers in order in Chicago (1963–5), in intellectual history, archives and Anglo-American Jurisprudence (Chapters 4 and 7).

Chapters 5 and 6 describe how my ideas on understanding and teaching Law were germinated in Sudan and East Africa and how they developed mainly through activist debates about and politics of legal education in several countries.

Chapter 7 tells of my relationship with Karl Llewellyn and his formidable widow, Soia Mentschikoff, and about how I began to develop an interpretation of what is involved in being 'realistic' about law, without becoming a 'rule-sceptic' (i.e. someone who does not believe that rules exist or can have settled meanings).

Chapter 8 deals with my seven years as Professor of Jurisprudence in the Queen's University of Belfast (1966–72), where I had the opportunity to develop my teaching and thinking on Jurisprudence in three compulsory courses. One of these led to some in-depth thinking about rules and norms and their interpretation, out of which grew *How to Do Things with Rules* (with David Miers) and other ideas on the topics of standpoint, questions and reasoning (Chapter 10).

Chapter 9 deals with Normative or Ethical Jurisprudence. Recapping on my adolescent angst about 'the problem of belief', probably strengthened by early exposures to positivism, this chapter tells how, wrestling with Bentham under the influence of Hart, I became a moral pluralist and an uncertain modified utilitarian; and how later reacting to the local 'Troubles' in Northern Ireland I became intellectually engaged with issues relating to emergency powers and techniques of interrogation of 'terrorists'. This led to in-depth studies of Bentham's writings on torture and human rights, with JB being treated mainly as a sounding-board and even as worthy opponent. At the notable Torture Conference in Paris in 1973 I was dismayed when general empirical questions about its extent and the conditions under which torture flourished were dismissed as 'academic'. Nearly all intellectual attention was focused on abstract problems of legal definition and morality; this left me feeling that the practical problems of preventing and combating torture had not been properly diagnosed. Returning to this uncomfortable subject after a gap of nearly forty years, I have been pleased to find that some progress in prevention of torture has been made through more realistic approaches.

The next two chapters are more analytical. Chapter 10 explains why the idea of standpoint is important in my thinking and how it relates to questioning and reasoning in legal contexts. Chapter 11 on 'Social and Legal Rules' deals

with theoretical and practical aspects of making, interpreting, using and otherwise handling all kinds of rules in everyday life, at home, in school or at work as well as in specifically legal contexts.

Chapters 12–14 cover my Warwick period (1972–82) as part of a new ‘plate-glass’ university in a Law School devoted to ‘broadening the study of law from within’ (Chapter 12). Chapter 13 tells how thinking about the potential contribution of Jurisprudence to this mission led me to clarify my ideas about the field. At Warwick each of us was asked to rethink a traditional field in a broader way. This stimulated me to develop ‘law in context’ and ‘realism’ as ideas and to rethink Evidence in legal contexts (Chapter 14). This became my main project for over twenty years, mainly in co-operation with Terry Anderson and David Schum.

After ten years at Warwick I moved to University College London (UCL) in 1983 to become Quain Professor of Jurisprudence for the (whole) University of London, a rather grand title for a quite demanding job (Chapter 15). Chapter 16 pauses to consider my contrasting relationships with four individuals who formed an important part of the background to my work, especially during the 1980s and 1990s: Jeremy Bentham, Ronald Dworkin, Neil MacCormick and Terry Anderson. At UCL from the early 1990s, while maintaining my interests in Jurisprudence and Evidence, I undertook a major project on the implications of ‘globalisation’ for understanding law in our rapidly changing world. At UCL I was also involved as both activist and commentator on many aspects of Legal Education policy and practice in many countries. Thinking about recent debates in England, following the important Legal Education and Training Review (2013), I have started to engage in some self-criticism along the lines that we as law teachers have only really paid lip-service to the twin ideas that we should focus more on learning than teaching and take the idea of life-long learning seriously; this has important implications for thinking, research, debate, regulation, diplomacy, policy-making and finance in this area, especially in a period of possibly revolutionary change in education generally, and in legal services and public understanding of law. That is still work in progress (Chapters 17 and 20).

Chapter 18 deals with my explorations on ‘Globalisation and Law’. Starting with my uneasy relationship with the ill-named field of ‘Law and Development’, it links together my colonial childhood, African background, involvement with America and the difficulties of breaking away from the hangovers of colonialism and neo-colonialism, my scepticism about much globababble, and how thinking about law from a global perspective inevitably generates new ideas and uncertainties. It should also make us aware of the extent of our collective ignorance and incomprehension. Chapter 19 on General Jurisprudence considers the implications of a global perspective for Jurisprudence and its role in helping the discipline of Law to adjust to changing circumstances and to realise its potential as a great humanistic discipline. Since

the early 1990s a high proportion of my writing and some of my teaching has been in this general area.

After fourteen years at UCL I became a Research Professor and a bit later moved to being half-time. My 'R/retirement' evolved over several years until, sans teaching, sans administration, sans institutional politics, I was on perpetual sabbatical, managing my own agenda. The last twenty years have been among my most productive ones. The book ends with some thoughts on unfinished business and how General Jurisprudence, as I conceive it, can help our discipline respond to the challenges in a period of rapidly expanding globalisation and technological change (Chapter 20).

It will be obvious that I have been in many situations that suggested a need for quite substantial re-examination of what had been treated as well-settled. In Oxford, Herbert Hart challenged the methods and aspirations of a modest kind of Particular Jurisprudence by bringing in the perspective of a lively school of Philosophy that claimed to be leading a 'revolution'; in Chicago an American law school brought to light important aspects of my dissatisfaction with my legal education in England; in Khartoum, and more explicitly in Dar es Salaam, we had to reconsider everything we had learned in the radically different contexts of two newly independent countries; in Belfast in addition to the Troubles the United Kingdom was experiencing a strong wave of legal reform; in my interview at Warwick in 1971, I was asked what subject I was going to 'Warwick-ise' – that is, rethink a field so as to 'broaden it from within'; I chose Evidence and I have been working on it ever since; from about 1980 I have been considering the implications of 'globalisation' for the whole of Law as a discipline. And in my travels, both geographical and intellectual, I have had to respond to numerous culture shocks. At no stage in my academic career have I been working within a really settled tradition. The futures look uncertain. This may explain why so many 'rethinkings' are scattered throughout the text.

As this is not an orthodox autobiography or memoir, I should explain some aspects of how it is arranged. I anticipate several kinds of readers. My intended primary audience is academic lawyers generally; my hope is to persuade them to see their own specialised work in the context of Law as a discipline as a whole and its challenges. Part of the message is that Jurisprudence, Evidence, Legal Education and Globalisation should not be viewed as specialist enclaves, but rather as a necessary part of the context of understanding law for all academic lawyers. A secondary audience is specialists in these and cognate fields. Here I hope that the particular chapters will explain where I am coming from and provide links with more detailed writings. I hope too that they will be stimulating or provocative and that I will be forgiven for letting my hair down from time to time, especially in the notes to the text.

Another important audience is 'non-lawyers', especially academics from other disciplines, but also anyone interested in law. I have tried to make the text accessible to general readers. For the most part, it tries to be readable, but

there are a few dense passages that non-specialists may skip. There are notes to the text bunched in a ghetto towards the back. These serve two main functions: first, to provide links to publications by myself and others that deal in more detail with particular topics; secondly, to leave the text unencumbered by points which may be mainly of interest to specialists or by asides which would break the narrative flow. At the start of the notes to the text is a key to the abbreviations used to refer to the most-cited works (e.g. GJP for *General Jurisprudence* (2009)). Memoirists have some exemption from conventions against self-quotation or self-plagiarism. Nearly all of the text is original, but I have occasionally self-quoted or acknowledged passages that I have either adapted or reused, including some written for this book, but then used elsewhere.

This book is therefore about several areas of Law: Jurisprudence; Evidence; Legal Education; Law and Development; Comparative Law; and Globalisation and Law. Throughout my career, legal records and archives have been an avocation, as much as an activist as a scholar. These all began as interests early on, but the different contexts in which my ideas evolved are an important part of the story. I have tried to locate the products of my enquiries, writings and activities in the places and periods in which they were mainly developed through teaching and writing. Some of these areas will be of more interest to some readers than others and the structure allows some judicious skimming or skipping. However, I consider all of these subjects to be interrelated and central to the discipline of Law. *All* academic lawyers, not just specialists, should be concerned with and have a general awareness of trends and developments in all of them because they should be concerned with the relations between Law and other disciplines and the health of our discipline in years to come. All human beings are involved in education, learning, handling rules, solving problems, drawing inferences from evidence, legal relationships, decolonisation and adapting to increased transnational influences. These are central to this story, so I hope that it has a human interest.

Finally, why an autobiography rather than a summation of my ideas? For me that question is about publication rather than writing. I think with my pen and write in order to find out what I think. For many years I jotted down anecdotes and aperçus, as often as not as exercises in writing with no intention of publication. Over time this developed into a sort of scrapbook. I sometimes drew on these to lighten papers written for publication. Later I began to think of this scrapbook as a potential work of art, but only for limited private circulation. Then someone suggested that I should turn this into a full-scale autobiography. I resisted. I am a sceptical reader of such works. As a student of evidence, I see memoirists as unreliable witnesses to be viewed sceptically in terms of their veracity, reliability (especially in respect of memory) and bias. However, most of my sources are documentary. The unattractive motivations of the genre are several and obvious. Anyway, the lives of career academics tend to be very similar and rather boring.

However, at this stage I thought of Collingwood’s *Autobiography*, which had been a game-changer when I was 20. I loved the book. Perhaps more important, I felt that many of my main writings have not reached what I consider to be my primary audience: academic lawyers generally. But Evidence is seen as esoteric by non-specialists, and my work is thought to be critical – even hostile – by some orthodox Evidence scholars; many colleagues think that Jurisprudence is too esoteric or difficult, which it often is as practised; even Globalisation is seen as a specialism or a threat or both; and many colleagues don’t consider Legal Education as a serious subject worthy of theoretical or scholarly attention. I hope that this work refutes these ideas. A historical account of my intellectual development would not duplicate any of my other writings. So, after sketching an outline, I was hooked. It has been my priority project for the last two years. Nevertheless, I was ambivalent and quite secretive about the project, only going public when this manuscript was nearly ready to go. Why then did I decide to publish? Rather than waste time on further introspection, let me follow my near-contemporary Alan Bennett who, when asked ‘why do history?’, replied: ‘Pass the parcel. That’s sometimes all you can do. Take it, feel it, and pass it on. Not for me, not for you, but for someone, somewhere, one day. *Pass it on, boys.*’⁶

Acknowledgements

Collegiality is one of the blessings of academic life. As will be apparent from the text, I owe too many debts to friends, colleagues, students, librarians and others to thank most of them individually. I am particularly grateful to Niki Lacey for agreeing to write the Foreword; Tom Randall, Finola O’Sullivan and Sarah Payne at Cambridge University Press; and to Jem Langworthy, a superb and congenial copy-editor. Andrew Halpin, David Restrepo-Amariles, David Sugarman and others made helpful comments on particular chapters, as have Karen Twining Fooks and Peter Twining. Trevor Rutter and Penelope Twining read and made invaluable suggestions on several drafts of the whole book. They patiently discussed its conception and gave continuing support and encouragement without which it would never have been completed.

Abbreviations

(At p. 285 there is a further list of abbreviations for references in the notes to the text.)

AALS	Association of American Law Schools
ABA	American Bar Association
ALR	American Legal Realism
BNC	Brasenose College Oxford
CLA	Commonwealth Lawyers' Association
CLEA	Commonwealth Legal Education Association
cls	critical legal studies
CPD	Continuing Professional Development
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
EPF	Evidence, Proof and Fact-finding
FBA	Fellow of the British Academy
IALS	Institute of Advanced Legal Studies (University of London)
ILC	International Legal Center (New York)
JD	Juris Doctor (American first degree in Law)
JSPTL	<i>Journal of the Society of Public Teachers of Law</i>
KLRM	<i>Karl Llewellyn and the Realist Movement</i>
LLB	Bachelor of Laws
LLM	Master of Laws (postgraduate)
LSA	Law and Society Association (US)
LSE	London School of Economics and Political Science
LTP	Law Teachers' Programme (UCL)
MDGs	Millennium Development Goals
MWA	Modified Wigmorean Analysis
NGO	Non-governmental organisation
NIAS	Netherlands Institute of Advanced Study (Wassenaar)
NLR	New Legal Realism
PEAP	Poverty Eradication Action Plan
QUB	The Queen's University Belfast
SAS	School of Advanced Study, University of London

SLA	Socio-legal Studies Association (UK)
SLJR	Sudan Law Journal and Reports
SLS	Society of Legal Scholars (replaced SPTL)
SOAS	School of Oriental and African Studies (London)
SPTL	Society of Public Teachers of Law
TANU	Tanganyika/Tanzania African Union
UCC	The Uniform Commercial Code
UCD	University College Dar es Salaam
UCL	University College London
UM	University of Miami
YMG	Young Members Group of SPTL