Introduction: Themes, Challenges and Overcoming Barriers

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The Nuffield Inquiry on Empirical Legal Research, *Law in the Real World: Improving our Understanding of How Law Works*, published in November 2006, identified a national lack of capacity in empirical legal research. A number of reasons were canvassed for this, including the historical domination of law schools by theoretical and doctrinal-based research and the constraints of the professionally influenced curriculum. Thus:

Lacking a broad perspective on legal inquiry and constrained by a lack of skills and familiarity with empirical research, when law graduates who do consider an academic career choose postgraduate courses and topics for doctoral research, they naturally gravitate towards doctrinal topics and issues in law. (Nuffield Inquiry, 2006, para. 87)

The report concluded that there was a need to support initiatives to address the needs of potential legal empirical researchers at all stages of their careers, including at the undergraduate level.

In fact, there is little data about the extent of the use of empirical research in the undergraduate law curriculum. In order to try and fill in some of this lack of information the Nuffield Foundation funded a small research project comprising an online questionnaire and one-day seminar. The questionnaire sought to gather data on:

1. whether undergraduates are being taught skills that would enable them to either carry out or critique empirical work;
2. whether they are actually carrying out empirical projects of their own;
3. whether empirical work figured in other ways in teaching and assessment.

The survey was not intended to map where empirical research is and is not being used, but rather to engage with those who have included it in the
curriculum in order to be able to identify the range of practice. Thence, the intention was to disseminate examples of interesting and innovative practices to others who may be interested in incorporating empirical research into their teaching.

The questionnaire was available online between January and May 2009. Invitations to take part (and reminders) were sent out through the Socio-Legal Studies Association, the Society of Legal Scholars and the Association of Law Teachers. Twenty-seven responses to the questionnaire were received, although three of these simply declared that there were no relevant modules at the particular institution. Seventeen different law schools were represented. As mentioned, the questionnaire was primarily intended to identify a range of practice rather than engage in a mapping exercise. Indeed, as some responses were specifically solicited, it can in no way be thought of as representative.

While it unearthed some interesting modules and practices, some of which were discussed in the subsequent seminar and in this volume, there did not seem to be a plethora of examples. Indeed, it seemed to point (if no more) towards the same conclusion as Bradney (2010, p. 1028) that there is little teaching of empirical legal research in UK law schools.

The second part of the project, the seminar\(^1\) was held in July 2009 at the University of York. It provided an opportunity to discuss further some of the issues around the teaching of empirical legal research. Some of the discussions from the seminar are reflected in the chapters in this book, which seeks to take that approach forward, but situate it in the wider context of socio-legal studies, rather than focusing purely on empirical legal research.

The dichotomy between doctrinal law and other approaches to understanding law is perhaps not as stark as it once was. The chapters in this volume indicate the varied extent to which a socio-legal approach is already ingrained in the teaching of different parts of the law curriculum. Thus, Simon Halliday in his review of public law states ‘a principal contention of this chapter is that many aspects of what could easily be called a “socio-legal” approach have long been integrated into the study of public law in the UK’ (p. 143). Others, however, point to teaching traditions (e.g. in property and trusts and European Union (EU)) where a black-letter approach still tends to dominate.

That tradition nonetheless would seem to be on the decline in UK law schools. Cownie (2004) has noted that UK legal academics are as likely as not to consider themselves as socio-legal in their approach. What such approaches mean in practice may, of course, be very variable. Definitions of the socio-legal can be hard to pin down. The oft-cited Economic and Social Research Council (ESRC) definition of socio-legal studies (ESRC, 1994) provides as good

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1 Supported by the UK Centre for Legal Education (UKCLE).