



Against authentic assessment in English and Welsh law schools

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Abstract

Authentic assessment, where assessment closely replicates ‘real world’ employment tasks, has been warmly received across higher education. Its lure for English and Welsh law schools seems almost irresistible, particularly considering the increasing emphasis on lucrative employability in a marketised sector, new forms of qualification for solicitors and novel routes into law compounding the pressure on law schools to remain competitive. However, I argue that resist it we should. Reviewing existing critiques, I draw on the work of Derrida to take a deconstructionist perspective, which probes the construction of meaning through language. Deconstruction reveals that the term ‘authentic’ is highly problematic, working semantically to create a category of ‘inauthentic’, which is immediately valorised as a binary hierarchy. In the current context of the knowledge-economy, the ‘authentic’ becomes conflated with the world of the legal profession, simultaneously rendering critical academic and theoretical legal work as the devalued and inauthentic ‘other’. I argue that the reification of the lawyerly as the sphere of the ‘real’ that results from the authentic/inauthentic dyad exacerbates the current schism between approaches to legal education as being either vocational or liberal, threatening the intellectual integrity of a law degree as requiring the pursuit of legal knowledge as a good in its own right as opposed to what is of current (i.e. mercantile) value. As such, rather than arguing for an expansion or a more nuanced reading of the term as per existing critiques, I argue for its abandonment altogether, considering it a deeply flawed and damaging term.

Keywords Authentic assessment · Legal education · Vocational · Legal profession

Introduction: the rise of authentic assessment and its framing in legal education

It is increasingly difficult to ignore the growing calls for higher education assessments to be ‘authentic’. From its origins in the US school sector in the 1990 s, the championing of authentic assessment has now spread to universities worldwide and is considered in a broad range of disciplines (McArthur, 2023). A burgeoning scholarship has refined the concept,

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leading to the emergence of taxonomies and frameworks to help ensure that the chosen assignment conforms to the central tenets of authenticity (e.g. Mueller, 2005; Iverson et al., 2008; Meyers & McNulty, 2009; Burton, 2011; Ashford-Rowe et al., 2014). Whilst there is no singular set of definitive criteria, a consensus emerges that the core element of authentic assessment involves tasks with a high degree of correspondence to those performed in the professional or 'real world' of work. Rather than being an abstract evaluation of knowledge, the authentic assessment engages the student in a task which will meaningfully mirror one from an eventual employment scenario. As Collins (2022, p. 1, quoting Mueller) summarises, authentic assessments are those 'in which students are asked to perform real-world tasks that demonstrate meaningful application of essential knowledge and skills'. The central premise of authentic assessment is that the greater degree of fidelity to the intended workplace, the greater the learning experience (Iverson et al., 2008). In this respect, the prime desirability of authentic assessment is its strong link to the vocational. Authentic assessment can thus help produce a work-ready graduate with the transferrable skills that employers desire.

Given their longstanding association with the legal profession, it is perhaps unsurprising that law schools globally are starting to embrace authentic assessment (e.g. Collins, 2022; Bedford et al., 2024 (New Zealand/Aotearoa); Burton, 2011, Hart et al., 2011; Curcio, 2009 (US); Kam et al., 2012 and McNamara, 2016 (Australia)). Law schools in England and Wales are no exception, and various scholars now encourage its deployment (e.g. Allen, 2021; Berger & Wild, 2017; Geach et al., 2024; Whittam, 2023). Aside from the employability skills it can foster, those advocating its use point to broader advantages. Students greatly enjoy authentic assessments that are geared towards practitioner tasks and feel highly engaged with them (Berger & Wild, 2017; Whittam, 2023). Student satisfaction and engagement are increasingly important given that University league tables are driven by the National Student Survey scores (see, e.g. The Complete University Guide 2025). Given recent concerns about ChatGPT and similar tools rendering the traditional essay redundant, authentic assessment is also viewed as a way to steer student engagement and independent learning away from Generative AI (Oxford Brookes, 2023; Manchester Metropolitan University, 2023). Authentic assessments can also be used as a pedagogic tool to foster a sense of social justice and transformation in the law student (Bedford et al., 2024), something which law schools should be particularly attentive to, given the growing focus on equality and diversity in the curriculum (e.g. Ashford, 2024).

Several broader factors coincide to make this the perfect time for law schools to be receptive to authentic assessment. Firstly, the marketisation of higher education has cast increasing scrutiny on graduate employability, and education policy shows a clear shift towards viewing the university's core mission as one of producing work-ready graduates to grow the economy (Usher and Edwards, 1994; Ashwin, 2020). Official Longitudinal Education Outcomes data is now calculated so that earning outcomes and degrees can be compared, with breakdowns by provider (Longitudinal Educational Outcomes data 2024). In the marketplace of higher education, unprofitable low-recruiting modules, subjects, non-vocational 'Mickey Mouse' degrees, and even entire institutions are at risk of closure (e.g. Guinness, 2024; Richmond & Saunders, 2014; Riley-Smith, 2024; Rowan, 2022; Holt, 2024). Particularly in the current straitened economic times, law schools have seen a rapid and unprecedented expansion, whereas other subjects leading to less obvious and lucrative careers have struggled to recruit (Crouch & Hallowell, 2021; Hallowell, 2021). When starting salaries for newly qualified solicitors can now be as high as £180 k (Smith, 2024), a law degree can be seen as a secure investment given the cost-of-living crisis, high tuition fees and resultant debt burden that many now graduate with.

Secondly, unprecedented changes in the way in which lawyers qualify also heighten the focus on vocationalism. Aspiring solicitors have traditionally completed a Qualifying Law Degree ('QLD') to gain certain professional exemptions for the next stage of qualification known as the Legal Practice Course ('LPC'). Generally, only then would they learn the practical skills of lawyering such as drafting, advocacy and client care. Whilst elements of the undergraduate law degree involve certain practical skills such as legal research, it has largely been a liberal arts degree. After 2021, all those now wishing to qualify as a solicitor, whether they have a law degree or not, must undertake the independent and centralised Solicitor's Qualifying Exam ('SQE') which is designed to replace the LPC (Solicitors Regulation Authority ('SRA'), [n.d.](#)) The assessment comprises SQE1, which tests the application of functional legal knowledge based on realistic client scenarios through a series of MCQs; SQE2, which tests practical legal skills of interviewing, advocacy, legal research, drafting, writing, case matter and analysis; and a period of Qualifying Work Experience ('QWE'), which involves a minimum of 2 years' work experience with up to four employers. The experience must be in the provision of any legal services that give the opportunity to develop the competencies required for practice. Whilst aspiring barristers still require the QLD, as in England and Wales where the professions are split and train separately post-degree, the Bar is by far the smaller profession (for comparison, in 2024, there were 160,070 practicing solicitors compared to 17,782 barristers in 2023 (SRA, 2024; Bar Standards Board, [2023](#))). The pivot to SQE has reinvigorated longstanding debates about whether the undergraduate law degree should become more vocational in response to what may prove to be a significant shift in the student marketplace (e.g. Bradney, [2003](#), [2004](#), [2008](#), [2016](#), [2024](#); Burrridge & Webb, [2007](#); Boon & Webb, [2008](#); Puchalska, [2004](#); Davies, [2017](#); Jones, [2019](#); Guth & Mason, [2018](#); Guth & Dutton, [2018](#); Mason, [2018](#); Unger, [2020](#); Le Roux-Kemp, [2024](#)).

Thirdly, law schools have witnessed the increasing popularity of undergraduate law clinics, whether as part of a distinct clinical law degree or as practical modules embedded within the standard degree. In clinical elements, students work under supervision with real-life clients to provide free legal advice, do practical exercises such as dispute resolution and negotiation or work on actual criminal case reviews. They are undeniably well received by students who greatly value the opportunity to gain vocational skills and provide a genuinely needed service for many who would otherwise be unable to access law through lack of funds or have reached the end of the criminal appeals process (Bleasdale et al., [2020](#); Roberts & Weathered, [2009](#); Marson et al., [2005](#); Innocence Network UK, [n.d.](#)). Moreover, given the loss of the QLD, they are now a distinct marketing advantage for law schools, as they can help provide some of the QWE required by the SQE as well as help students prepare for elements 1 and 2.

Finally, the shift in education policy towards supporting a knowledge-economy, twinned with the high cost of university, has seen the recent emergence of legal apprenticeships (Hood and Simmonds, [2022](#)), apprentices also being ultimately assessed via the SQE (SRA, 2024). A vocational route into law was already in place through qualification as a legal executive via the Chartered Institute of Legal Executives (CILEX, [n.d.](#)), but the advent of specific solicitor apprenticeships from 2016 provides a new route into legal practice for school-leavers, bypassing the need for a law degree. With their clear focus on work-ready learning, affordability and flexibility, apprenticeships only add to the pressure on law schools to remain competitive in this regard, especially as Solicitors Regulation Authority data in 2022–2023 indicated that apprentices were now outperforming other candidates on the SQE (SRA, [2023](#)).

Given all this, plus the embedding of authentic assessment in the most recent Quality Assurance Agency ('QAA') law benchmark statement (QAA, 2023), in the Joint Information Systems Committee ('JISC') principles of good assessment and feedback (Knight & Ferrell, 2022) and the recent emergence of institutional frameworks on designing authentic assessments more generally (e.g. University of Reading 2023; Manchester Metropolitan University, 2023; Brown and Sambell for Heriot-Watt University 2022; Oxford Brookes 2023), it seems almost impossible to resist the imperative of Berger and Wild (2017, p. 29) that 'the goal of every modern law school must be to embed the use of authentic assessment'.

Yet resist it I shall. In doing so, my aim is not to deny the many positive benefits that are listed in both the legal and wider scholarship on authentic assessment. I should be clear from the outset that I do not contest that greater equality, inclusion and diversity in the curriculum should indeed be laudable aims for law schools (or any other discipline); that creative and non-textual assessments are beneficial (see, e.g. Bunbury and Philippoulou-Mihalopoulos, 2023), or think the evident student engagement with, and enjoyment of, lawyer-type tasks should be dismissed. Nor am I avoidant of the business realities of higher education and the ineluctable emphasis on employment that result, although, as will become apparent later, I do wish to critique them. Rather, what I centrally seek to challenge is the apparently uncritical reception of authentic assessment into legal education discourse, its predominant framing as equating to vocationalism and the implications that I see flowing from this. Whilst 'authentic', that is to say, lawyerly, assessment appears intuitively to be a self-evident and unqualified good, I would argue that its rise necessarily engages us in the need for its critique, involving us in debate about what the purposes of legal education should be. In order to pursue this, my argument proceeds as follows: Firstly, I start by mapping out existing critiques of authentic assessment, focussing particularly on the work of McArthur (2023) and Ajjawi et al. (2024). Secondly, noting that the existing critiques progress by providing theoretically nuanced, socially contextualised and expansive readings of 'authentic', I take a different point of departure, suggesting that the term 'authentic' itself is problematic. I use a deconstructionist perspective to demonstrate how the term 'authentic' works semantically to create a binary hierarchy, generating a corresponding category of 'inauthentic'. The 'inauthentic' is freighted with all the negative values of whatever the 'authentic' is not, enabling the latter to maintain coherence and supremacy. I explain how, in current legal education discourse, the predominant framing of authenticity as vocationalism serves to construct liberal legal education as the inauthentic—the denigrated and othered twin. I also show how the construction of vocationalism as the sphere of the 'real' and the 'authentic' is unstable, being shot through with contradiction and inconsistency. Thirdly, I consider how the current discourse on authenticity entrenches the current schism between the vocational and liberal approaches to legal education, pointing out the risk that authenticity read as vocationalism poses to the intellectual integrity of law as a liberal degree. Drawing on marketing and advertising critiques of authenticity, I raise the concern that the recent emergence of authenticity as vocationalism, coinciding as it does with the rise of the neoliberal mercantilisation and financialisation of knowledge more generally, compounds the perspective that legal knowledge is only valued and valuable if linked to the profession and not worth pursuing as a good in its own right. Concluding that authenticity is a damaging, polarising and divisive term in the fourth and fifth sections, I argue that rather than try to expand it or make it more theoretically nuanced, it should be abandoned altogether.

Existing critiques of authentic assessment

In comparison to the tide of positive commentary on authentic assessment, it is interesting to observe that there is currently little by way of critique generally. A notable exception is McArthur (2023), who observes that much scholarship on authentic assessment, whilst genuinely concerned with students' welfare and interests, tends to use the term 'authentic' uncritically and ahistorically, to the extent that it is in danger of becoming an empty educational slogan (see also McArthur, 2021; Fawns et al., 2024). The question of what authenticity might mean, or whose authenticity is in question, she argues, is rarely asked, and that authentic increasingly means 'real world tasks', where the 'real world' is conflated with employability, economic value and the 'world of work'; a conclusion she resists. '[T]his awful phrase "the real world"', she writes:

makes it sound external to students and ourselves. The real world is *out there*, reinforcing a stereotypical image of the "ivory tower" university which fails to recognise the university's earliest foundations in labour, such as the early craft guilds...it is ultimately self-defeating to the notion of authentic assessment to position the real world as something out there and fundamentally separate from higher education (McArthur, 2023, p. 93).

Drawing on philosophical work which interrogates authenticity, McArthur (2023) contemplates two contrasting readings of authenticity, where authenticity can either be understood as being concerned with one's relationship to self, and thus only knowable by the self, contrasted with where the self is understood in relation to society, agentic rather than atomistic, and where an ability to effect change in society can bring both individual and social flourishing. When mapped onto authentic assessment, she finds it is the latter reading of authentic which is useful, in that it enables the focus to be shifted from authenticity meaning what the task is, i.e., how faithful it is to the 'world of work', to why the task matters and what its social value is or might be; a shift which moves the student from a position of isolation to seeing them as a member of society with agency and power, where the wellbeing of the individual is linked to what they can contribute to that society. Read thus, authentic assessment should show the student how their engagement with disciplinary knowledge can be transformative through the exercise of empathetic agency (McArthur, 2023, p. 97). Authentic assessment needs to engage 'a sense of what the student does and how this may impact on the lives of others...authentic assessment is not assessment that mirrors the world as it is, but that which pushes the possibilities of what the world could be' (McArthur, 2023, pp. 95–96). By situating authentic assessment within social context, the student can look beyond the performance of the task alone to consider how the value of the task might be socially transformative, a move which McArthur argues (2003, 95) can also transcend its traditional associations with vocational disciplines. It is this need for social transformation and the reflexive realisation of the agentic self in that role which McArthur argues should lie at the heart of and contextualise authentic assessment. In other words, authentic assessment should prepare the students not to fit into, but to change the world.

Building on McArthur, Ajjawi et al. (2024) expand the understanding of authenticity to make it further nuanced and theoretically informed. Echoing McArthur's concerns that current practice in authentic assessment focusses too narrowly on the replication of work tasks, and the need for it to have a stronger theoretical underpinning, they seek to add depth to the concept by including three additional theoretical perspectives, which they describe

as ‘psychological authenticity’, ‘ontological fidelity’, and ‘practice theory perspectives’ (Ajjawi et al., 2024). Psychological authenticity seeks to explore what authenticity looks like from the perspective of the individual, where the question is what authenticity looks like to them, a viewpoint that may fluctuate over time and context. Adding in these additional dimensions, they suggest, may enable the student and the assessor to create tasks more supportive to the individual, their context and their belief systems. Ontological considerations imply that knowing and learning cannot be separated from the embodied individual, and that ‘the question of assessment would not only be about what students know, but who they are becoming’ (Ajjawi et al., 2024, p. 504). Ontological fidelity would require tasks that enable the student to envision themselves actually doing that task or a similar one in a future professional role, as opposed to a task which was merely a proxy for a technical problem and abstracted from context, the latter lacking in ontological fidelity. Practice theory perspectives encourage us to think more about how foregrounding what constitutes the social world might help us to influence how we consider authentic assessment. Social practice happens within unpredictable and ambiguous contexts, so rather than aim to remove this from assessment, we might try to include it more and engage the students in reflection, asking the student what the task means for them as well as for us. In setting assessments, we should acknowledge that these two aims might well be different, explain what complexities and ambiguities are omitted, and why. If we consider these three perspectives together, Ajjawi et al. (2024) suggest that we might fruitfully develop our understanding of authentic assessment and co-design them with students to better include uncertainty, student perspectives and broader timeframes of learning that project forward to include the future self. Using their multiple theoretical perspectives to conclude that authenticity must be understood as plural, as ‘authenticities’ rather than the singular ‘authentic’, they suggest that ‘the seemingly simple semantic move – from authentic assessment to *authenticity in assessment* – opens up the possibilities for assessment design to be more transformational’ (Ajjawi et al., 2024, p. 507).

Deconstructing the ‘authentic’

Whilst I concur with McArthur (2023) and Ajjawi et al. (2024) on the desirability of social responsibility and agency as part of learning through assessment, the value of student perspective on why a task might matter to them, and the need to challenge the way in which current constructions of authenticity risk conflating it with a narrow version of economic value, I take a somewhat different approach to my critique. If we accept Foucault’s guidance, that ‘[a] critique is not a matter of saying that things are not right as they are...It is a matter of pointing out on what kinds of assumptions, what kinds of familiar, unchallenged, unconsidered modes of thought the practices that we accept rest’ (Kritzman, 1998, p. 154), then my main task here is to expose what work the term ‘authentic’ in authentic assessment does; what it assumes, hides and elides. Whilst McArthur (2023, p. 85) gives early acknowledgement of the potential vacuity of the word, she chooses to retain and expand the term. Ajjawi et al. (2024) also observe with apparent concern the blank-slate qualities of ‘authentic’ early on in their paper. As they comment:

The chameleon-like nature of authentic assessment...means that authentic assessment is rhetorically useful since everyone can agree on its apparent value. Perhaps, the very ambiguity of the term promotes its perceived value: we can agree authenticity is a good thing without diving too deeply into what it means. Thus we can project

any number of desirable purposes on authentic assessment as an idea and gain credibility for them. (2024, p. 500).

Yet they also retain it, opting to build on McArthur's argument and augmenting it through different readings. In their most recent critique, Fawns et al., (2024, p.1) concur with the need for criticality, lest authentic assessment be rolled out as a universal 'panacea', but they too seek to augment and further contextualise rather than abandon the term. Although providing us with a valuable shift in perspective, I suggest that existing critiques do not go far enough, in that by choosing to retain the word 'authentic', they do not challenge the way it operates as an exclusionary term, even when given an expanded meaning. My argument is that it functions as a semantic structure that assigns value: By asserting a particular thing as 'authentic', an unspoken but ever-present 'inauthentic' is also implied; all that the authentic is not. The 'inauthentic' immediately becomes imbued with negative qualities and, as such, becomes devalued and deprived. I argue that this process has damaging repercussions, particularly as it has played out in legal education discourse.

My starting point for demonstrating this is the work of Derrida. Derrida's ideas are expressed in a diffuse manner across a wide number of texts, hard to distil into an easy summary (Bradley, 2008) and largely explained more clearly by others, but a core theme of his work is to explore how the structuring of thoughts and ideas creates value and meaning by exclusion. He seeks to demonstrate how apparently fixed meanings in texts can be subject to a double reading, which reveals how contingent and unstable they are, an approach which has come to be known as 'deconstruction'. In traditional western philosophy, ideas are expressed through the 'logic of identity' where things are thought of in totality as discrete; whole and entire in and of themselves, which serves to create a unity of meaning without the need for further explanation (Young, 1990, p. 303; Bradley, 2008, p. 6). In this attempt at discrete definition, a deconstructive reading notes that an excluded 'other' term is always implied, which assumes the negative qualities of the first in order to maintain its coherence. Young explains:

The desire to bring things into unity creates a logic of hierarchical opposition. Any move to define an identity, a closed totality, always depends on excluding some elements, separating the pure from the impure...Any definition or category creates an inside/outside distinction, and the logic of identity seeks to keep these borders firmly drawn (1990, p. 303).

Western philosophy thus becomes characterised by a series of binary hierarchies; 'day' takes on all the positive characteristics that 'night' does not have; the 'feminine' becomes the vessel for the negative qualities that the 'masculine' excludes (Moi, 1985, p. 104). As summarised by Squires (1996, p. 197), 'any entity, to be an entity, has to exclude that which is not itself, thereby constituting otherness. The other...constitutes the entity by defining its limits. Constituting the Good of this entity...always involves, theoretically and politically, projecting the negative on to the other.' What deconstruction reveals is that there can never be complete unity of meaning; the boundary between these dualities is never as fixed as it seems; the first binary term can only function through its relationship with the second and vice versa. In any text, there is the possibility for a plurality of readings and meanings and that this condition of instability is an ever-present and foundational feature (Derrida, 1987; 41; Derrida, 1982/2014). Subjected to a deconstructive reading, whilst projecting a benignly positive image, the 'authentic' can be revealed to be a less stable and concrete term than it might first appear. It asserts an ontological and epistemological claim—that

there is a real that the authentic refers to, and that we can truly know what that is. Whilst we should, as McArthur (2023) urges, be suspicious about what the ‘real world of work’ might involve, it is worthwhile considering how the term ‘authentic’ functions to actively construct a privileged and specific version of what the ‘real’ might be rather than describing it, and what is deprived in that process. I question whether it is a helpful term, as in the process of asserting a particular activity’s authenticity, following the logic of deconstruction, other things must be deemed ‘inauthentic’ to create the coherence of the initial category. The inauthentic must assume the negative qualities of the authentic for the dyad to make sense.

Considering the above in the context of authentic assessment as it appears in some legal education discourse, one interesting aspect is the repeated emphasis on the ‘reality’ of the practice that it describes. In a semantic appeal to the truth and hard facts, we are assured that assessments which specifically resemble the tasks of the legal profession are the ‘real deal’ (Hart et al., 2011, p. 97), that these are ‘more authentic’ (Allen, 2021), that we must ‘Get Real!’ when considering assessments as legal practice simulations (Kam et al., 2012, p. 1; Berger & Wild, 2017 fn. 14, p. 430), and that the case for introducing authentic assessments which look lawyerly is ‘Keeping it real’ (Whittam, 2023, 127). It is difficult to resist the desire for a catchy title and I am no less guilty than anyone else of this in my academic career, but the repeated assertion to the world of the ‘real’ is also operational, working as a semantic technique. It functions to structure a hierarchy of value where certain things—in this context, the legal professions—are privileged as ‘real’ and thus better, and the negative sloughed off onto the deprived ‘other’—namely the world of traditional academic work, so that the register of the legal profession as ‘real’ and thus more valued can maintain coherence. This juxtaposition—and necessary denigration of the academic world and its traditional assessments—is evident from the emerging discourse. The world of practice and the world of the law school appear cast as opposite ends of a ‘realness’ continuum, where the further away from practice an assessment is, and closer towards traditional academic work, the less authentic, and thus less valued, it becomes. Techniques of calibration and measurement are proposed to quantify realism, in that authentic assessments resembling tasks that lawyers do can be scored against an authenticity point-score index where ‘artificial and decontextualised’ is at one end of the spectrum, and ‘authentic and situated’ at the other, enabling the degree of authenticity, i.e. closeness to practice, to be calculated as a fraction (Burton, 2011, p. 25 after Gulikers et al.). The world of legal academia is constructed as the deprived ‘other’ in order to reinforce legal practice as the sphere of the real: Authentic assessment ‘is closely aligned with activities that take place in real world settings, as distinct from the often artificial constructs of university courses’ (Burton, 2011, p. 21, citing Boud and Falchikov, see also Berger & Wild, 2017, p. 433; Whittam, 2023, p. 25; Knight and Ferrel, 2022). The classic university teaching environment is said to be ‘staid’ (Burton, 2011, p. 24, citing Keyser and Howell): a ‘featureless classroom, inauthentic to the settings encountered in practice’ (Allen, 2021, also Berger & Wild, 2017, p. 434). Whilst Burton valuably questions whether the physical environment of the exercise matters to the authenticity (2011, p. 24), we learn that assessments echoing lawyerly work are particularly authentic when conducted in bespoke University buildings or virtual environments which replicate actual courts or law firms with a high degree of verisimilitude: ‘[T]he courtroom is an open forum with spectator areas, an authentic distance between Bar and raised bench, authentic and imposing décor. The mediation centre has a glass-fronted central meeting room with separate caucus meeting rooms for client instructions/negotiations

in private’ (Berger & Wild, 2017, p. 434; see also Allen, 2021; Whittam, 2023; Kam et al., 2012). Law schools’ apparent reliance on traditional essays and exams compounds the bleakness and artifice of such assessments and their settings; as asserted by Whittam (2023, 133), ‘[i]n practice, no lawyer would be expected to produce polished legal documents and considered responses to a client in an artificial setting such as an exam hall, in a highly restricted timeframe and without access to any resources or precedents’. Knight and Ferrell (2022) argue in the broader context that ‘Traditional assessment formats, such as essays or exams, don’t really mirror any other real-world situations...[t]he skills we can test using formats such as closed book exams, which rely heavily on recall, are an equally poor fit with the working practices of academics or researchers of the future.’ The traditional work of the liberal arts degree is likewise cast as equally dull, inauthentic, dated and irrelevant, as we learn from Berger and Wild, citing journalist Segal:

[L]aw schools still pursue a traditional approach that “emphasises the theoretical over the useful”...lectures are frequently focussed on out-of-date concepts such as “the variety of property in post-feudal England” and that “Professors are rewarded for chin-stroking scholarship, like law review articles with titles like ‘A future foretold: Neo-Aristotelian praise of Postmodern Legal Theory’” (2017, 429–30).

A deconstructive reading illustrates the inherent contingency and instability of ‘authenticity’ in this binary hierarchy. Establishing legal practice as the truly ‘authentic’ world of work depends on an othering of academia and its necessary denigration, hence the repeated reassertions of the ‘realness’ of practice in order for the latter to maintain coherence and primacy. Yet at the very moment of asserting this realness, we find that authentic assessments are grounded in facsimile—the court rooms are copies; the furnishings and fittings are reproductions; the parts of the clients and lawyers are played by actors; the trials are mock trials and the mediation scenarios hypotheticals, even if based on actual events. If faithful resemblance to the original is an indicator of authenticity, then the mock court rooms at least should be shabby and filthy, leaking, riddled with mould, structurally unsound, widely inaccessible, and with dysfunctional technology, in reflection of much of our current domestic justice estate (Lord Burnett of Maldon, 2021; Law Society 2022), and the litigants increasingly left to represent themselves in the absence of legally aided advocacy such as in private family law cases (Government Family Court Statistics Quarterly, Oct-Dec 2023; Law Society Press Release, 2024). The different registers of ‘authenticity’ illustrate its slippage: What is ‘real’ (the actual courtroom) moves to ‘what resembles the (idealised) real’ (the mock courtroom) to ‘what we assert as real’ (the rhetorical appeal to authentic assessment as ‘the real deal’), and the assertion of authenticity is not descriptive, but performative.

What is occluded in the process of positioning the profession as the real and authentic is academia as a workplace and profession in its own right. As academics, our everyday workplaces are precisely those classrooms that we teach in; in some instances, in the very same institutions that we were instructed in as undergraduates. The décor may vary in aesthetic success but none of these locations are replicas. Even if students undertake and are assessed on actual advocacy and legal work for real clients, this is arguably no less ‘authentic’ than the groundwork of research and techniques learnt on the supposedly useless theoretical modules that prepare us for academic careers (a point also made by Forsyth & Evans, 2019, in the context of history education). If an authentic assessment should mirror a real-life workplace, then arguably, the traditional assessments and settings of the undergraduate liberal law degree are of high

fidelity as real-life academic exercises. In publishing papers on authentic assessment, commentators engage with and seek the affirmation of the very academic world that is simultaneously rejected as inauthentic, yet essays and the research skills required for them are the precursors of academic articles; dissertations are the training ground for the Ph.D. and monograph, which may well develop undergraduate ideas. There are ways of adapting traditional essays to better suit students with special educational needs, and they need not be singular or summative (contra Berger & Wild, 2017, 429), but such adjustments arguably speak to accessibility rather than authenticity (see also Fawns et al., 2024). Regarding the heavily criticised one-shot assessment model, much emphasis is placed in the literature on the undesirability of traditional unseen, closed-book, timed and in-person exams, which are positioned as peak inauthenticity (e.g. Collins, 2022; Knight & Ferrell, 2022; Berger & Wild, 2017; Whittam, 2023). I agree with the criticism that they are indeed stressful, inaccessible, often superficial and seldom replicated in professional contexts, but I question whether many law schools, domestically at least (c.f. Collins, 2022 for an NZ perspective), still use these pervasively in any case. Research reporting their use as widespread appears to be dated (e.g. Maharg, 1999 as cited in Whittam, 2023, 129), and Bedford et al., (2024, 64) note that for decades now, the trajectory of university assessment strategy has been to shift away from such modes of assessment. Facing a steeply increasing number of students with mental health difficulties (Lewis & Stiebahl, 2024), disabilities/special educational needs (Bolton & Hubble, 2021) and with virtually no experience of traditional exams post-pandemic, it would be a courageous institution which adopted their widespread use. Of all the law and criminology modules in the 2024–2025 Lancaster LL.B. degrees, only one has any unseen, timed and in-person element that resembles a traditional exam, and many have moved to include MCQs and short answer responses to mirror the SQE and Bar training assessments. If an anxiety which drives the university towards authentic assessments as resembling practice is the rise of AI (e.g. Oxford Brookes, 2023; Manchester Metropolitan University, 2023), the work of the professional lawyer is increasingly automated in any case as is the world of the academic, and it is noted that ChatGPT can readily achieve respectable marks on MCQ assessments, not least element 1 of SQE (Avjeski et al., 2023; Bin-Nashwan et al., 2023; Watermeyer et al., 2023; Rose, 2023; Gilbert, 2023; see also Fawns et al., 2024 on authentic assessment and AI more generally). Logically, the threat of AI would factor in favour of returning to traditional in-person exams, which, as noted above, are widely acknowledged as inaccessible and questionable ways of assessment when lacking appropriate adjustments. It would also logically advocate oral in-person exams, something that has been recently suggested (Brogan et al., 2024, in an Australian context) as an authentic legal assessment in its resembling court advocacy. Yet this calibration of authenticity in terms of resemblance to the legal profession is again open to challenge. Many academics will recognise the ultimate academic examination of the viva voce and its singularly stressful circumstances. It serves as a—perhaps arguably *the*—unique moment of pressure in the forging of our professional academic identities, and as an invaluable precursor to the inevitable (and usually fairly incoherent) ‘triple-part’ conference paper question, invariably designed to say more about the questioner’s research prowess than the presenter and requiring of an extempore response. As a one-shot method of summative assessment, it is certainly not without criticism, but like traditional essays, this is arguably more to do with accessibility and reasonable adjustment than legitimacy or authenticity (Sandland et al., 2023).

The current schism: authenticity, vocationalism and liberal legal education

In contrast to much of the emerging legal discourse, Bedford et al., (2024, from an Australian perspective) are critical of the link between authenticity, vocationalism and practical assessment, noting that many law students will not pursue a legal professional career, and liberal arts skills such as theory, critique and historical perspectives are equally valuable (see also Bunbury & Philippopoulos-Mihalopoulos, 2023, concurring in the domestic context). In Bedford et al.'s (2024) view, engaging students in law reform tasks (also advocated by Collins, 2022 in an Aotearoa/New Zealand context) can provide the best of both worlds, in that students can work on real-life problems in a manner that requires both traditional black-letter legal skills and critical thinking as well as vocational skills such as advocacy, oriented towards realistic stakeholders such as governmental agencies, international organisations, community groups and corporations. Such assessments provide the student with a worthy and transformative intellectual task which can challenge the status quo, thus delivering on authenticity values and echoing the critiques of McArthur (2023) and Ajjawi et al. (2024). It is their focus on the tension between vocationalism and liberal approaches to law degrees, and their framing of the location of authentic assessment within this, which I find valuable; as for me, this sharply foregrounds the debate in the domestic context, particularly as noted with the emerging alignment described above of vocationalism with authenticity. Commenting in the domestic context, Whittam (2023) is also alive to this debate and similarly observes the divergence between the liberal education and vocational approach. However, she consciously chooses not to engage with it directly (2023, 130), considering rather that the advent of the SQE gives fresh impetus to the question of vocationalism, which she then explores in the context of assessment tasks that resemble legal practice to provide authenticity (2023, p. 130). Observing that legal scholarship and research is still 'coin of the realm' (2023, p. 140 quoting Curcio) when it comes to career development, she argues that there must be institutional recognition of, and support for, the effort required in introducing authentic learning and assessment (2023, p. 140). Whilst she is not suggesting that authentic, i.e. vocational assessments replace liberal arts ones, her view is that they can be introduced alongside them as 'authentic moments' (2023, p. 140). As she concludes, 'authentic learning and assessment is not incompatible with a liberal vision of legal education' (2023, p. 140).

I do not think that this divergence can be so readily sidestepped. Rather, I consider it fundamental to the entire debate. Whilst in agreement that there needs to be appropriate institutional acknowledgement and reward for the efforts required in creating and administering them, I question how authentic assessments, framed as practitioner-oriented, can coexist comfortably with liberal education and assessment when the binary hierarchy of value that the dyad effects renders that same approach, and the world of academia it prepares us for, as the inauthentic 'other', further entrenching the schism between the two. In the context of the marketisation of higher education, as Flynn (2023, p.91, citing Hall) observes: 'Economic imperatives appear to take precedence over the social goals of education, and as such, HE now represents a consumer-driven entity, driven by the processes of marketisation', a condition which the emergent discourse on authenticity reinscribes. In the context of legal education, scholarship which draws on postmodern theory has critiqued the way in which the conditions of post-capitalism have forced a new agenda, whereby 'not just the role of the university but knowledge itself is being transformed into the neo-liberal political economy' and where the corporatisation and commodification of learning

are central (Boon et al., 2005, p. 480–1). Whilst Bradney (2003, p. 125) argues that ‘the law school does not exist to service the needs of the legal profession or anyone else....it is not a “House of Intellect for the Legal Profession,” it is simply a “House of Intellect”’, the increasing framing of authenticity as vocational means that it is harder to resist the development of legal education and law as ‘the handmaidens..., or maybe the *consigliere*, of economic efficiency and the juridification of everyday life’ (Boon et al., 2005, p. 491 citing Flood). This challenges the survival of a liberal legal education when value is translated as economic value, i.e. how well does it align with the commercial demands of the legal profession and new capitalism, rather than value in the broader sense of pursuing legal knowledge and scholarship as a good in itself. It is the inculcation of a habit of mind or training in sensibility which opens us to the nature of, and connections within, our world, and our place within it—ensuring we acknowledge this and informing our choices and responses accordingly, that is the objective of the liberal law degree (Bradney, 2003, p. 41–2). Whilst this aligns to some extent with the broadened and socially responsible vision of authentic assessment that McArthur (2023) and Ajjawi et al. (2024) share, the framing of authenticity as equalling vocationalism in the context of legal education makes it difficult for more critical and ‘academic’ style subjects without a clear analogue to the legal profession, such as legal history; jurisprudence; law and literature; sociology and anthropology of law; post-modern legal theory; law and art; law and film; critical race theory and gender, feminist and queer legal studies, to be seen as valuable and in turn to be valued by students or the University. As vividly summarised by McArthur (2021): ‘Universities have become risk averse and frightened of unpopularity with students. Students must have the same epistemological diet of white bread, lest they choke on anything more nutritious or challenging’, and traditionally academic and theoretical areas are already starting to vanish from universities more broadly (Guinness, 2024; Richmond & Saunders, 2014; Riley-Smith, 2024). Indeed, unless hitched to some kind of legal practice, law reform, allied policy influencing or ‘external stakeholders’, it is hard to see how the purely academic study or critique of *any* area of law has value in the prevailing discourse, in danger of leaving the degree so intellectually impoverished that it is no longer worthy of the name. As Usher and Edwards (1994, p.175) quoting Lyotard state, with the current mercantilisation of knowledge, ‘the question (overt or implied) now asked by the professionalist student, the State, or institutions of higher education is no longer “Is it true” but..., “Is it saleable?”’. In the same vein, the proliferation of indexes of authenticity, taxonomies, and the suggestions of its mathematical calculability feed into the audit and metrics culture that now pervades the knowledge economy of higher education, becoming distinctly panoptic in nature and engaging us in our own (further) surveillance, something markedly counter to the ideals of a liberal education (Bradney, 2003, p. 162 *et seq.*; see also Flynn, 2023; Shore, 2008).

In marketing scholarship, where the semiotics of authenticity have been interrogated through a deconstructionist lens, the term has been revealed as highly ambiguous and dynamic, open to contradictory readings and carrying multiple valences (Thompson and Kumar, 2022). Authenticity is so highly prized in the world of commercialism that it is considered ‘the most rare and coveted asset in the contemporary branding landscape’ (Thompson & Kumar, 2022, p. 21 citing Fournier and Eckhardt), bestowing on the consumer the hallowed trifecta of cultural legitimacy, moral authority and identity validation (Thompson & Kumar, 2022, p. 34). As Gerber (2019 citing Harvey) notes, as a branding asset, ‘its rising prominence in the last few years needs to be seen within the general tendency of commodification, the neoliberal “financialization of everything” ...the authentic is seen as the limit that the market forces cannot reach, the last bastion of the self in a world that is “selling out”’. Yet the attempt to consolidate the self through the consumption of the authentic

is futile: '[t]he "critical" view of authenticity leads to the very same relentless dynamic: In the experience of being lost, the authentic self seeks expression, but its expression once again confirms the power of the market, which pushes for new expressions through new consumptions' (Gerber, 2019). Thus, whilst dogs do not naturally wear perfume, Dolce & Gabbana's newly launched canine scent is advertised (with a human voiceover, as puppies do not speak either): 'I am: Delicate. Charismatic. *Authentic*. Sensitive. Enigmatic. Rebel. Fresh. Irresistible. Clean. "Cause I'm not just a dog. I'm Fefé"' (Dolce & Gabbana, 2024, my emphasis). It cannot be coincidental that the championing of authenticity in the discourse of legal education happens at the zenith of marketisation and mercantilisation generally—when the broader fourfold pressures on law schools (namely the marketisation of the higher education sector, SQE, clinical education and apprenticeships, as previously described) force the re-entrenchment of that education as vocationalism—that it emerges at this precise moment as the degree's most 'saleable' value, attempting to speak to the last bastion of the self and pushing for new expressions. Positioned as consumers, our buy-in is sought with the epistemic and ontological evocation of the real. Vocationalism as peak authenticity becomes the most powerful way to advertise the product, and thus it is sold, whilst the critique provided by a deconstructive perspective—a skillset only provided by the decidedly non-commercial and chin-stroking theoretical—illustrates how problematic, unstable and contingent the term can be.

(Vive la) resistance?

Having considered the emergence of authentic assessment and its current framing in legal education, I have reviewed existing critiques and suggested that a deconstructive approach is necessary. Whereas McArthur's (2023, p.93) 'awful phrase' is the 'real world of work', I have sought to argue that it is actually the word 'authentic' in authentic assessment itself which is awful, shown on a deconstructive reading to create a discourse where the quotidian work of the academic is inauthentic and devalued. A deconstructive reading reveals that 'authenticity' is not constructed in this context as a neutral or benevolent term, rather, it becomes overdeterministic and works to privilege certain forms of assessment and teaching that reinscribe a neoliberal worldview where the value and function of a law degree is measured by the ability to produce high-value workers for the legal profession and equally high economic returns for the same. If the core mission of authenticity is to effect positive influence in the world, then arguably the critique of authenticity must be the agentic change of academia. As Boon, Flood and Webb, quoting Dahrendorf, observe: 'All intellectuals have the duty to doubt everything that is obvious, to make relative all authority, to ask all those questions that no one else dares to ask' (2005, p. 488). It becomes necessary to assert that a law degree which is turned to the service of training legal professionals alone is an intellectually impoverished one to the point where it can no longer be described as a university degree (a critique which chimes with voices that challenge the direction of university education more broadly, e.g. Ashwin, 2020); yet arguably, this is the logical telos of the current framing of authenticity as vocational. It is difficult to resist the mercantilisation of knowledge and the increasing role of legal education as the '*consigliere* of economic efficiency' (Boon et al., 2005, p. 491 citing Flood) but unless objection is voiced, the status quo will remain unchallenged. A law degree should have a place for lawyerly skills and academic skills; assessments should foster both in a way that is engaging, inclusive and meaningful, but as I have shown, the current discourse of authenticity and the hierarchy

of value that it effects makes their co-existence and equality difficult, if not impossible, to achieve.

It could be objected that the argument presented here is just as flawed as the one I accuse the proponents of making. My own repeated use of the term ‘liberal’ in relation to the work of traditional (i.e. non-vocational) law degree could be seen to endow it with a positivity it may not validly possess, tacitly serving to cast the vocational negatively as the illiberal, and—with no small degree of irony—appealing to the heartening, solid, genuine and warm qualities of integrity conveyed by the specific term ‘traditional’; the very values of *authenticity* that advertisers so often draw on to great effect when conjuring the superior qualities of, say, the traditional pub, restaurant or item of craftsmanship. To oppose authentic vocational assessment with the liberal law degree risks casting the latter as the world of ‘pure’ (and thus superior) knowledge, unsullied by the grubby demands of the financial, yet this is not straightforward as ‘traditional’ can equally be read negatively as outdated, backwards, undeveloped and inefficient. Much depends on the context, but as I have sought to show, that very context, and particularly the economic one behind the current framing of vocational as authentic, means that it is valorised in problematic ways. It is difficult to debate the area without falling into the same semantic trap, and perhaps the best I can do is to highlight and reflect on this. Switching the binary does not disturb the othering function of the authentic/inauthentic dyad as it simply replicates the problem, and asking ‘whose authenticity is at stake’ likewise fails to resolve the issue, as broadening the meaning defers the contingent ‘othering’ of the expanded ‘authentic’ onto whichever adjacent spheres of work or intellectual endeavour fail to align with prevailing, i.e. mercantile, notions of value. In highlighting the difficulties of the word ‘authentic’, it is not my intention to simply replace one pair of the binary with the other and argue that traditional academic work with no correlation to the legal profession is somehow the ‘more’ real and thus the ‘truly’ authentic, as deconstruction is never that simple, disturbing as it does the very notion of an original and copy. Within the logic of deconstruction, for binary oppositions, as Usher and Edwards (1994, p. 140) point out: ‘[T]here is no resolution...where the opposition can be transcended. Instead, there is a continual and unresolvable tension and conflict where who prevails at any one point in time is not a matter of philosophy i.e. who has the best (rational) arguments, but of history, i.e. power’. We can always be at a pivotal moment, and in this critique of the authentic, I seek to tip the balance and shift where the power lies in the current debate. Inauthenticity and authenticity rely on each other like the two sides of a coin, and they are not straightforwardly reversible or separable, but what I have sought to show is that on its current construction, authentic assessment read as vocational is reductive and exclusionary in a way that liberal legal education is not—it is not a straightforward switch. Liberal legal education can—crucially—encompass the vocational, whereas the reverse is not the case. As Bradney (2003, p. 41–3) explains, liberal education does not necessitate the denigration of the vocational, nor does it refuse its value. Rather: ‘What liberal education requires is not that the information that a student acquires...be of no vocational significance but that it should not be acquired because of any such significance, but, instead, because of its wider possibilities in the search for knowledge’ (Bradney, 2003, p.44). As outlined above, my objection to ‘authentic’ is that it is operational in a readily recognised and clearly demarcated binary *hierarchy*, and this article has exposed how the function of that word in the current context works negatively for academic versions of the study of law. Whilst it is true that following Derridean logic, identities are inevitably created by some degree of exclusion, and how these categories are never entirely stable, other terms may be chosen that are less distinctly polarised, such as in the way that whilst both binaries, blue and orange are socially and culturally read, in a Western context,

at least, as less hierarchical in terms of value than black and white. The deconstruction of any successor term should in turn continue, and the process does not end. It is beyond the scope of this article to contain those debates, but it is certainly the objective to catalyse them.

I do not challenge the *bona fides* of commentators who greet practice-oriented assessment with enthusiasm and point to its positive qualities, many of which I agree with, but as I have sought to show, the language of authenticity is fundamentally problematic. Faced with the command that we ‘must’ embed authentic assessment as our goal (Berger and Wild (2017, p.29, my emphasis), for my part, critiquing it becomes a vital and necessary act of dissent, particularly in the current socio-economic climate. It is true that other forms of resistance are available and are likely already in play. It is undeniable that authentic assessment is gaining much traction publicly—there are clearly proponents of authentic assessment and increasingly embedded institutional support for it—but this does leave the question of what academics themselves in general think of it, whether they see merit in calls for it, and how they react to it in practice. As Trow (1975) observes in his exploration of the relationship between public authorities and higher education, there can be seen to be a distinction between the public life of universities, this being all discussion and planning that affects the university as made by those external to it, such as government policies and relevant state departments, and the private life of universities, namely the daily life of the classrooms and lecture halls and those who teach in them. Trow notes that ‘[t]here are, of course, connections between these spheres...rarely direct...almost always more complicated than public discussion might suggest’ (1975, 113) but that it is rather less clear what direct impact the public discussion and policy has on the private sphere of the lived experience of higher education on the ground (1975, *ibid.*). It could be objected that by my focussing on the official narrative of authentic assessment now being best practice, I am missing the picture on the ground and failing to account for the private life of the university which may bear no resemblance to the public. Published scholarship or institutional policy might be objected to as the tip of the iceberg, concealing a potentially greater proportion of feeling from academics on the ground—a silent majority, perhaps—who have not voiced an opinion but are just quietly continuing with disfavoured types of assessment; whether this be as a strategic move, through lack of choice, or something else. Legal academics are under numerous and ever-changing pressures to alter the nature of their practice, and in the absence of data on what they are doing or how they feel, how should we read their silence? Linguistic legal scholarship on silence draws attention to the risks of reading it as value neutral or as lack (e.g. Montoya, 2000; Roberts, 2000). It is notable that as a reaction to the broader neoliberalisation of higher education, emergent movements such as ‘quiet quitting’ (Lawless, 2023) and ‘slow scholarship’ (Mountz et al., 2015) advocate inaction and silence as a transgressive and necessary academic survival strategy, as opposed to it being indifference, ignorance or apathy. In a suitably Derridean vein, I could be criticised, in my drawing attention to the proponents of authentic assessment and choosing publication as resistance, of a ‘logocentric privileging of voice’ (Hom as cited in Montoya, 2000, 265) and text over its absence; failing to see silence as agentic, communicative, disruptive and powerful, and investing it with all the negatives of the speech/silence dyad. It is hard to account for the private reaction to authentic assessment either way, but arguably, to seek data on this would run into the same difficulty that Trow suggests besets the current analysis of higher education, in that seeking to capture measurable responses, for example, through empirical research, would produce a partial and limited view, reinforce the idea that only the capturable is valuable, and fail to account for the silence of non-responders (1975, 116). I accept the criticism that there are other ways to resist, but at the same time, in the absence of

dissenting voices and publications, the status quo becomes increasingly entrenched and the official narrative of what is best practice remains unchallenged on its own terms.

In/conclusions

In this article, I have noted the rise of authentic assessment in academia generally, and in the context of the English and Welsh Law School specifically. I have argued how, against a background of the marketisation of higher education, changes to professional qualification, the rise of clinical education and legal apprenticeships, the appeal of authentic assessment as resembling the lawyerly makes it hard to resist, and it is notably embedded as best practice at institutional and supra-institutional level. However, I have sought to argue that resistance to it is essential, in that the current interpretation of authenticity as equating to the vocational is highly problematic, valorising only the profession, and marginalising the academic. Reviewing existing critiques of authentic assessment, I have sought to develop my own based on deconstructive lines, showing how the term ‘authentic’ only makes sense if there is an ‘inauthentic’ against which it is compared. In the current knowledge-economy, the authentic/inauthentic is valorised as a binary hierarchy which maps on to the privileging the profession as the true sphere of the real and valuable, the academic being cast as irrelevant, theoretical and artificial, and as such, less worthy—a structuring that has concerning implications for the direction of legal education, wherein non-vocational approaches and options are increasingly marginalised. If there is no room for theory and non-vocational approaches, the law degree is reduced to a practitioner’s toolkit, as opposed to an intellectual project. Whilst proponents of authentic assessment laud its ‘realness’, a deconstructive reading demonstrates the contingency and partiality of this stance. As such, I have argued that the term ‘authentic’ should be rejected, as it reinscribes the division between liberal legal education and vocationalism.

Having reflected on the difficulties that a deconstructive reading creates as well as solves, what its replacement should be is less clear, and it is not the place of this article to suggest alternatives. Postmodern theories such as deconstruction best offer observations rather than concrete solutions, advancing through ‘questioning and critique, rather than firm conclusions, which will almost certainly not be shared by everyone’ (Usher & Edwards, 1994, 207), and in the same vein, the end to this article does not come in the form of a neat solution, being more inconclusive than conclusion. I have explained how I should not—and cannot—advocate for the vocational to be supplanted by the academic as the ‘new’ and ‘superior’ authentic or real, or argue for the authentic’s expansion, as this would be to fail to understand how deconstruction works, but deconstructing the language of authenticity and its predominant framing in legal education is arguably essential in developing the debate on what the purposes of the law degree should be, and in avoiding the current reification of the vocational through the discourse of authenticity. As I have sought to argue, the dominant discourse of authenticity as vocational in legal education is both damaging and reductive, and the term ‘authentic’ which renders it so is simply unacceptable for the reasons I have outlined above. Other words to describe lawyerly assessments should be found to substitute that do not so markedly reinforce the professional as the superior value; creative and inclusive modes should be welcomed; the inquiry cannot remain stuck in the closed system of the oppositional. Debate should be had, and replacement terms be subject to critique as is proper. Whichever understanding evolves, in presenting this article, as a legal academic who would not have been so were it not for useless,

theoretical and chin-stroking modules which provided me with the knowledge and skills to write it, I offer up my best act of resistance.

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References

- Ajeviski, M., Barker, K., Gilbert, A., Hardie, L., & Ryan, F. (2023). ChatGPT and the future of legal education and practice. *The Law Teacher*, 57(3), 352–364. <https://doi.org/10.1080/03069400.2023.2207426>
- Ajjawi, R., Tai, J., Dollinger, M., Dawson, P., Boud, P., & Bearman, M. (2024). From authentic assessment to authenticity in assessment: Broadening perspectives. *Assessment & Evaluation in Higher Education*, 49(4), 499–510. <https://doi.org/10.1080/02602938.2023.2271193>
- Allen, E. (2021). Not a moot point? Mooting as an authentic assessment practice in law? *JADE: The Journal of Academic Development and Education*, 13, <https://doi.org/10.21252/fxtz-2z31>
- Ashford, C. (2024). The Quality Assurance Agency Law Subject Benchmark Statement 2023. *The Law Teacher*, 58(3), 421–427. <https://doi.org/10.1080/03069400.2024.2358699>
- Ashford-Rowe, K., Herrington, J., & Brown, C. (2014). Establishing the critical elements that determine authentic assessment. *Assessment & Evaluation in Higher Education*, 39(2), 205–220. <https://doi.org/10.1080/02602938.2013.819566>
- Ashwin, P. (2020). *Transforming university education: A manifesto*. Bloomsbury.
- Bar Standards Board. (2023). Statistics on practising barristers. Retrieved November 15, 2024, from <https://www.barstandardsboard.org.uk/news-publications/research-and-statistics/statistics-about-the-bar/practising-barristers.html>
- Bedford, N., Bonython, W., & Taylor, A. (2024). Law as it is, and how it could be: Law reform participation as authentic assessment and a pedagogical tool. *The Law Teacher*, 58(1), 58–73. <https://doi.org/10.1080/03069400.2023.2288415>
- Berger, D., & Wild, C. (2017). Enhancing student performance and employability through the use of authentic assessment techniques in extra and co-curricular activities (ECCAs). *The Law Teacher*, 51(4), 428–439. <https://doi.org/10.1080/03069400.2016.1201745>
- Bin-Nashwan, S., Sadallah, M., & Bouteraa, M. (2023). Use of ChatGPT in academia: Academic integrity hangs in the balance. *Technology in Society*, 75(102370), 1–11. <https://doi.org/10.1016/j.techsoc.2023.102370>
- Bleasdale, L., Rizzotto, B., Stalker, R., Yeatman, L., McFaul, H., Ryan, F., Johnson, N., Linden, T. (2020). Law clinics: What, why and how? In T. Linden and N. Johnson (Eds.), *The Clinical Legal Education Handbook* pp. 7–56. University of London Press.

- Bolton, P., Hubble, S., (2021). *Support for disabled students in higher education in England*. House of Commons Library Research Briefing No. 8716, February 2021. Retrieved 13 November 2024 from <https://commonslibrary.parliament.uk/research-briefings/cbp-8716/>
- Boon, A., & Webb, J. (2008). Legal education and training in England and Wales: Back to the future? *Journal of Legal Education*, 58(1), 79–121.
- Boon, A., Flood, J., & Webb, J. (2005). Postmodern professions? The fragmentation of legal education and the legal profession. *Journal of Law and Society*, 32(3), 473–492.
- Bradley, A. (2008). *Derrida's of grammatology: An Edinburgh philosophical guide*. Edinburgh University Press.
- Bradney, A. (2003). *Conversations, choices and chances: The liberal law school in the twenty-first century*. Hart Publishing.
- Bradney, A. (2004). University law schools and the legal profession: The academic legal profession - academic or legal. *European Journal of Legal Education*, 1(2), 1–14.
- Bradney, A. (2008). Elite values in twenty-first century, United Kingdom law schools. *The Law Teacher*, 42(3), 291–301.
- Bradney, A. (2024). The sound of silence: The SRA and the SQE. *The Law Teacher*, 58(1), 150–153. <https://doi.org/10.1080/03069400.2023.2288412>
- Bradney, A. (2016). Dumbing down the law: The SRA's proposals for legal training. Politeia. Retrieved 13 November 2024 from <https://www.politeia.co.uk/wp-content/Politeia%20Documents/2016/Feb%20-%20Dumbing%20down%20the%20Law/'Dumbing%20Down%20the%20Law'%20Feb%202016.pdf> ISBN 978–0–9926340–5–6
- Brogan, M., Gooding, B., & Feld. (2024). The viva voce: A post-pandemic assessment. *The Law Teacher*, 58(4), 442–468. <https://doi.org/10.1080/03069400.2024.2359865>
- Brown, S., Sambell, K. (2022). A step-by-step guide to designing more authentic assessments. Retrieved November 14, 2024, from https://lta.hw.ac.uk/wp-content/uploads/GUIDE-NO31_A-step-by-step-guide-to-designing-more-authentic-assessments.pdf
- Bunbury, S., & Philippopoulos-Mihalopoulos, M. (2023). The law school degree show: Law, materiality, decolonization and authentic assessment. *The Law Teacher*, 57(2), 187–200. <https://doi.org/10.1080/03069400.2022.216124>
- Burridge, R., & Webb, J. (2007). The values of common law legal education: Rethinking rules, responsibilities, relationships and roles in the law school. *Legal Ethics*, 10(1), 72–97. <https://doi.org/10.1080/1460728X.2007.11423883>
- Burton, K. (2011). A framework for determining the authenticity of assessment tasks: Applied to an example in Law. *Journal of Learning Design*, 4(2), 20–28. <https://doi.org/10.5204/jld.v4i2.72>
- Chartered Institute of Legal Executives. (CILEX). (n.d.) <https://www.cilex.org.uk/>
- Collins, T. (2022). Authentic assessment – The right choice for students studying law? *Legal Education Review*, 32(1), 1–18. <https://doi.org/10.53300/001c.34707>
- Crouch, R., Hallowell, S. (2021) Law degrees: The saviour of UK universities. Retrieved November 14, 2024, from <https://www.lexisnexis.co.uk/pdf/Law-degrees-the-Saviour-of-UK-universities.pdf>
- Curcio, A. (2009). Assessing differently, and using empirical studies to see if it makes a difference: Can law schools do it better? *Quinnipiac Law Review*, 27, 899–933.
- Davies, M. (2017). Changes to the training of English and Welsh lawyers: Implications for the future of university law schools. *The Law Teacher*, 51(1), 100–125. <https://doi.org/10.1080/03069400.2017.1394145>
- Derrida, J. (1972/1987). *Positions*. Translated by Alan Bass. The Athlone Press.
- Derrida, J. (1982/2014). *Cinders*. Translated by Lukacher, N. University of Minnesota Press.
- Fawns, T., Bearman, M., Dawson, P., Nieminen, J., Ashford-Rowe, K., & Willey, K. (2024). Authentic assessment: From panacea to criticality. *Assessment & Evaluation in Higher Education*, 50(3), 396–408. <https://doi.org/10.1080/02602938.2024.2404634>
- Flynn, S. (2023). Academia in liquid modernity: Digital overload, cultivation, and authenticity in teaching work. *Review of Education, Pedagogy, and Cultural Studies*, 45(1), 90–106. <https://doi.org/10.1080/10714413.2021.2007208>
- Forsyth, H., & Evans, J. (2019). Authentic assessment for a more inclusive history. *Higher Education Research & Development*, 38(4), 748–761. <https://doi.org/10.1080/07294360.2019.1581140>
- Dolce & Gabbana. (2024). *Fefé*. Retrieved November 14, 2024, from https://www.dolcegabbana.com/en-ro/beauty/dog-perfume-fefe/?clickref=1011LzKmc5kn&utm_source=cwc&utm_medium=affiliate&utm_campaign=skimlinks_phg&utm_content=cpa
- Geach, N., Whittam, S., Ní Drisceoil, V., Wilson, J. (2024). Authentic assessment in law: Critical and practical reflections part II. Retrieved November 14, 2024, from Authentic Assessment in Law: Critical and Practical Reflections Part II

- Gerber, T. (2019). Revisiting Adorno's "Jargon of Authenticity" (1964). *Epoché*, 26, unpaginated. Retrieved November 14, 2024, from <https://epochemagazine.org/26/revisiting-adornos-jargon-of-authenticity-1964/>
- Gilbert, A. (2023). Revealed: Could ChatGPT pass the SQE? Retrieved November 14, 2024 from https://www.lawgazette.co.uk/commentary-and-opinion/revealed-could-chatgpt-pass-the-sqe/5114840.article?_gl=1*qjg844*_up*MQ.*_ga*ODY1MjI0MzczLjE3Mjg4OTAzNTA.*_ga_M6CW48FCF6*MTcyODg5MDM1MC4xLjAuMTcyODg5MDM1MC4wLjAuMA.*_ga_T9B48VKB23*MTcyODg5MDM1MC4xLjEuMTcyODg5MDM1MC4wLjAuMA.*_ga_LPF4PE6ZB2*MTcyODg5MDM1MC4xLjAuMTcyODg5MDM1MC4wLjAuMA.*_ga_VTZWF13LJ0*MTcyODg5MDM1MC4xLjAuMTcyODg5MDM1MC4wLjAuMA.*_ga_54TJ9VJQYR*MTcyODg5MDM1MC4xLjAuMTcyODg5MDM1MC4wLjAuMA
- Government Family Court Statistics Quarterly, Oct-Dec 2023. (2023). Retrieved from <https://www.gov.uk/government/statistics/family-court-statistics-quarterly-october-to-december-2023/family-court-statistics-quarterly-october-to-december-2023#legal-representation>
- Guinness, E. (2024). Goldsmiths University accused of 'quietly killing off' queer and black history degrees. Retrieved November 14, 2024, from <https://www.independent.co.uk/news/uk/home-news/goldsmiths-queer-studies-university-controversy-b2583762.html>
- Guth, J., & Dutton, K. (2018). SQE-ized out: SRA, status and stasis. *The Law Teacher*, 52(4), 425–438. <https://doi.org/10.1080/03069400.2018.1534341>
- Guth, J., & Mason, L. (2018). Editorial: Re-claiming our discipline. *The Law Teacher*, 52(4), 379–383. <https://doi.org/10.1080/03069400.2018.1533163>
- Hallowell, S. (2021). Law degrees could help save UK universities from the brink. Retrieved November 14, 2024, from <https://www.lexisnexis.co.uk/blog/future-of-law/law-degrees-could-help-save-uk-universities-from-the-brink>
- Hart, et al. (2011). The real deal: Using authentic assessment to promote student engagement in the first and second years of a regional law program. *Legal Education Review*, 21(1), 97–122.
- Holt, E. (2024). University rules to SCRAP English literature degrees as the subject is 'no longer viable in the current climate'. Retrieved November 14, 2024, from <https://www.dailymail.co.uk/news/article-14044941/university-scraps-English-literature-degree.html>
- Hood, C., & Symmonds, C. (2022). The solicitor apprenticeship. *The Law Teacher*, 56(3), 420–426. <https://doi.org/10.1080/03069400.2022.2058291>
- Innocence Network. (n.d.) <https://innocencenetwork.org/>
- Iverson, H., Lewis, M., & Talbot, R., III. (2008). Building a framework for determining the authenticity of instructional tasks within teacher education programs. *Teaching and Teacher Education*, 24, 290–302. <https://doi.org/10.1016/j.tate.2007.09.003>
- Jones, D. (2019). Legal skills and the SQE: Confronting the challenge head-on. *The Law Teacher*, 53(1), 35–48. <https://doi.org/10.1080/03069400.2018.151584>
- Kam, L., Ruyters, M., Coburn, C., & Toohey, M. (2012). Get real! A case study of authentic learning activities in legal education. *Murdoch University Law Review*, 19(2), 17–32.
- Knight, S., Ferrell, G. (2022). Principles of good assessment and feedback. Retrieved November 14, 2024, from <https://www.jisc.ac.uk/guides/principles-of-good-assessment-and-feedback>
- Kritzman, L. (Ed.) (1998). *Michel Foucault, politics, philosophy, culture, interviews and other writings 1977–1984*. Routledge.
- Lawless, B. (2023). Performative enactments of resistance to academic neoliberalization: Quiet quitting as educational transgression and sustainability. *Communication Education*, 72(3), 316–319. <https://doi.org/10.1080/03634523.2023.2207144>
- Lewis, J., Stiebahl, S. (2024). Student mental health in England: Statistics, policy and guidance. House of Commons Library Research Briefing. Retrieved November 14, 2024, from <https://commonslibrary.parliament.uk/research-briefings/cbp-8593/>
- Le Roux-Kemp, A. (2024). *The Law Teacher*, 58(3), 396–420. <https://doi.org/10.1080/03069400.2024.2353990>
- Longitudinal educational outcomes graduate outcomes provider level data. (2024). Retrieved November 14, 2024, from <https://explore-education-statistics.service.gov.uk/find-statistics/graduate-outcomes-leo-provider-level-data>
- Lord Burnett of Maldon. (2021). Evidence to the Justice Committee Tuesday, 16th November 2021. Retrieved November 14, from <https://www.judiciary.uk/wp-content/uploads/2022/07/Lord-Burnett-Justice-Select-Committee-evidence-session-transcript-2021.pdf>
- Manchester Metropolitan University. (2023). Authentic assessment. Retrieved November 15, 2024, from <https://www.mmu.ac.uk/about-us/professional-services/uta/assessment/authentic>

- Marson, J., Wilson, A., & Van Hoorebeek, M. (2005). The necessity of clinical legal education in university law schools: A UK perspective. *International Journal of Clinical Legal Education*, 7, 29–43.
- Mason, L. (2018). SQEeizing the jurisprudence out of the SRA's super exam: The SQE's Bleak Legal Realism and the rejection of law's multimodal truth. *The Law Teacher*, 52(4), 409–424. <https://doi.org/10.1080/03069400.2018.1532170>
- McArthur, J. (2023). Rethinking authentic assessment: Work, well-being, and society. *Higher Education*, 85, 85–101. <https://doi.org/10.1007/s10734-022-00822-y>
- McArthur, J. (2021). Rethinking authentic assessment in a post-COVID world: Is it right to hope for change? Retrieved November 14, 2024, from <https://www.lancaster.ac.uk/educational-research/blogs/rethinking-authentic-assessment-in-a-post-covid-world-is-it-right-to-hope-for-change/>
- McNamara, N. (2016). Authentic assessment in contract law: Legal drafting. *The Law Teacher*, 51(4), 486–498. <https://doi.org/10.1080/03069400.2016.1211853>
- Meyers, N., & McNulty, D. (2009). How to use (five) curriculum design principles to align authentic learning environments, assessment, students' approaches to thinking and learning outcomes. *Assessment and Evaluation in Higher Education*, 34(5), 565–577. <https://doi.org/10.1080/02602930802226502>
- Moi, T. (1985). *Sexual/textual politics: Feminist literary theory*. Meuthen.
- Montoya, M. (2000). Silence and silencing: Their centripetal and centrifugal forces in legal communication, pedagogy and discourse. *University of Michigan Journal of Law Reform*, 33(3), 263–328. <https://repository.law.umich.edu/mjlr/vol33/iss3/4>.
- Mountz, et al. (2015). For slow scholarship: A feminist politics of resistance through collective action in the neoliberal university. *ACME: An international E-Journal for Critical Geographies*, 14(4), 1235–1259.
- Mueller, J. (2005). The authentic assessment toolbox: Enhancing student learning through online faculty development. *Journal of Online Learning and Teaching*, 1(1), unpaginated. Retrieved November 14, 2024, from https://jolt.merlot.org/documents/vol1_no1_mueller_001.pdf
- Oxford Brookes University. (2023). Principle 4: Adopt authentic assessment. Retrieved November 15, 2024, from <https://www.brookes.ac.uk/staff/working-at-brookes/learning-and-career-development/academic-enhancement-and-development/teaching-and-learning/genai-university-wide-policy-and-practice/principle-4>
- Puchalska, B. (2004). Legal education: Professional, academic or vocational. *European Journal of Legal Education*, 1(2), 15–34.
- Quality Assurance Agency. (2023). Law: Subject Benchmark Statement. Retrieved November 15, 2024, from <https://www.qaa.ac.uk/the-quality-code/subject-benchmark-statements/subject-benchmark-statement-law>
- Richmond, H., & Saunders, R. (2014). Mickey Mouse learning: Discourses of the vocational/technical in higher education. *Conference Paper*. <https://doi.org/10.13140/2.1.1222.3368>
- Riley-Smith, B. (2024). Conservatives vow to shut down 'Mickey Mouse' degrees. Retrieved November 14, 2024, from <https://www.telegraph.co.uk/politics/2024/05/28/conservatives-vow-to-shut-down-mickey-mouse-degrees/>
- Roberts, D. (2000). The paradox of silence: Some questions about silence as resistance. *University of Michigan Journal of Law Reform*, 33(3), 343–358. <https://repository.law.umich.edu/mjlr/vol33/iss3/6>.
- Roberts, S., & Weathered, L. (2009). Assisting the factually innocent: The contradictions and compatibility of innocence projects and the criminal cases review commission. *Oxford Journal of Legal Studies*, 29(1), 43–70. <https://doi.org/10.1093/ojls/gqn022>
- Rose, N. (2023). Lawrence the 'AI paralegal' passes SQE with flying colours. Retrieved November 14, 2024, from <https://www.legalfutures.co.uk/latest-news/lawrence-the-ai-paralegal-passes-sqe-with-flying-colours>
- Rowan, C. (2022). University drops English literature course 'because graduates struggle to get highly-paid jobs.' Retrieved November 14, 2024, from <https://www.telegraph.co.uk/news/2022/06/26/english-literature-course-suspended-university-poor-job-return/>
- Sandland, B., MacLeod, A., Hall, N., & Chown, N. (2023). Accommodation through personalisation: Ensuring the autistic student has an equal opportunity for success in the PhD viva voce. *Journal of Further and Higher Education*, 47(10), 1404–1419. <https://doi.org/10.1080/0309877X.2023.2250740>
- Shore, C. (2008). Audit culture and illiberal governance: Universities and the politics of accountability. *Anthropological Theory*, 8(3), 278–298. <https://doi.org/10.1177/1463499608093815>
- Smith, C. (2024). Take that, Freshfields: Quinn hikes NQ pay to £180,000. Retrieved November 15, 2024, from <https://www.thelawyer.com/take-that-freshfields-quinn-hikes-nq-pay-to-180000/>
- Solicitors Regulation Authority. (n.d.). What is the SQE? Retrieved November 15, 2024, from <https://sqa.sra.org.uk/about-sqe/what-is-the-sqe>
- Solicitors Regulation Authority. (2023). News release: Apprentices perform well on new solicitors' exam. Retrieved November 15, 2024, from <https://www.sra.org.uk/sra/news/press/2023-press-releases/apprenticeships-week-2023/#:~:text=Apprentice%20pass%20rates%20were%20on,apprentices%20well%20for%20the%20SQE.>

- Squires, J. (1996). Fabulous feminist futures and the lure of cyberculture. In J. Dovey (Ed.), *Fractal Dreams: New Media in Social Context* (pp. 194–216). Lawrence & Wishart Ltd.
- The Complete University Guide (2025) Retrieved November 14, 2024, from <https://www.thecompleteuniversityguide.co.uk/league-tables/rankings>
- The Law Society. (2022). Are our courts fit for purpose? Retrieved November 15, 2024, from <https://www.lawsociety.org.uk/topics/research/are-our-courts-fit-for-purpose>
- The Law Society. (2024). Perfect storm brewing in family courts as rising numbers represent themselves. Retrieved November 15, 2024, from <https://www.lawsociety.org.uk/contact-or-visit-us/press-office/press-releases/perfect-storm-brewing-in-family-courts-as-rising-numbers-represent-themselves>
- Thompson, C., & Kumar, A. (2022). Analysing the cultural contradictions of authenticity: Theoretical and managerial insights from the market logic of conscious capitalism. *Journal of Marketing*, 86(5), 21–41. <https://doi.org/10.1177/00222429221087987>
- Trow, M. (1975). The public and private lives of higher education. *Daedalus*, 104(1), 133–127.
- Unger, A. (2020). Legal education future(s) - The changing relationship between law schools and the legal profession. In Cownie, F., Jones, E (Ed.) *Key Directions in Legal Education*, pp. 3–17, 1st Ed. Routledge.
- University of Reading. (2023). Designing authentic assessment. *Centre for Quality Support and Development*. Retrieved November 15, 2024, from <https://www.reading.ac.uk/cqsd/-/media/project/functions/cqsd/documents/ade/tandl-resources/prp-authentic-assessment.pdf?la=en&hash=BDEBEC0DC939ECEFEA40BF02341C8C06>
- Usher, R., & Edwards, R. (1994). *Postmodernism and education* (1st ed.). Routledge.
- Watermeyer, R., Phipps, L., Lanclos, D., & Knight, C. (2023). Generative AI and the automating of academia. *Postdigital Science and Education*, 6(446–466), 466. <https://doi.org/10.1007/s42438-023-00440-6>
- Whittam, S. (2023). Keeping it real: The case for introducing authentic tasks in a UK undergraduate law degree. *Legal Education Review*, 33, 127–142.
- Young, I. (1990). Gender trouble, feminist theory, and psychoanalytic discourse. In L. Nicholson (Ed.), *Feminism/Postmodernism* (pp. 300–323). Routledge.

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