

FOREWORD – SPECIAL ISSUE

I THE GOALS OF TEACHING PUBLIC LAW

In a response to what she viewed as a crisis in education, Hannah Arendt described education as requiring nothing less than ‘the renewal of our common world’:

Education is the point at which we decide whether we love the world enough to assume responsibility for it and by the same token save it from that ruin which, except for renewal, except for the coming of the new and young, would be inevitable.¹

Arendt connects education to broader public goals. For some disciplines, such lofty aspirations might seem unobtainable, and even irrelevant, to the teaching enterprise. However, in law, and in public law particularly, the broader goals of education align clearly with our pedagogical mission.

In the discipline of law, it is widely accepted that we are doing more than simply training lawyers, and that our teaching reflects deeper scholarly values, as William Twining describes them, of ‘free inquiry, interest in human nature, breadth of perspective, intellectual discipline, independence of thought and judgment, and love of truth’.² In Anthony Kronman’s celebrated book, *The Lost Lawyer*, he responds to what he sees as a crisis affecting the legal profession and restates the important ideal of the ‘lawyer-statesman’. The lawyer is taught ‘first, love of the public good, and second, wisdom in deliberating about it.’³

Public law teaching has a special place within legal education. Only a modest proportion of law students will practice in the area of administrative law, and far fewer in constitutional law. Yet these subjects are foundational in all Australian law degrees. This reflects the fact that the core ideas of public law underpin the practice of all forms of law in Australia. Furthermore, while the number of law students in Australia continues to grow, many will not go on to practise law at all. This presents a particular challenge to public law teachers who must, if they take Arendt’s challenge to commit to renewal seriously, seek ways to make the foundational public law values relevant for life outside the law.

¹ Hannah Arendt, ‘Crisis in Education’ (1958) 25(4) *Partisan Review* 493, 513.

² William Twining, ‘Pericles and the Plumber’ in William Twining, *Law in Context: Enlarging a Discipline* (Clarendon Press, 1997) 87.

³ Anthony T Kronman, *The Lost Lawyer: Failing the Ideals of the Legal Profession* (Harvard University Press, 1993) 54.

II THE CHALLENGES OF TEACHING PUBLIC LAW

The interesting pedagogical questions in teaching public law relate to identifying the core ideas, values, institutions and doctrines of public law and how they can be conveyed through the teaching enterprise to all students. The teaching of public law must, then, connect to the broader educational aspirations of Arendt, Twining and Kronman for all students.

Teaching public law is a responsibility and an opportunity. Through teaching public law, we provide students with tools that help them engage meaningfully in public life. A robust public law education is fundamental to producing engaged citizens, responsible legal professionals, and future leaders. We need our citizens, lawyers and leaders to have a clear sense of where government power comes from, to understand the accountability framework within which it is exercised, and to engage with the relationship of the people to the state.

Public law is inherently dynamic. There continue to be contested views of its core ideas and values; new institutions are introduced and old ones modified; and its principles change and evolve through the legislative and judicial process, as well as the practice of government. Further, the teaching of public law occurs within an environment where institutional and technological pressures require us regularly to revise our curriculum and practice.

With this context in mind, this special issue of the *Legal Education Review* on teaching public law has a commitment to renewal of our common world at its core. It is part of a shared and ongoing endeavour to give the next generation a love of the public good, and wisdom in deliberating about it. These articles were initially presented at the inaugural *Public Law in the Classroom* workshop hosted by the Gilbert + Tobin Centre of Public Law, University of New South Wales and the Public Law and Policy Research Unit, University of Adelaide, on 12 February 2015.

III THE SPECIAL ISSUE

The special issue commences with two articles that address curriculum challenges faced by public law teachers in Australia. Graeme Orr (University of Queensland), in his article ‘Teaching Public Law: Content, Context and Coherence’, reflects on the challenge of bringing coherence to the teaching of public law by searching for a unifying account of public law. There is, Orr argues, a normative smorgasbord at the heart of public law, replete with diverse and conflicting ideological accounts of government. Orr identifies a temptation to engage students in public law by relying heavily on a context-driven approach, and drawing on contemporary case-studies of policy and politics. Although such contextual material can stimulate interest and discussion, bringing more abstract public law questions to life, Orr warns that overuse of this material can compromise a clear understanding of the unifying concepts and values that underpin public law.

In her article ‘Breadth and Depth? Pitching Public Law Content in the Classroom’, Sarah Murray (University of Western Australia) responds to Justice Mark Leeming’s challenge to public law teachers to keep constitutional law ‘living, useful and relevant’. Murray reconceptualises this challenge, as one not necessarily about choosing what concepts and principles to teach in public law courses at any given time, but how to equip students with the skills and desire to tackle the future challenges of constitutional law.

In ‘Legal Education, Public Law and the Global Law Student: The Role of Social Media in Opening our Horizons’, Melissa Castan (Monash University) and Kate Galloway (James Cook University) explore how the practice of teaching public law through social media can engage students and the wider community. Through a series of case studies, Castan and Galloway investigate how social media has been used to enhance and encourage students to engage in debates and advocacy with a broader public law community of students, academics, professionals and the wider public.

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