

TEACHING PUBLIC LAW: CONTENT, CONTEXT AND COHERENCE

GRAEME ORR

ABSTRACT

Modern law owes its provenance and enforcement to one branch of government or another. But not all law is 'public law' simply because it emanates from public bodies, affects the public or serves public purposes. This paper begins by defining public law, compares its Australian, UK and US conceptions, and contrasts it with private law. It charts the conventional paradigm of public law as an umbrella sheltering constitutional and administrative law, built on the concept of government. This neat, if narrowing, idea of public law is reflected in the dominant themes in contemporary public law teaching and scholarship (such as accountability or representative democracy).

Yet given the diversity of ideological and functional accounts of what government is 'for', public law lacks any unifying account. A descriptive definition based on the notion of government captures the core *content* of public law, but a normative smorgasbord lies at its heart. This creates challenges – both positive and negative – for teachers of public law.

As a result, and alongside the decline in black letter teaching in favour of case-study approaches, thematic first level courses in 'principles' of Australian public law have flourished. To engage commencing students who are often civics-ignorant, the pedagogical response has been to draw on contemporary policy and politics to lend *context* to such courses in public law. However such a 'magazine-y' approach poses challenges for *coherence*.