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DARE TO KNOW

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EDITOR'S NOTE

Failure is a privilege.
It propels us to find solutions and **challenges** us to be better human beings.

I was challenged in 2016 by many experiences that may have been perceived as 'failures.' New opportunities, obligations and experiences all came knocking on my door. But in the absence of past experience, how are we meant to know the best way to welcome our new guest? How do we, as humans, comprehend the concept that someone in the world is waking up each morning dedicated to the cause of making another's life terrible? Whether we be victims of bullying or vilification, **we must know that we are never alone**. Whilst our journeys are unique, the heroin of the story exists within ourselves, and **with the right support and outlook, we have the potential to unlock this heroin and regain the control of our lives**. For, as Marcus Aurelius once said: *How peaceful life would be if it were all to greet you- tragedy, happiness, failure; as an old and faithful friend?*

With this outlook, we transform our disadvantage into lessons and we grow. In the year that was, thanks to the support of our fellow students and the University, *Sapere Aude* has transformed losses into great success. Whilst our Spring 2016 edition discontinued circulation, we enter the new year with not only an improved magazine but a stronger team dynamic and more safeguards for every member. It is our objective to continue the fostering of excellence. **This means MORE networking opportunities and MORE experience that will improve your academic, professional and personal development**. This is our goal here at *Sapere Aude*, and we are duly proud of all that we have created.

Part of our legacy is fostering a stronger connection with our local and legal community. This was achieved in our 2016 annual event, **Are U Aware? United Support for Mental Health**. Additionally, Dare to Know Publications, not only including *Sapere Aude* but also our newest sister production, *Bitesize Law*, were Highly Commended at the **Vice-Chancellor's Excellence Awards 2016**. These achievements are a testament of the faith our community holds in us and will continue to inspire us to fail, challenge and innovate.

On this note, I encourage all our students to develop your resilience and expand your outlook through education and participation. Here at *Sapere Aude*, we always have our door open to the ideas you have and will continue to do our best in serving our students and community. Our student team here at the magazine look forward to the year ahead.

Marija Yelavich
Founder, Dare to Know Publications - Sapere Aude

***About* Dare To Know Publications**

Dare to Know Publications is an official student club of Western Sydney University.
Founded in 2013 by students, the Club aims to promote community engagement through student publishing.
The Club is proud to have two student-led productions: "Sapere Aude"- the leading student law magazine, and "Bitesize Law"- an online legal animation series which brings law to life. Through our student-centred productions, Dare to Know Publications strives to create platforms of communication that allows students to develop personally and professionally. Celebrating diversity and critical thinking, Dare to Know Publications welcomes all students to join in our journey of innovation and creativity.

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DEAN'S LETTER

Congratulations to the editorial team, writers and producers of the Western Sydney Law School Sapere Aude publication. I know how much hard work goes into producing a quality magazine. The team starts work on the next issue, often before they have published the previous edition! There has been a great balance between serious and important legal issuing being discussed on these pages, but balanced by some more light-hearted and reflective pieces.

It is an important time in the history of Western Sydney University School of Law – can you believe that the Law School has turned 21 years old – this is a great reason to celebrate. In July 2016, the School of Law combined its usual wonderful Awards Night for the law students winning prizes for coming top in particular law units, with a celebration of the 21 year history. All the former deans of both Nepean and Macarthur institutions, and the more modern UWS Parramatta and Campbelltown campuses, were present – including the Foundation Deans of Professor Robin Woellner and Professor Razeen Sappideen. Then the first combined Head of School (law dean) Professor Carolyn Sappideen and myself. It was a privilege to hear Adjunct Professor Mac Collins (who was a law academic at Western Sydney for over 30 years, before retirement) reflect on the law school. Similarly, a current graduate, Taylor MacDonald, with two outstanding law alumni, Deng Adut (lawyer and 5 million downloads of his advertisement for the University) and Veronica Siow (partner at Allens) spoke of what it was like to be a law student through those 21 years.

Additionally, the Indian Government, has generously donated a bronze bust of Dr Ambedkar (who drafted the Indian Constitution, and was a famous jurist and social reformer), which was unveiled in the Parramatta Moot Court, in July 2016. The unveiling was conducted by the High Commissioner for India and the Deputy Vice-Chancellor (Academic) of the University, in the refurbished Moot Court and looks amazing.

The yearlong consultation, conducted by Dr Michelle Sanson, has resulted in an outstanding paper for the new units in the first semester of law school. The Law School will debate the various recommendations and implement a new approach for 2017 to make sure every law student is well prepared before tackling the Priestley 11 requirements of criminal law, contracts, torts and criminal. More details will be announced as the new year continues.

Once again, this is a great edition of Sapere Aude – well done to Marija Yelavich, as Editor in Chief and her whole team.

All the best, Professor Michael Adams
Dean, School of Law, Western Sydney University

ARE *HUMAN RIGHTS* EXCLUSIVE TO HUMANS?

A critical analysis of why 'rights' exist and how they should be applied to all sentient beings.

- **Lucinda Borg** -

Historically, rights were based on the exclusivity of one's race, political views or religion.[1] As a result, greater weight was given to the interests of members of one's own group simply for the reason that they were part of that group. However, the Universal Declaration of Human Rights ('*UDHR*') aimed to re-characterise human rights as a non-exclusive concept, whereby every human was entitled to certain rights regardless of individual differences.[2] The *UDHR* was the result of society's realisation that 'any defender of full legal capacity for some but not all humans had to find some independent reason to justify the differential legal status'.[3]

This article will re-evaluate whether there is a distinction between all humans and animals that can justify including the former and excluding the latter from the status of a legal-rights holder. In order to so, the various legal, scientific and sociological arguments concerning the principles that underpin universal entitlement to human rights will be assessed. Specifically, it will argue that it is based on a principle of suffering because it is the lowest common denominator to afford all humans legal rights.[4] As a result, it is argued other species who also meet this threshold should be afforded rights. This article, will also compare current Australian legislation dealing with animal welfare to international law and propose a number of recommendations regarding the implementation of rights based on suffering.

II. Why do we have human rights?

The question why humans have 'human' rights is frequently taken to be a simple matter because they are allegedly 'intrinsic' or 'innate' to humans. However, this fails to answer the question which challenges why they are 'intrinsic' to only humans and not animals.[5]

As the law has not yet defined why humans have human rights, academic opinion is the major component of discussion in this area. Broadly speaking, opinion is split into two camps of thought. The first school of thought is that humans have the cognitive ability to understand rights and uphold them and the second is that humans have the capacity to suffer and rights exist to prevent and minimise that suffering.[6] In order to assess whether animals are excluded from having 'human' rights, the arguments for and against both schools of thought must be evaluated.

A. Cognition

Cognition is the popularly argued reason why animals are excluded from the status of a legal-rights holder.[7] In fact, Article 1 of the *UDHR*, states that humans 'are endowed with reason and conscience and should act towards one another in a spirit of brotherhood'.[8] However, these human characteristics, purported by the *UDHR*, fail in most aspects to exclude all nonhuman animals from qualifying as a legal-rights holder. Scientific studies have demonstrated that apes have the ability to communicate first 'person' accounts, strongly evidencing that they have a 'consciousness'.[9] Furthermore, most observers of work by Sue Savage-Rumbaugh with bonobos monkeys have equated the cognitive capacity of chimpanzees with three or four year old human children.[10]

If animals having at least the cognitive capacity of human children is not a sufficient basis for animal rights to arise, the degree of cognition necessary to be a legal-rights holder must be seriously questioned. A finding that bonobos monkeys do not have legal rights because they do not have the requisite 'reason and conscience' necessarily provides grounds to also exclude human infants, who have not yet developed the required cognitive ability; elders, who have lost that ability; and the severely cognitively impaired, who will never have that ability.

However, while most would argue that it is preposterous to suggest that infants, elders and the cognitively impaired do not have rights, many still argue that animals do not have rights based on cognition. The standard of cognition frequently argued for appears to be the ability to articulate one's rights.[11] This standard is justified, according to Richard Epstein, by the argument **that human rights impose a responsibility to uphold these rights for those who are also entitled to them.**[12] In the US case, *Nonhuman Rights Project v Lavery*, Justice Karen Peters stated in her findings that chimpanzees do not have legal rights because 'unlike humans, they cannot submit to societal responsibilities or be held legally accountable for actions'.[13]

Similarly, this argument to exclude all nonhuman animals from a legal-rights holder status also appears to ignore that it supports the removal of human rights from any person who cannot reason above the threshold required. However, overlooking this logical gap, the cognition argument has also been critiqued by Tom Reagan and Peter Singer in terms of how relevant the ability to understand the responsibility of others' rights is when determining legal rights-holder status.[14] Reagan argues that any being that has such qualities as perception, memory or preferences, has value and that sentient being should have the right to be protected.[15] Therefore, to measure their value relative to whether they can contribute to humanity's existence is highly inappropriate.[16] On that basis, people of severe mental impairment have little value and should not be protected by rights, contradicting the idea conceptualised by the *UDHR* that 'All human beings are born free and equal in dignity and rights'.[17]

B. Suffering

The alternate hypothesis regarding why humans have human rights is linked to the capacity to suffer, an arguably lower threshold than the aforementioned standard of cognition.[18] This idea was purported as early as 1789, when Jeremy Bentham wrote 'the question is not, can they reason? Nor, Can they talk? But, Can they suffer? Why should the law refuse its protection to any sensitive being?'.[19] The concept of suffering has since been expanded to encompass the idea of preferences and the strength of aversion to those situations not preferred.[20]

Rights arising from the capacity to suffer operate for the purpose of providing protection on an indiscriminate basis. As a result, on this basis, humans who are cognitively impaired would have human rights afforded to them despite not meeting the cognitive function threshold of the previous school of thought.

Nevertheless, there have been a range of arguments made against the suffering principle, including the difficulty to test suffering, especially on animals.[21] Therefore, without being able to demonstrate the capacity for animals to suffer there would be no basis to make changes to current rights practices. However, Marian Stamp Dawkins counter-argues that the suffering of animals can be tested as demonstrated by experiments that have identified many animals' preferences.[22] Further, some of these experiments have proven useful for more than merely identifying animal preferences relating to the aversion of suffering. They have also proven useful in testing assumptions about animal preferences, consequently refining society's understanding of what is a humane environment for an animal and its species.[23] As a result, preference tests are one example of how suffering can be determined without the benefit of language to describe pain.

Other arguments against the suffering principle include that the 'suffering' approach requires speciesm [24] and setting 'arbitrary' distinctions. This is based on pain and suffering among species operating along a continuum, as opposed to a dichotomy of whether a species does or does not suffer.[25] Therefore, allowing certain species to have rights because they are capable of suffering on a level arbitrarily selected as sufficient still unfairly discriminates against certain species. However, this argument loses its merit upon further analysis. As Singer illustrates, the continuum is complete 'with overlaps between the species, from simple capacities for enjoyment and satisfaction, or pain and suffering, to more complex ones'.[26] Here, Singer argues that distinguishing suffering does not necessarily lead to setting arbitrary limits if suffering is recognised in the various ways it can be experienced. This would be recognised by affording an appropriate right to protect against a specific form of suffering. This is opposed to an approach where a list of set rights are given based on distinguishing whether a species does or does not suffer. Therefore, chickens would not have the right to an education like humans, but arguably the right to a large enough environment that does not suppress their natural behaviour.

In conclusion, the cognitive argument, in comparison to the suffering argument, is weaker, primarily because of its inconsistency with the notion that all humans should have human rights. However, it should be noted that while arguments against the suffering principle are not adequately substantiated, they do demonstrate that the application of this principle to rights is critical.

III. Applying rights to non-humans

In order to demonstrate that rights should be applied to a species of animal on the basis of suffering, scientific research must present evidence that the animal is, to a significant degree, suffering. This was demonstrated by the 2015 landmark case in Argentina that involved an orangutan named Sandra who lived in captivity her whole life.[27] The Association of Officials and Lawyers for Animal Rights filed a writ of habeas corpus on behalf of Sandra, alleging that she had experienced depression as a result of being held in captivity from birth.[28] This was demonstrated by her shy behaviour and inclination to hide away for large amounts of time.[29] It was submitted to the court by Leif Cocks and Gary Shapiro:[30]

> **'In being with a high level of consciousness and sensibility, loss of freedom and loss of choice to a high degree is a form of suffering. That is why in human societies revoking freedom and choice is used deliberately as a punishment. Orangutans are highly aware of power and freedom in relationships. They also feel the loss of power and the loss of freedom and suffer from that.'**

As a result, it was argued that Sandra's alleged suffering entitled her to a right to liberty.[31] After hearing expert evidence, Argentina's Supreme Court found that Sandra should be recognised by the law as a nonhuman subject with rights.[32]

Furthermore, it is important that the task of understanding the suffering of animals is set out by legislation as a proactive role, as opposed to being left to courts to analyse each species based on the individual cases presented. For example, the German *Animal Welfare Act* states that it is the responsibility of human beings to protect the well-being of other sentient beings,[33] which unfortunately has not yet been considered by Australian legislation.[34]

IV. Australia's stance on animal rights

Despite such countries as France viewing pets as sentient beings,[35] Austria affording nonhuman animals constitutional protection and Spain granting nonhuman primates rights,[36] Australian legislation views animals as mere property.[37] As a result, the level of protection provided to animals by Australian legislation correlates with the animal's 'perceived' usefulness to human interests.[38]

The most substantive regulations for animal welfare in New South Wales comes from the *Prevention on Animal Cruelty to Animals Act 1970 ('POCTA')*.[39] Section 5 provides that it is a crime to 'unreasonably, unnecessarily or unjustifiably' inflict pain or suffering upon an animal.[40] However, because *POCTA* does not define 'unnecessary' acts, nor the burden of proof required to prove an act is necessary [41] or a substantive range of common acts that are to be considered necessary, this allows discretion as to whether necessity

is to be based on the interests of animals or humans.[42]

Beak trimming [43] is an example of a common cruel practice in animal husbandry that is not included in *POCTA*. As result, it has been the role of other authorities to demonstrate whether the practice is 'necessary', such as the Primary Industries Standing Committee Model Code of Practice for the Welfare of Animals, in which, according to 13.2, beak trimming can be an acceptable practice.[44] In an interview with the Minister for Water, who was representing the Minister for Primary Industries, 13.2 was justified on the basis that beak trimming is a "world-wide [practice] to reduce the risk of cannibalism" and the Code regulates its use.[45] However, scientific research has provided strong evidence that chickens resort to cannibalism as a result of cruel treatment.[46] It is hardly necessary to subject chickens to the pain during and after beak trimming when it is a practice used in order prevent a situation that is a product of cruelty. As a result, 13.2 is an example of animal interests not being considered either because this was the intention of *POCTA* or a result of *POCTA* not being specific. This is in contrast to such international legislation as the Norwegian *Animal Welfare Act* 1974 that specifically bans beak trimming.[47]

There are many other issues relating to *POCTA* regarding the failure to account for the best interests of animals,[48] though the recommendations in this article will be catered towards those specific to enacting animal rights. Firstly, the basis underpinning why rights, including human rights, exist needs to be defined in legislation in order to ensure that rights are logically applied and not subject to arbitrary and unjustified boundaries. As previously discussed, the logical basis recommended would be the suffering of sentient beings because it is the basis most consistent with the *UDHR*. Secondly, as science has demonstrated that extreme suffering is experienced by some animals,[49] those animals should accordingly be given a legal-rights holder status. Thirdly, it is recommended that Australia introduce these enactments on a directive [50] basis, as seen with the European Union, which was highly successful in removing the use of battery cages.[51] This is in recognition of the many amendments which would need to be enacted in order to recognise animal rights as a result of Australia's slow legal reform in animal welfare. [52] Fourthly, legislation needs to provide rights on a species-specific basis, addressing suffering as it is experienced by each species, in order to ensure suffering is effectively prevented and arbitrary boundaries of suffering are not set.[53]

V. Conclusion

In conclusion, Australia's stance on why human rights exist is critical to the legal rights of both human and nonhuman animals. Based on the *UDHR* concept that rights are to be provided to all humans, the basis for entitlement to these rights must be a low enough threshold to include all humans. As a result, the principle of suffering not only provides that rights are purely a protective mechanism without unfair conditions, it also sets a threshold which does not exclude certain humans who may fail to meet a cognitive ability threshold. The concept of suffering conceived by Bentham should be enshrined by law as the basis underpinning rights, and applied accordingly to each species. If this is not adopted, much like the way society has reflected on notions such as racism, in the future notions such as speciesism, that exist for the sake of convenience, will be reflected on to be as, if not more, inhumane.

Footnotes

1. Miyun Park and Singer, 'The globalization of animal welfare: more food does not require more suffering' [2012] (March-April) Foreign Affairs 122..
2. Ibid.
3. Richard Epstein, 'Animals as Objects, or Subjects, of Rights' (2002) 171 Law & Economics Working Paper 13.
4. Peter Singer, 'All Animals are Equal' in Tom Reagan and Peter Singer (eds), Animal Rights and Human Obligations (Prentice-Hall, 1989) 148-162.
5. Ibid.
6. Epstein, above n 3, 17.
7. Ibid.
8. The Universal Declaration of Human Rights art 1.
9. Sue Savage-Rumbaugh, William Mintz Fields and Jared Tagliatela, 'Age Consciousness: A perspective informed by language and culture', 40 American Zoologist 920.
10. Peter Singer, Rights for Chimps (July 29 1999) The Guardian <http://www.theguardian.com/science/1999/jul/29/1>.
11. Epstein, above n 3, 19.
12. Ibid.
13. Nonhuman Rights Project Inc v Lavery, 124 AD 3d 148 (NY, 2014).
14. Peter Singer, 'Animal Liberation or Animal Rights?' in Linda Kalof and Amy Fitzgerald (eds), The Animal Reader: The Essential Classic and Contemporary Writings (Bloomsbury Academic, 2007) 17.
15. Ibid.
16. Ibid.
17. The Universal Declaration of Human Rights art 1.
18. Singer, above n 4.
19. Jeremy Bentham, 'Principles of Morals and Legislation' in Linda Kalof and Amy Fitzgerald (eds), The Animal Reader: The Essential Classic and Contemporary Writings (Bloomsbury Academic, 2007) 9.
20. Marian Stamp Dawkins, 'The Scientific Basis for Assessing Suffering in Animals' in Peter Singer (ed), In Defense of Animals (Blackwell Publishing, 2006) 28.
21. Ibid 33.
22. Ibid.
23. For example, the Brambell Committee (1965) had recommended that hexagonal wire should not be used as battery cage floors because it was assumedly uncomfortable for chickens. However, when chickens were given the option of either hexagonal wire floors or courser flooring, chickens preferred the former.
24. Speciesm is the assumption of human superiority leading to the exploitation of animals.
25. Epstein, above n 3, 22.
26. Peter Singer, 'All Animals are Equal' in Tom Reagan and Peter Singer (eds), Animal Rights and Human Obligations (Prentice-Hall, 1989) 148-162.
27. Steve Jacobs, Orangutan named Sandra Fights for Freedom in Argentina court (21 May 2015) The Sydney Morning Herald <http://www.smh.com.au/environment/animals/orangutan-named-sandra-fights-for-freedom-in-argentina-court-20150521-gh6f3e.html>.
28. Ibid.
29. Ibid.
30. Shawn Thompson, When apes have choices and preferences (16 March 2015) The Ethical Ape Column <http://news.mongabay.com/2015/0315--ethical-ape-col03.html>.
31. Jacobs, above n 27.
32. Ibid.
33. Tierschutzgesetz [Animal Welfare Act] (Germany) 24 July 1972, BGB1 I, 1972, 1094, 1.
34. Steven White 'Companion Animals: Members of the Family or Legally Discarded Objects?' (2009) 32 (3) UNSW Law Journal 852, 862.
35. David Chazan, Pets no longer just part of furniture in France (16 April 2014) The Telegraph <http://www.telegraph.co.uk/news/worldnews/europe/france/10771361/Pets-no-longer-just-part-of-furniture-in-France.html>.
36. Nicholas Pedersen, Detailed Discussion of European Animal Welfare Laws 2003 to Present: Explaining the Downturn (2009) The Animal Legal and Historical Center <https://www.animallaw.info/article/detailed-discussion-european-animal-welfare-laws-2003-present-explaining-downturn>.
37. LexisNexis, Halsbury's Laws of Australia (at 2 October 2012) 20 Animals, '1 Property in animals' [20-50].
38. White, above n 34.
39. New South Wales Young Lawyers Animal Law Committee, Animal Law Guide New South Wales (2010) The Law Society of New South Wales Young Lawyers <https://www.lawsociety.com.au/cs/groups/public/documents/internetyounglawyers/420246.pdf>.
40. Protection of Cruelty to Animals Act 1979 (NSW) s 5.
41. New South Wales Young Lawyers Animal Committee, Factsheet Livestock under the Law, The Law Society of New South Wales Young Lawyers <https://www.lawsociety.com.au/cs/groups/public/documents/internetyounglawyers/908481.pdf>.
42. Steven White, 'Legislating for Animal Welfare: Making the interests of animals count' (2003) 28(6) Alternative Law Journal 277, 279.
43. Beak trimming is the substantial removal of a bird's upper and lower beak either using a hot blade, a laser or infrared technology.
44. Animal Welfare Committee, Primary Industries Sanding Committee Model Code of Practice for Welfare of Animals Domestic Poultry (CSIRO PUBLISHING, 4th ed, 2002) 19, [13.2].
45. New South Wales, Questions and Answers, Parl Paper No 82 (2008) 3417 [3643].
46. Philip Glatz et al, Beak Trimming Training Manual (February 2002) Rural Industries Research and Development Corporation <http://www.aecl.org/assets/RD-files/Outputs-2/SAR-35AA-FInal-Report.pdf>.
47. Dyrevernloven [Animal Welfare Act] (Norway) 20 December 1974 s 13 (5).
48. Other major issues regarding POCTA include the conflict of interest with having the NSW Department of Primary Industries overseeing the welfare of farm animals used in food production and the inability for authorities to perform random inspections.
49. Committee on Recognition and Alleviation of Pain in Laboratory Animals, Recognition and Alleviation of Pain in Laboratory Animals (National Academies Press, 2009) 20.
50. A directive is a legal act of the European Union, requiring member states to achieve an objective.
51. The EU directive in 1999 to phase out battery cages by 2012, was so successful Germany, Sweden, Finland and Switzerland phased out battery cages by 2007, and Austria by 2009.
52. Clive Phillips, Animal Welfare: an urgent issue with a long, slow solution (20 September 2012) Animals Australia <http://www.animalsaustralia.org/media/opinion.php?op=284>.
53. Epstein, above n 3, 22.

REFLECTION: WAR AND LAW

- Niall Clugston -

The years 2014 to 2018 mark the centenary of the outbreak of the First World War, known at the time as the War to End All Wars. Australia has recently wound down the deployment of troops to Afghanistan, apparently ending the longest war in Australian history. War is never far from the public consciousness, but the related legal issues are often ignored. As Sampford and Palmer point out, discussions of this topic usually deal with international law.[1] Like them, however, I am concentrating on domestic law. After all, international law is often honoured in the breach.

The Defence Power

The 'defence power' in the Australian Constitution provides:

> The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to: the naval and military defence of the Commonwealth and of the several States, and the control of the forces to execute and maintain the laws of the Commonwealth.[2]

The Constitution also mandates:

> The Commonwealth shall protect every State against invasion and, on the application of the Executive Government of the State, against domestic violence.[3]

The phrase 'domestic violence' here does not have the connotation that it has today, but rather refers to an armed insurgency of some kind. Explicitly, the Australian government's war-making power is limited to defence of Australia against direct external and internal threats ('homeland security'). The Constitution certainly does not authorise military interventions around the world. Furthermore, I would argue that the inclusion of 'peace' in the introductory clause of section 51 is no accident. As Street CJ noted in the *BLF case*, the phrase 'peace, order, and good government', or something similar, was used in many similar constitutions throughout the British Empire. He argued persuasively that this phrase cannot be dismissed as a mere 'jingle'.[4]

This point is made clear by a comparison with the US Constitution, which was an important influence on the Australian Constitution, in some aspects acting as a template.[5] In stark contrast to its Australian imitator, the Constitution of the United States of America has eight heads of power relating to the armed forces, including the granting of 'letters of marque' (essentially the authorisation of piracy). Congress has the power to declare war, and this is not limited to defence.[6] The framers of the Australian Constitution chose very deliberately not to follow this example. Broader war powers are conspicuous by their absence.

This is not to say that the Australian Constitution is as 'pacifist' as the Japanese Constitution, imposed after World War Two, which purports to outlaw all military forces. That was circumvented at the time of the Korean War, with the formation of the Japanese Self-Defence Forces, but it is still interpreted to limit Japan to self-defence. In 2014 this was re-interpreted to include participation in overseas wars under the rubric of collective security.[7] Nevertheless, I would argue that there is a parallel: the Australian Constitution was designed to limit the war-making powers of the Australian government. After all, it was a law passed by the British Imperial Parliament.[8] There was never an intention that Australia would wage war unilaterally. Australia's armed services operated as part of the Empire's forces until the Second World War. At the start of that war in 1939, Australian Prime Minister Robert Menzies announced:

> Fellow Australians, it is my melancholy duty to inform you officially, that in consequence of a persistence by Germany in her invasion of Poland, Great Britain has declared war upon her and that, as a result, Australia is also at war.[9]

Hence Australia entered the war automatically as a result of the British declaration of war, as it had in the First World War.[10]

The Royal War Prerogative

Declaring war is a function of the executive, and the executive power is different from the legislative power granted under s 51(vi) of the Constitution. According to s 61 of the Constitution, the 'executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General as the Queen's representative'. Furthermore, s 68 nominates the Governor-General as commander-in-chief of the armed forces.[11] This constitutional position was endorsed by referendum in 1999.[12]

During World War One, Isaac J argued these provisions 'carry with them the royal war prerogative, and all that the common law of England includes in that prerogative'.[13] In the throes of World War Two, Australia adopted the *Statute of Westminster*, which devolved royal prerogatives to the Governor-General.[14] As a result, the Curtin government, through the Governor-General, made separate declarations of war against Finland, Hungary, Romania, and Japan.[15]

The Defence Act

The relevant Australian legislation is the Defence Act, which confirms the war-making powers of the Governor-General and relegates the Defence Minister to an administrative role.[16] The statute narrowly defines 'war' as 'any invasion or apprehended invasion of, or attack or apprehended attack on, Australia by an enemy or armed force'.[17] Once again, war-making power is limited to the self-defence of Australia. Oddly enough, however, this definition would exclude all of the wars that Australia has actually fought.

Despite the common assumption to the contrary[18], Australia has never entered a war in defence of its territory. It entered both world wars as a result of events in Eastern Europe. There was a credible fear of invasion in the Second World War, but this only emerged after Japan entered the war on 7 December 1941, more than two years after it started. Even then,

Australia was arguably only at war with Japan because Australian forces were defending the British Empire. By capturing Singapore in February 1942, the Japanese displaced the British as rulers of a vital entrepot and naval fortress. Contrary to Australian perceptions, they were not destroying Australia's forward defences in preparation for an invasion. [19]

In contrast to the *Defence Act's* narrow definition quoted above, Sampford and Palmer refer to 'common sense definitions of war in which there are hostilities between two or more states'.[20] However, this is far from common sense because it would mean that civil wars are not wars. On the same grounds – or quicksands – they state that, with the exception of the two Iraq Wars and possibly the Korean War, none of Australia's post-war military involvements 'would have counted as war in the past'.[21] On the contrary, the Boer War (for example) was always considered as war, even though the British Empire was fighting an insurgency, not another state.

Making War in Practice

Since World War Two, Australia has not declared war. In the Korean War, which broke out in 1950, the Australian government followed the lead of US President Truman who described the war as a 'police action' under United Nations auspices, justifying his failure to obtain a declaration of war from Congress.[22] In the *Communist Party Case*, Dixon J argued that:

> Australian forces were involved in the hostilities in Korea, but the country was not of course upon a war footing, and, though the hostilities were treated as involving the country in a contribution of force, the situation bore little relation to one in which the application of the defence power expands because the Executive Government has become responsible for the conduct of a war.[23]

Regardless of his fancy footwork about a 'war footing', Dixon J did not say that Australia was not at war. Arguably, he was drawing a distinction between a limited war, entailing a relatively small troop commitment, and a total war, entailing a large-scale troop commitment and a national war effort. In any case, the statute in question did not mention the war, but instead referred to the theories of Marx and Lenin, trade unions, and so on.[24]

The Korean War set the pattern for subsequent conflicts. Australia's entry into the Vietnam War was even less formal, officially comprising no more than the despatch of 'military advisers'.[25] Common themes were that Australia was rendering assistance to legitimate governments and enforcing UN resolutions. However, the US-led invasions of Afghanistan and Iraq went much further than this.[26]

Conclusion

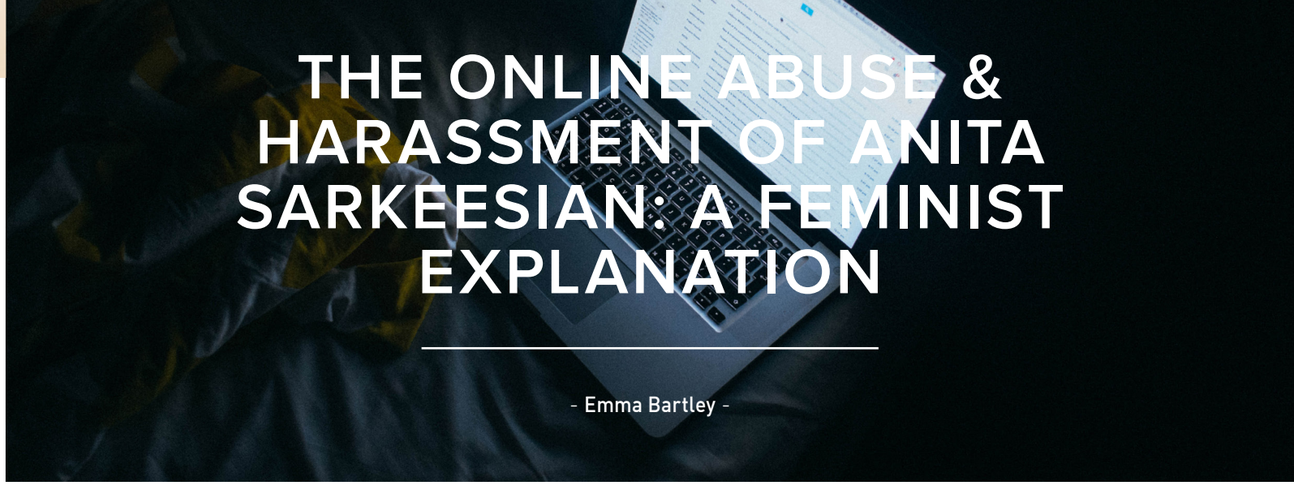
Though wrong about earlier conflicts, Sampford and Palmer are surely correct to point out the unconstitutional nature of Australia's war in Iraq and Afghanistan. They report that Governor-General Peter Hollingworth actually raised the issue with John Howard when troops were sent to both countries, and that Howard advised him that he did not need to be involved.[27] Tony Abbot followed suit when he sent troops to Iraq in November 2014. As we have seen, this is not the correct legal position at all. Until the Constitution and the common law are altered, the royal prerogative to make war remains with the Queen or King, exercisable by the Governor-General. Australia's armed forces are not the prime minister's to command at will.

It is ironic that Howard and Abbott, both avowed constitutional monarchists, trampled on the royal prerogative and the Constitution in this way. While a declaration of war might seem quaint, it is surely not as quaint as twenty-first century knighthoods. Nor is it unreasonable, as Sampford and Palmer point out, to expect the law to be followed in such an important decision as going to war.[28]

Rather than any 'black letter law', Howard and Abbott seem to have followed the dictum enunciated by Richard Nixon in relation to the Watergate scandal: 'When the President does it, that means that it is not illegal'.[29] We can only conclude that with relation to war, Australia has 'a government of men', not 'a government of laws'.[30]

Footnotes

1. Charles Sampford and Margaret Palmer, 'The Constitutional Power to Make Law: Domestic Legal Issues Raised by Australia's Action in Iraq' (2009) 18(2) Griffith Law Review 350, 352, 378.
2. Australian Constitution s 51(vi).
3. Australian Constitution s 119.
4. Building Construction Employees and Builders' Labourers Federation of New South Wales v Minister for Industrial Relations (BLF Case) (1986) 7 NSWLR 372, 385. Cf Union Steamship Co of Australia Pty Ltd v King (1988) 166 CLR 1, 10. Street CJ's argument was made in a minority judgement, but it remains persuasive obiter dicta.
5. See George Williams, Sean Brennan, and Andrew Lynch, Blackshield and Williams Australian Constitutional Law and Theory (Federation Press, 6th ed, 2014) 40, 103-105.
6. US Constitution art 1 § 8.
7. See Matthew Carney and staff, Japan's Cabinet Approves Changes to its Pacifist Constitution Allowing for 'Collective Self-Defence' (1 July 2014) Australian Broadcasting Corporation <http://www.abc.net.au/news/2014-07-01/an-japan-constitution/5564098>.
8. Commonwealth of Australia Constitution Act 1900 (Imp) 63 & 64 Vict c 12, s 9.
9. Deirdre McKeown and Roy Jordan, 'Parliamentary Involvement in Declaring War and Deploying Forces Overseas' (Background Note, Parliamentary Library, Parliament of Australia, 2010) 4.
10. Ibid 3-4.
11. Australian Constitution, ss 61, 68; Sampford and Palmer, above n 1, 353.
12. See Williams, Brennan, and Lynch, above n 5, 1350.
13. Farey v Burvett (1916) 21 CLR 433, 452.
14. Sampford and Palmer, above n 1, 357-359.
15. Ibid 358.
16. Defence Act 1903 (Cth) ss 8, 63; see Sampford and Palmer, above n 1, 363-365.
17. Defence Act 1903 (Cth), s 4; see Sampford and Palmer, above n 1, 367.
18. Cf Williams, Brennan, and Lynch, above n 5, 848, 863.
19. See Peter Stanley, 'Dramatic Myth and Dull Truth: Invasion by Japan in 1942' in Craig Stockings (ed), Zombie Myths of Australian Military History (UNSW Press, 2010) 140, 140-160. Cf Williams, Brennan, and Lynch, above n 5, 848.
20. Sampford and Palmer, above n 1, 369.
21. Ibid.
22. See Sampford and Palmer, above n 1, 368-369; McKeown and Jordan, above n 9, 13-14, 32.
23. Australian Communist Party v Commonwealth (Communist Party Case) (1951) 83 CLR 1, 196. (Bizarrely, though both the judgement and the Communist Party Dissolution Act 1950 (Cth), which it overturned, refer to the Australian Communist Party, no such party existed. The party concerned was, in fact, the Communist Party of Australia.)
24. Communist Party Dissolution Act 1950 (Cth), Preamble.
25. McKeown and Jordan, above n 9, 32.
26. Sampford and Palmer, above n 1, 366-370.
27. Sampford and Palmer, above n 1, 370-372.
28. Sampford and Palmer, above n 1, 380.
29. See Anthony Summers, The Arrogance of Power: The Secret World of Richard Nixon (Phoenix Press, 2000) 345.
30. Cf Milirrpum v Nabalco Pty Ltd (1971) 17 FLR 141, 267.



THE ONLINE ABUSE & HARASSMENT OF ANITA SARKEESIAN: A FEMINIST EXPLANATION

- Emma Bartley -

A conversation began about women in videogames…

Anita Sarkeesian is a woman who started a conversation about how women are represented in video games. Consequently, she became a target: she was harangued with explicitly violent rape and death threats; her Wikipedia page was pornographically vandalised; her personal details were doxxed (published publicly) causing her to flee her home and she cancelled speaking appearances after receiving threats of mass shootings.[1] This abuse and harassment has continued since August 2014, all in response to some YouTube videos critiquing the way women are typified in gaming. [2]

This piece will demonstrate that online crime is gendered, reproducing and exacerbating patterns of offline crime that are articulated by feminist theory. It will contextualise online misogyny as couched within an existing patriarchal social structure. It will also explore how this understanding provides an explanation for the campaign of online abuse and harassment experienced by Anita Sarkeesian, founder of Feminist Frequency.

Perhaps the most important point to take from this piece is the worldview that lies behind it. A worldview that should be, I would argue, of utmost importance to law students and budding lawyers. As law students in what is purported to be a post-feminism age[3], we should be the trailblazers with regard to understanding these nuanced legal issues and their social context. The problem is that we are led to believe that feminist critique is no longer needed and its relevance was only in times now long past. This is problematic given our contemporary, neoliberalist context which is underpinned by the assumption that everyone is a free agent with absolute freedom to shape their life's trajectory. The consequence of this assumption is that those who fail to conform with the gender or racial or socioeconomic hegemony are deemed to deserve whatever less powerful position in society they hold because it is presumed that they got themselves there – they have equal resources, access and opportunity after all. We have not moved on, the post-feminism era is not yet a reality. It is my position that we need feminist theory, and the critical thinking it forces us into, to strip us of our assumptions and help us to better understand the complexities of our social world, online misogyny included. I hope that this piece makes that apparent, or, at the very least, that it has made you think.

In a virtual world that is worse than the real one…

The myth of virtual gaming, and cyberspace generally, is that of escapism; to escape from reality, re-branding oneself to enjoy the fellowship and cordial competition of faceless, nameless, raceless, and genderless people. Hancock, Jolls and Jolls contend that '[s]uch assumptions reflect a utopian vision of new media technologies. In fact, players do not leave their values, attitudes, and beliefs at home; they take them into game spaces'[4]. In this respect, online crime does not transcend offline crime in being less gendered or less violent. Rather, violence is transferred into this novel space where it is replicated and exacerbated.[5]

The gendered nature of offline crime is replicated because the same kinds of gendered violence are being perpetrated and experienced online.[6] For example, the majority of perpetrators of domestic violence are men, and the majority of victims of women. This gendered trend is replicated in that the majority of perpetrators of revenge porn are men, and the majority of victims are women. Shaw asserts, '[m]isogyny, racism, homophobia, etc. were not invented by the Internet, but they are enabled by technology and the cultural norms of Internet communication in which this behavior is supported, defended, and even valued'.[7]

While it is not the case that only women are vilified online, the fact is that the target population of such vilification is predominantly female.[8] There is a trend in victimisation. What is more, though harassment and abuse are often anonymously perpetrated, the threats are gendered, often targeting sexuality and including graphic sexual violence.[9] The mirroring of gendered crime is further affirmed in that, even when men are targets of online abuse, the threats are still distinctly gendered.[10] Barker and Jurasz identify that '[b]ehaviour in online and virtual worlds is arguably embedded in "real life" constructs that are re-enacted in online and virtual environments'.[11] Moreover, just like offline crime, victims of abuse are responsibilised, and even this responsibilisation is gendered. Filipovic explains:

> The argument that women who have the audacity to show their faces online are asking to be demeaned and threatened with sexual violence is one that is leveled, quite simply, only at women.[12]

Thus, there is a replication of the gendered nature of violence online.

Furthermore, online gendered violence appears in exacerbated forms. Barker and Jurasz argue that the internet is a space which 'allows certain aspects of human behaviour to escalate and flourish in an environment which, unlike the real world, is uncontrolled by laws, authority or social conventions and which provides a sense of autonomy and dissociative autonomy'. [13]

This novel and unregulated environment creates room for new forms of abuse to emerge.[14] This is evident in the innovative forms of harassment and abuse that have developed. Two examples are revenge porn, which simply did not have the medium to exist before the Internet; and gendertrolling, which manifests as a form of online sexual harassment and works to systematically target and silence women from fully engaging in public space and debate.[15]

For the sake of clarity, all of this is not to say that all men who engage in the Internet, and gaming in particular, are necessarily misogynists or guilty of complicit misogyny.[16] Rather, it is to say that there are distinct patterns that are demonstrably gendered. Those who contend that this is simply part of being online or that the genders are equally affected are invited to consider the following comment:

> I'm trying to think of an instance when anonymous women descended, spewing violent rape or castration threats, upon a man for expressing an opinion … It is not, typically, what happens to men on the Internet.[17]

Filipovic identifies with this notion:

> Men certainly live with their fair share of nasty online attacks, but women are harassed in a very particular way. Men are generally attacked for their ideas or their behavior; when Internet aggressors go after women, they go straight between the legs. [18]

Along the same line of argument, Jane notes that 'gendered vitriol is proliferating in the cybersphere; so much so that issuing graphic rape and death threats has become a standard discursive move online'.[19] This proliferation indicates that this issue is a structural as opposed to an individual one. Jenson and De Castell explain that there is a shift in videogaming culture:

> from the individual case of a single woman being harassed while speaking and playing in an online game, or when simply writing or blogging about games, to a structural level that ties in with social and cultural gender norms, as well as with political and legal structures that have yet to come 'online' to offer real protection from misogynistic hate speech.[20]

Thus, it is evident that this is a structural issue, embedded in the patriarchal framework that is entrenched in the industry and culture of gaming.[21] This amounts to a reproduction and exacerbation of historical gender inequalities. As Jane articulates:

> this phenomenon is diagnostic not so much of a problem a particular man has with a particular woman and her opinions, but of a broader social issue involving issues of gender equity, as well as a tenacious sexism. The cyber medium is new but the e-bile message has roots in a much older discursive tradition: one which insists women are inferior and that their primary function is to provide sexual gratification for men.[22]

The point is that these are not isolated incidents; they are ubiquitous in women's engagement with online fora and therefore the issue is systemic. This is unsurprising as, considering the gender inequities that permeate society offline, it should be expected that the same patterns would be reproduced online. These patterns are indicators of a structural issue. The relevant structure is patriarchy, which functions to maintain hegemonic masculinity.

By way of explaining these two very culturally loaded terms, hegemonic masculinity is defined by Connell as 'the idealised form of masculinity at a given place and time'.[23] The relationship between hegemonic masculinity and the patriarchy is that hegemonic masculinity, in ascribing power and authority to hegemonic men, legitimises the patriarchy.[24] Dobash and Dobash identify patriarchy as having two key elements: structure and ideology.[25] Structure refers to the hierarchical organisation which generally gives more power and privilege to men than to women. Where this inequity manifests, the less powerful, less privileged are vulnerable and more likely to be victimised. Ideology refers to the self-perpetuating rationale that legitimises the patriarchal structure itself: it is 'natural' and 'right' that men who hold the social capital in society to be in a superior position, and those (men and women) who do not fit that archetype should be in inferior positions for whatever social, political or economic reason it is purported justifies the inequitable structure.[26] These justifications are often supported by both men and women and function to protect hegemonic masculinity as the apex gender practice.

Because feminists must be silenced to preserve hegemonic masculinity…

When gender issues are publicly identified and critiqued, there is disproportionality in the violence of the responses to the feminist concerns being voiced. Particularly in the gaming arena, there exists 'a subculture frequently hostile to feminist perspectives'.[27] The fact of the matter is that 'such behaviour is usually directed at women who are feminists or are outspoken about their views or causes they support'.[28] While the casual sexism that results in the harassment and hyper-sexualised depictions of women in gaming is somewhat obvious, the explicitly violent nature and sheer volume of misogynistic downpour in response to feminist critique is shocking.[29]

When women use an online platform to publically voice feminist concerns, they receive a ferocious upsurge of violent threats. The exemplar is the campaign against Anita Sarkeesian.[30] An unfortunate fact is that 'the victims of these sustained campaigns are also those who wish to engage on a meaningful level with [Sarkeesian's] analyses'.[31] However, the prevention of meaningful engagement is precisely the aim of systematic online misogyny.

In all of the attacks, it is not the feminist argument that is being attacked; it is the sexuality of the feminist.[32] Barker and Jurasz argue that 'these attacks are far from the expression of a verbal disagreement with activities of female users. Instead, they take the form of gender-specific harms, including acts of sexual violence'.[33] It is *ad hominem ad nauseam*. Mantilla explains that 'because these online harassment campaigns specifically target women who publicly articulate feminist ideas, the underlying motive is to maintain the online milieu as a male-dominated space'.[34] Thus, the violence that is employed is strategic, purposed to maintain the gender order by silencing feminist criticisms that pose a threat to hegemonic masculinity.

It is the prerogative of patriarchy that threats to hegemonic masculinity be suppressed and preferably silenced.[35] Jane points out that the attacks sustained by feminists are eerily interchangeable as 'the most personal of insults, attacks and threats can seem generic, predictable and almost tedious as a result of their ubiquity'.[36] This observation works to affirm that systematic attacks against feminist critics are purposed to preserve hegemonic masculinity; the aim is to suppress the threat, not to engage in the conversation and critique the feminist perspective being offered for discussion. The conversation, of course, is stifled because one party refuses to engage.[37] As Filipovic points out, this violent, sexualised strategy is not new:

> These tactics - the rape threats, the manufactured First Amendment outrage, the scrutiny over physical appearance, the shock at women asserting themselves, the argument that people who take threats seriously are overreacting, the assertion that women want and like sexualized insults-are long-standing tools used to discredit and cut down women who transgress traditional gender roles and challenge male authority.[38]

To build upon the above example, the same is said of gendertrolling:

> It is important to recognize and acknowledge the phenomenon of gendertrolling for what it is: something above and beyond generic online trolling and a phenomenon that, not dissimilar to street and sexual harassment, systematically targets women to prevent them from fully occupying public spaces.[39]

The silencing of feminist voices in necessary to maintain the gender order, because when women (as well as other subordinate groups) step out of their perceived roles or speak out against hegemonic masculinity, the gender order has to be reinstated. As Shaw recounts:

> Many women, queers, and people of color (not mutually exclusive categories) who have spoken publicly about the sexism, homophobia, transphobia, and racism of online gaming spaces and gaming culture more broadly have, themselves, also experienced vicious attacks.[40]

In the case of Sarkeesian, there is a double entrenchment of this reality. Not only is she a woman, and therefore an outsider to the male-dominated culture of gaming, she openly and unapologetically critiques this culture.[41] This makes her an obligatory target for silencing as she threatens to dismantle hegemonic masculinity in a male-dominated space. The double standard of this social regulation is extrapolated by Filipovic in that:

> These kinds of sexualized insults reflect attempts to put women in their place, just as rape threats attempt to keep women fearful in an effort to relegate them to the domestic sphere. Women are routinely warned out of moving through public spaces … Yet men are rarely admonished for drinking in bars, or lectured about the need to "protect themselves" by curtailing their activities. Sexual assault and, to a greater degree, the very threat of sexual assault, is used to keep women fearful, and to deter them from public participation. [42]

Thus, when women seek to participate in traditionally male fields, such as politics, education and technology (gaming being an ideal exemplar), they are subordinated through tactics that are sexually insulting at best and sexually violent at worst. [43]

… but what more would you expect in a patriarchy?

Feminist theory articulates that the requisite maintenance of hegemonic masculinity in online contexts reproduces and exacerbates gendered patterns of crime. This articulation explains the campaign of online abuse and harassment experienced by Anita Sarkeesian, founder of Feminist Frequency, by identifying it as the necessary silencing of public critique in a traditionally male-dominated sphere, in order to suppress perceived threats to hegemonic masculinity and the patriarchy as a whole. This explains how attempts to dismantle patriarchy through critique are met with violent attempts to maintain it. In the words of Filipovic, '[t]he anonymous men … are sending a clear message: You do not have as much of a right to be here as we do'. [44]

Comment on, 'The Online Abuse and Harassment of Anita Sarkeesian: A Feminist Explanation'

Emma's article shows how misogyny continues to be reproduced in new forms despite the claims by some that we inhabit a post-feminist age. Liberalism purports to tell a progressivist story - that things are always getting better. It prefers to ignore the fact that social progress does not necessarily move forward in a linear fashion, but may go sideways or even backwards. Liberalism prefers to emphasise that 65 per cent of law students are women as evidence of gender equality than acknowledge ongoing misogyny. However, Emma shows compellingly how the misogyny underpinning sexual harassment is capable of reconstituting itself in new ways. She shows how this has occurred insidiously in the virtual world through the medium of video games. This is a salutary reminder that we must be ever vigilant. Society is clearly far from an ideal end state of gender equality where feminism is no longer relevant.

Margaret Thornton, Professor of Law, ANU College of Law, Australian National University.

Footnotes

1. Emma Alice Jane, 'Back to the Kitchen, Cunt' (2014) 28(4) Continuum 558; Karla Mantilla, 'Gendertrolling: Misogyny Adapts to New Media' (2013) 39(2) Feminist Studies 563.
2. Shira Chess and Adrienne Shaw, 'A Conspiracy of Fishes, or, How We Learned to Stop Worrying About #GamerGate and Embrace Hegemonic Masculinity' (2015) 59(1) Journal of Broadcasting & Electronic Media 208.
3. Rosalind Gill, 'Critical respect: The Difficulties and Dilemmas of Agency and 'Choice' for Feminism: A Reply to Duits and van Zoonen' (2007) 14(1) European Journal of Women's Studies 69.
4. Quentin Hancock, Tessa Jolls and Peter Jolls, 'Racism and Stereotypes in Electronic Media' (2013) 32(4) Public Library Quarterly 333, 333.
5. Tammy Hand, Donna Chung and Margaret Peters, 'The Use of Information and Communication Technologies to Coerce and Control in Domestic Violence and Following Separation' (Stakeholder Paper No 6, Sydney Australian Domestic & Family Violence Clearinghouse, January 2009).
6. Jane, above n 1; Adrienne Shaw 2014, 'The Internet is Full of Jerks, Because the World is full of Jerks: What Feminist Theory Teaches Us About the Internet' (2014) 11(3) Communication and Critical/Cultural Studies 273.
7. Shaw 2014, above n 6, 275.
8. Kim Barker and Olga Jurasz, 'Gender, Human Rights and Cybercrime: Are Virtual Worlds Really that Different?' in Kathryn Brown, David Ray Papke and Michael Asimow (eds), Law and Popular Culture: International Perspective (Cambridge Scholars Publishing 2009) ch 5.
9. Jane, above n 1.
10. Ibid.
11. Barker and Jurasz, above n 1, 91.
12. Jill Filipovic, 'Blogging While Female: How Internet Misogyny Parallels Real-World Harassment' (2007) 19 Yale JL & Feminism 295, 298.
13. Barker and Jurasz, above n 8, 91.
14. Barker and Jurasz, above n 8; Jodi K Biber, Dennis Doverspike, Daniel Baznik, Alana Cober, and Barbara A Ritter, BA 2002, 'Sexual Harassment in Online Communications: Effects of Gender and Discourse Medium' (2012) 5(1) CyberPsychology & Behavior 33; Hand, Chung and Peter, above n 5; Mantilla, above n 1.
15. Michael James Heron, Pauline Belford and Ayse Goker 'Sexism in the Circuitry: Female Participation in Male-Dominated Popular Computer Culture' (2014) 44(4) ACM SIGCAS Computers and Society 18; Mantilla, above n 1.
16. Heron, Belford and Goker, above n 15; Robert W Connell and James W Messerschmidt, 'Hegemonic Masculinity: Rethinking the Concept' (2005) 19(6) Gender & Society 829.
17. Lindy West, Don't Ignore the Trolls. Feed Them Until They Explode. in Emma Carmichael, Jezebel (31 July 2013) <http://jezebel.com/dont-ignore-the-trolls-feed-them-until-they-explode-977453815>, quoted in Jane 2014, above n 1, 564.
18. Filipovic, above n 12, 303.
19. Jane, above n 1, 558
20. Jennifer Jenson and Susan De Castell, 'Tipping Points: Marginality, Misogyny and Videogames' (2013) 29(2) Journal of Curriculum Theorizing 72, 73.
21. Chess and Shaw, above n 2.
22. Jane 2014, above n 1, 566.
23. Raewyn W Connell, Masculinities (University of California Press, 1995) cited in Will H Courtenay, 'Constructions of Masculinity and Their Influence on Men's Well-Being: A Theory of Gender and Health' (2000) 50 Social Science and Medicine 1385.
24. Robert William Connell and Raewyn Connell, Masculinities (University of California Press, 2005) 77
25. R Emerson Dobash and Russell Dobash, Violence Against Wives: A Case Against the Patriarchy (New York Free Press, 1979).
26. Ibid.
27. Nina Huntemann 'No More Excuses: Using Twitter to Challenge the Symbolic Annihilation of Women in Games' (2015) 15(1) Feminist Media Studies 165.
28. Barker and Jurasz, above n 8, 86.
29. Heron, Belford and Goker, above n 15; Jane above n 1.
30. Chess and Shaw, above n 2; Jane, above n 1; Jenson and De Castel, above n 20; Mantilla, above n 1.
31. Heron, Belford and Goker, above n 15, 22
32. Jane 2014, above n 1.
33. Barker and Jurasz, above n 8, 85.
34. Mantilla, above n 1, 569.
35. Filipovic, above n 12.
36. Jane, above n 1, 566.
37. Heron, Belford and Goker, above n 15, 2014.
38. Filipovic, above n 12, 301–2.
39. Mantilla, above n 1, 569.
40. Shaw, above n 6, 275.
41. Jenson and De Castell, above n 20.
42. Filipovic, above n 12, 302.
43. Filipovic, Ibid.
44. Ibid 303.

REVIEW: JUSTICE FOR VICTIMS OF REVENGE PORN

- Victoria Karraz -

Caroline Wilson and Neil Ferguson started a relationship while working in a mine together in Western Australia.[1] During their relationship they flew in and out of their place of work and began to share intimate photos.[2] Believing herself to be in a trusting relationship, Caroline sent multiple explicit images of herself to Neil. Twelve months later, their relationship broke down. In his anger, Neil distributed the photos by uploading them onto his Facebook page.[3] This provided approximately three hundred of his Facebook friends access to these photos, many of whom were also Caroline's co-workers.[4] As Caroline did not have a Facebook account, she only discovered what had occurred by communication from her friends.[5] Unfortunately, she realised that while this was a breach of privacy, her options to obtain compensation or hold Neil responsible for his actions were limited.[6]

Revenge porn is the unauthorised distribution to others of photos or videos of a sexual nature provided in confidence between partners. A common scenario of revenge porn is when a person in a trusting relationship sends photos or videos to their partner but after the breakdown of the relationship the information is exposed or distributed to others who are often friends of the partner and/or the victim.[7] Alternatively, these photos are sometimes sent to websites that make them available to the general public.[8]

Due to the increased availability and efficiency of technology, revenge porn is becoming increasingly common.[9] It is no longer just being used as revenge but also to coerce or threaten a partner, to such an extent that it is classified as a form of domestic violence.[10] However, despite the frequency and harmfulness of revenge porn, there is still no direct means of holding a person accountable for this in New South Wales.

So the question arises: what can people do if they find themselves to be a victim of revenge porn? To put it bluntly, victims' legal rights are limited. In contrast to New South Wales, other countries and Australian states have created specific legislation to address such an act.[11] New South Wales, however, is currently considering its options.[12]

In New South Wales, there are three legal methods people may employ to hold offenders accountable. Firstly and surprisingly, the court of equity may be able to provide a compensatory remedy for a breach of confidential information. [13] Secondly s 578 of the *Crimes Act 1900* (NSW) relating to publishing indecent material, allows criminal liability to attach to such an offence. Thirdly, using a carriage service to menace, harass or cause offence is a federal offence under the *Criminal Code Act*.[14]

Equity is rarely used in cases resulting in personal injury or psychological harm. However, Caroline was able to receive monetary damages for a breach of confidence due to the unauthorised sharing of 'information that was obtained in circumstances importing an obligation of confidence'.[15] *Wilson v Ferguson*,[16] confirmed the ability of courts of equity to provide compensation for mental distress falling short of psychiatric injury. While this judgment appears to be a win in the fight to hold people responsible for revenge porn, it is limited in its capacity to assist such victims for two reasons. Firstly, this is an unusual judgment as it is rare that the courts of equity would award a plaintiff damages for psychiatric injury, nor deal with cases of such a personal nature.[17] As a result, if this decision were to be appealed, it is unlikely the higher courts will uphold it.[18]

Secondly, the rule from *Wilson v Ferguson* requires that the victim proceed through the civil system.[19] This means that *victims* will need to bring the case to trial and conduct the trial on their own, as opposed to the police prosecuting the case in criminal courts. This involves considerable expense and time, even if they are awarded costs.[20] Coupled with the emotional trauma associated with taking a case like this to court, the time and cost makes this a route few will be able or willing to take.

Another method of justice is through s 578C of the *Crimes Act 1900* (NSW), which carries a maximum term of imprisonment of twelve months for the publishing of indecent material. However, it is unclear whether the term 'publish' can include sending the information to just one person, as in the case of revenge porn websites.[21] Further, identifying the images as indecent may encourage victim blaming.[22] Such a term promotes the idea that the photos should not have been taken in the first place and therefore, the outcome experienced was to be expected.

Under Federal legislation, it is illegal to use a carriage service to menace, harass or cause offence.[23] It carries a maximum penalty of three years imprisonment.[24] The Commonwealth Director of Public Prosecutions submitted to the Federal government that they believe it is not likely that this offence will cover the situations common to revenge porn due to the necessary element of it being 'offensive'.[25] Further, the offence has to be conducted via a 'carriage of service'.[26] This would therefore not encompass online conduct but only electronic communications.[27]

The NSW law reform commission has recommended changes to the current legislation five times since 2008. But still nothing has happened.[28] The Federal government, on the other hand, came closer to introducing a specific law with the 'Criminal Code Amendment (Private Sexual Material) Bill 2015'. The bill was introduced on the 12 October 2015 but has lapsed because the session in which parliament was sitting at the time was discontinued before it could be voted on. Therefore, a new bill will need to be introduced before it can be voted on again.

Revenge porn is a horrible crime that lays blame on the victim and lacks a means of ensuring accountability on the part of the offender. It can result in the victims living in fear, horrified and untrusting, and impact heavily on their future relationships. Many organisations have provided both the New South Wales and Federal government with ideas for the creation of a specific offence for revenge porn. It is time the government steps in and makes a change.

Footnotes

1. Wilson v Ferguson [2015] WASC 15, [19].
2. Ibid [21]-[22].
3. Ibid [33].
4. Ibid [28].
5. Ibid [33].
6. Geoffrey Hancy, 'The law of Equity, the Information Age and revenge porn' (2015) 42(6) Brief 20, 20-1.
7. David Adsett, Commonwealth Department of Public Prosecutions, Submission No 3 to Senate Legal and Constitutional Affairs Committee, Inquiry into the phenomenon colloquially referred to as 'revenge porn', 24 December 2015, 3[15].
8. Jonathan Clough, 'Revenge porn: Criminal law responses' (2016) 132 Precedent (Sydney, NSW) 30, 31.
9. Hancy, above n 7, 20; Clough, above n 9, 30.
10. Clough, above n 9, 31; Janet Loughman, Womens Legal Services NSW, Submission No 2 to Australian Legal and Constitutional Affairs Commission, Inquiry into the phenomenon colloquially referred to as 'revenge porn' (non- consensual sharing of intimate images), 23 December 2015.
11. Clough, above n 9, 31.
12. Clough, above n 9, 31.
13. Wilson v Ferguson [2015] WASC 15.
14. 1995 (Cth) s 474.17(1).
15. Hancy, above n 7, 22.
16. [2015] WASC 15.
17. Hancy, above n 7, 22
18. Hancy, above n 7, 23
19. Clough, above n 9, 31.
20. Ibid
21. Tom Gotsis, 'Revenge pornography, privacy and the law' (Research paper no 7, Parliamentary Library, New South Wales Parliament, 2015) 7[4.4].
22. Loughman, above n 11, 16[86].
23. Criminal Code Act 1995 (Cth) s 474.17(1).
24. Ibid
25. Adsett, above n 8, [15].
26. Hancy, above n 7, 32.
27. Adsett, above n 8, [18]; Note, however, that Facebook is included as a carriage service at [14].
28. Emily Meller, 'Is Australia Slowly Getting It's Act Together on Revenge Porn', Junkee (online), 27 May 2016 <http://junkee.com/australia-slowly-getting-act-together-revenge-porn/79264>.

UNIVERSITY AWARDS 2016

On Tuesday December 6 2016, Western Sydney University hosted their annual Vice-Chancellor's Excellence Awards. The event is the opportunity for the University to recognise both it's staff and students for their contributions to research, innovation and engagement.

- **Marija Yelavich** -

Founding Editor in Chief of
Dare To Know Publications

Dare to Know Publications: Sapere Aude and Bite Size Law were proudly nominated by the *Dean of the School of Law*, *Professor Michael Adams*. This nomination recognised our Club's development in the recent years, growing the initial student law magazine but also expanding into our second student-led production, Bite Size Law led by *Lucinda Borg*. We were honoured to be part of the Award Ceremony, receiving a Highly Commended recognition of our Club's role in student engagement and development.

Following the Vice-Chancellor's Excellence Awards was the annual Student Clubs Awards night. Hosted by the Student Campus Life team, the night unites all clubs from across the University for a deserving celebration. As host *Robert Barrie* noted, it is not the lectures or the textbooks that we will remember, but it is the moments and adventures we take with our clubs both on and off the campus that will forever be with us as the defining moments in our University lives.

In 2013, I enrolled into University straight from high school. I understood there was no student law magazine, and limited opportunity for students to connect with their community. Inspired by this challenge and supported by our Campus Life team, today we have the successful student law magazine, Sapere Aude. **Recognising an issue, and choosing to be challenged by it is a wonderful gift**. This is what inspired *Lucinda* in 2015 to begin Bite Size Law- there existed a gap in how we understand the law, and so she has endeavoured to create an online learning tool that will both assist law students and the general community in their understanding of the law. *The outcomes of these projects*? Sapere Aude has doubled their reading and printing rounds from 1500 to 3000 copies distributed bi-annually, and Bite Size Law will launch in 2017 with great promise.

In recognition of our vision and dedication, both *Lucinda* and myself were honoured to accept the **"Best Club- Parramatta" Award 2016**. Additionally, I was personally honoured to receive the **"Best Club Leader" Award for 2016**, along with another club leader, Emily Del-Pot. This recognition of our vision, resilience and belief in our projects is beyond appreciated.

Dare to Know Publications would like to thank the entire Campus Life Team, especially **Jo Quinn, Matthew Stansfield** and **Nick Dionisopoulos** for your countless hours of support and your belief in our vision and leadership. We are very proud that the students and University have accepted and nourished our vision to elevate the student experience.

We look forward to all that 2017 will bring, and we hope that more students join our team to ensure that Dare to Know Publication's may continue serving and connecting our community.

WESTERN SYDNEY UNIVERSITY **LAW STUDENTS' ASSOCIATION**

The Western Sydney Law Students' Association ('WSLSA') is the pre-eminent association for students studying law at Western Sydney University. Founded in 2000 and run entirely by students, the WSLSA aims to enrich the university life of students by hosting a range of professional and social events throughout the academic year. The WSLSA also prides itself on its staunch advocacy for its student members.

Some of our recent initiatives include:

- Mooting, negotiation and interviewing competitions
- Law Ball, Law Cruise and Start of Semester socials;
- Law Camp and First Year Information Night;
- Publishing careers and clerkship guides;
- Wellbeing and study skills workshops
- Monthly general meetings – **open to all members**!

Throughout 2017, my team and I will work closely with our student members, the School of Law, NSW Young Lawyers and our many valued sponsors to achieve the very best for Western Sydney University law students.

Tom Synnott, President

WHAT'S ON?

Semester 1

- SOS Drinks
- Internal Competitions
- Law Camp
- First Year Information Evening
- MAS Workshops
- Clerkship Events
- Study Skills Sessions
- Law Cruise
- ALSA Conference

Semester 2

- SOS Pub Crawl
- Careers and Clerkship Guides
- Charity Fundraisers
- 'Careers in Public Law'
- Internal Competitions
- External Competitions
- Law Ball
- Mental Health & Wellbeing Events
- Study Skills Sessions

GET TO KNOW YOUR 2017 EXECUTIVE

Sam Marsh, General Manager

– a 5th year undergraduate Bachelor of Laws student based at Campbelltown. Sam is passionate about empowering students, having previously helped Mature Age Students (MAS) flourish in her role as 2016 MAS Representative.

Why should students get involved in the WSLSA?

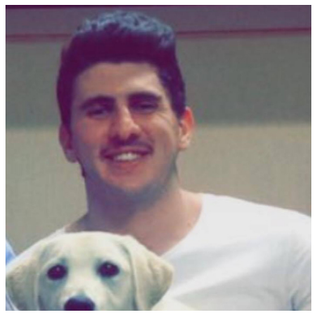
"We are not islands, and being part of something bigger than yourself not only positively affects you, but others whom you encounter"

Mitchell McMartin, Vice-President (Administration)

– a 5th year Bachelor of Arts/Laws student based at Campbelltown. Mitchell got involved in the WSLSA because of the opportunities it provided him to socialise with law students. As a member of the Executive, Mitchell wants to be able to contribute to the WSLSA that has given so much to him over the years.

Why should students get involved in the WSLSA?

"Getting involved ensures that you get to know your fellow law students and make the most of your time at Law School"



Anthony Canceri, Vice-President (Finance)

– a Bachelor of Business and Commerce (Advanced Business Leadership)/Laws student. Anthony became involved in the WSLSA due to his ambition to contribute to a society that had been very influential in his university journey.

Why should students get involved in the WSLSA?

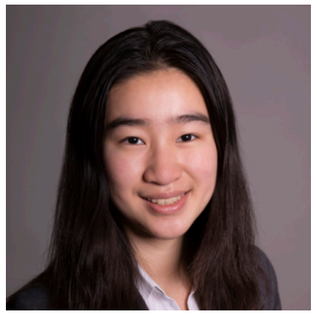
"The WSLSA is a wonderful society where you will find great connections and more importantly incredible friends that will last a lifetime"

Cornelius Thien, Vice-President (Marketing)

– a 2nd year Bachelor of Laws (Graduate Entry) student based at Parramatta campus. In 2017, Cornelius wants to see the WSLSA family grow bigger through memes(!)

Why should students get involved in the WSLSA?

"Whether you are a party animal or a mooting superstar, the WSLSA has got you covered"



Amy Shao, Vice-President (Competitions)

– a 3rd year Bachelor of ICT/Laws student at Parramatta. Amy first got involved in the WSLSA by doing a Client Interviewing competition. Amy has stuck around ever since because of the people she met. As Vice-President (Competitions), Amy aims to make it easier for younger year students to join a competition for the first time.

Why should students get involved in the WSLSA?

"Even aside from the opportunities, getting involved is also a great chance to meet people, have fun, and maybe even find something that you love"

Lakshmi Logathassan, Vice-President (Careers & Education)

– a 5th year Bachelor of International Studies/Laws student at Parramatta. For Lakshmi, 2017 will be an exciting year of initiatives for students across both private and public sectors of law. Lakshmi also hopes to engage in legal discussion about areas of social change and matters of public policy with industry leaders and experts.

Why should students get involved in the WSLSA?

"It is a fantastic place for law students to meet other students and discuss the various concerns of the student body"

Jessica Morris, Vice-President (Socials)

– a 5th year Bachelor of Business and Commerce/Laws student at Parramatta. Jessica joined the Executive because she wanted to ensure that law students had the amazing experiences that she experienced over the past 4 years.

Why should students get involved in the WSLSA?

"If you wish to meet a great bunch of talented and like minded people over a cool beverage you should definitely come to one of our events"

Get involved!

Membership is open to all Western Sydney University law students – simply sign up on our Facebook and Orgsync portals. All student members are encouraged to attend our monthly general meetings held alternatively at Parramatta and Campbelltown campuses.

For sponsorship and general queries, please contact westernsydneylsa@gmail.com

CARROLL & O'DEA LAWYERS
When it matters

TIPS FOR LAW GRADUATES

From us to you, here are some top tips for our readers

It might seem that all the hard work is behind you once you've finished your legal studies but then the real hard slog starts trying to secure your first legal job, be it in a firm or even an 'in house' opportunity.

The simple reality facing all new law graduates is that there are more graduates then there are positions for them.

Recent analysis in the Australian Financial Review showed there were 14,600 law graduates in 2014 entering a jobs market of 66,000 lawyers in Australia.

And with new technology meaning the legal sector faces potential disruption of 'Uber' proportions, the focus for any new graduate must be on identifying the tips and strategies that will set them aside from the pack when it comes to nailing a coveted job in a shrinking market.

We wanted to find out the best advice for young law graduates heading out into the workforce today and to get it from very different perspectives including:

1. The Partner level
2. A recently employed Law Clerk
3. Human Resources

1 THE PARTNER LEVEL

Firstly we asked Carroll & O'Dea, Partner Scott Dougall, who said the most important thing for young law graduates was 'think outside the square' when it comes to where you see yourself in your legal career:

"Many young graduates often think that the best opportunities are available at the top tier national firms at the big end of town. That may be the case for some but the reality is that the places are few and far between.

The competition for them is stiff and the vast majority of lawyers won't work in the big end of town. So it is important to think outside the square about where the best opportunities lie to take your career further, faster.

And in a funny way, those better opportunities are probably not at the top tier firms and here's one reason why.

It is a simple fact that in a suburban or regional law firm, a younger lawyer is going to have much more 'hands-on' experience sooner than their peers at one of the national firms in the CBD.

You will be given more responsibility sooner and will find yourself getting a wealth of practical experience at court, in direct client experience and working more closely with senior lawyers, drawing on their experience and skills.

This sets you up not only for faster career progression but also gives you invaluable experience if you want to head out on your own one day in your own practice.

So spending time now thinking carefully about where you see yourself as a lawyer is critical, as well as perhaps being more flexible in terms of the career path you first imagined for yourself; they are both really important tips I would give any law graduate.

Networking is another key activity that will help you stand out from the crowd and start to develop important contacts and relationships that will be useful in securing employment.

Many jobs are simply never advertised but come about as a result of the networks and relationships that exist between potential employers and employees.

If there are legal networking groups in your local area, law events and even faculty get togethers, start to participate actively in the legal community early on. Stay engaged with your law school after graduating and also start volunteering and doing pro-bono work in local community legal services.

Not only is all of this good for the CV but it goes further in establishing relationships that may be useful in helping secure employment.

From my perspective, the graduate who has been involved in networking and has runs on the board will stand out and be more likely to secure an clerkship or position compared to someone who hasn't shown that personal initiative.

Continuing with the words from, Partner Scott Dougal...

My top tips for graduates include some of the obvious things that many people still don't get right. For example, always get someone to proof read your CV and supporting materials and make sure there are no mistakes.

Separating the applications I will keep on file and those that won't, starts with a simple process of culling based on things as simple as incorrect spelling, obvious mistakes and CVs that are not up to date. Those who get these basic things right are likely to stay in consideration for future positions.

When you get to interview stage make sure that you engage and maintain eye contact with your interviewer and if there are more than one, make sure you swap from one to the other.

Networking is crucial and can help boost your chances of securing a position by staying engaged with university contacts, participating in legal events in your community and using contacts to identify possible opportunities.

Setting up Google alerts to keep up with activities and news at firms you like and admire is also another tool beneficial for job hunters and will ensure that you are up to date on what's happening at these firms should you be called in for an interview.

It's really important to direct the reader of your cover letter and CV to your suitability for the position that you are applying for. That starts with making sure you carefully read and become familiar with the requirements of the position.

Make sure your social media engagement is appropriate and that you don't post things that could end up being embarrassing or viewed negatively by future employers.

I think volunteering and participating in extra curricular activities provides additional strength for any application and not only provide you with valuable experience but also demonstrates a commitment to giving back to the community.

Participating in University clubs and groups is also another great opportunity to stand our from the crowd when it comes to demonstrating breadth of experience."

2 THE LAW CLERK LEVEL

Recently employed Law Clerk at Carroll & O'Dea, Aleisha Nair, says it is critical to read carefully any advertised position and make sure you address requirements in an application:

1. Don't use a generic CV or cover letter. Always read the requirements of the advertised position and direct the reader to your suitability.
2. In the digital age, many employers are taking into consideration the contents of public social media pages. It should go without saying that your social media page is often seen as a reflection of you. Ensure all your social media pages are private or remove all offensive content before applying for jobs.
3. Volunteering, internships and extracurricular activities provide strength to any application. A lot of university students focus on only getting paid internships and choose to stop extracurricular activities because of a lack of time. Volunteer internships not only provide you with experience and exposure to your chosen field, but also demonstrate your contribution to the community. Extracurricular activities can display a wide variety of qualities including confidence, team leading, team work, time management and dedication etc.
4. Participating in university clubs/groups strengthens applications and helps you stand out. Join university groups and make genuine contributions. This will add to your resume and demonstrate a wide range of qualities.
5. It is important to prepare for any interview. This assists with your confidence and increases your chances of success. Always research the company you are applying for and the person conducting your interview. Make sure you show the interviewer that you know them and their company. Be sure to reflect your knowledge in your responses.

Continuing with the words from Law Clerk Aleisha Nair...

6. Present yourself appropriately for an interview. Your interview extends further than the time spent in the interview room. Your interviewer is assessing your suitability from the moment they see you in reception until you leave. Make sure you continue to act professionally throughout this process e.g. don't sit on your phone in the waiting room, sit-up properly, smile and be polite at all times etc.
7. Not essential, but always a good idea to have a Portfolio which supports your suitability to the position. This may include certificates, awards, reference letters etc. It is very convincing to have a Portfolio evidencing the achievements you are discussing in your interview.

3 THE HUMAN RESOURCES LEVEL

We also asked Barbara Townsden of Human Resources at Carroll & O'Dea Lawyers about the important things that young law graduates should focus on when setting our to apply for positions:

Resume / Cover letter

1. Make sure your resume is up to date and relevant for the position advertised.
2. Include your previous employment history – in chronological order - address any obvious gaps in your work history by writing a brief explanation where appropriate (perhaps you were travelling overseas).
3. Proof reading your cover letter and resume is very important. Spelling errors in your resume could mean that your application is rejected by a potential employer so it is always wise to get someone else to double check your documents.
4. Don't use any unusual fonts that might be difficult to read or that might not display correctly on someone else's screen.
5. Always include your recent transcripts with a cover letter and resume. This shows you are organized, prepared and you mean business.
6. Your cover letter should demonstrate you are the right person for the position but be succinct.
7. Review cover letters/resume templates on various recruitment agency or job sites to keep up to date.
8. Check your layout and formatting of your document this will show your Microsoft office skills.

Networking

1. Make use of contacts at university other students/ professors/lecturers.
2. Participate in University open days/career days
3. Research firms and find out what seminars and events that are open
4. Use your contacts via friends or family who may know someone who works in a in a firm.

Social Media Platforms

Be careful what you upload on social media platforms such as Facebook , Twitter, Instagram as they can be viewed by your potential employers. Employers can reject a candidate because of something they have found on your social media platform. Ensure your platforms are restricted or professional so that you can create the best first impression on your own terms.

Interviews

1. Always wear appropriate business attire and dress for success. A firm handshake with a big smile will do wonders when you first meet your interviewer/s. Some small chit chat from the reception area to the interview room will also help. These are the vital seconds (not minutes) in making your first impression.
2. Come prepared and bring a copy of your resume and transcripts.
3. It is great to be early but keep it to a minimum of 10 mins and do not be late.
4. Show enthusiasm and always ask at least 1 question. Be ready for it.
5. Keep eye contact with interviewer/s swap from one to another if you have multiple interviewers.
6. Answer the question and always try and use a relevant example. If you don't understand the question ask again and breathe.
7. Know your stuff – It is imperative you do your homework about the firm, the team; partners etc. Read any recent news about the firm or articles written by the firm or partners.
8. Conclude by thanking the interviewer/s for their time and shaking their hands before you leave.

Seeking for employment

1. Set up a SEEK profile! and you'll be sent all the relevant job matches of the week to a selected email address for your private viewing. Plus if you opt in, registered employers can view your profile and get in contact with opportunities that match your skills and career ambitions. Set up seek searches with different parameters and have it emailed to you daily. Part time or full time, graduate, personal injury etc
2. Browse your university career sites for jobs and advice.
3. Browse the College of Law - https://www.collaw.edu.au/careers/
4. Set up a profile on https://www.linkedin.com. Search jobs and career pages from other law firms.
5. Browse NSW Law Society https://www.lawsociety.com.au/ as there is so much useful, interesting information to use. Useful links on the NSW LAW Society https://www.lawsociety.com.au/cs/groups/public/documents/internetyounglawyers /446985.pdf https://www.lawsociety.com.au/about/YoungLawyers/Committees/WellbeingWork ingGroup/index.htm
6. Use the Young Lawyers network on the NSW Law Society website https://www.lawsociety.com.au/about/YoungLawyers/index.htm
7. Use the jobs network on the law society https://www.lawsociety.com.au/about/YoungLawyers/JobsNetwork/index.htm
8. Graduate Employment and Summer Clerkship Programs via the Law Society https://www.lawsociety.com.au/about/StudentHub/GraduateAndClerkshipsPrograms/MasteringGCP/1086842

Human Resources

Contact the firm's HR department but don't be pushy. They may not have a job now but they will remember you when there is one. Ask if you can send your cv or meet.

Google Alerts

Set up google alerts so that you can keep up with a firms or a firm that is of interest. This will keep you informed of firm news. It is a tool that emails you anytime a new story appears for a specific term. That way, you learn about current events without searching for them. Example: If you're applying for a position at Carroll & O'Dea, follow these steps:

1. Go to www.google.com/alerts
2. Type in "Carroll & O'Dea"
3. Put in your email address if you're not already logged in to Gmail

Other Tips

1. Gain legal experience
2. Volunteer
3. Network
4. Keep up your extra activities such as football, netball/music etc this is another avenue to show you are an all-rounder, team player or discipline etc.
5. Study hard and compile a record of your academic excellence
6. Maintain a work/ life balance
7. When you have secured a role proactively seek work
8. Be organised and prioritise
9. Be a team player

MINTERELLISON JUNE WORKSHOP

- Event Review -

- Gerard McGookin -

On the 1st of June 2016, the Western Sydney Law Students Association (WSLSA) launched their first ever partnership event with MinterEllison.

Eric Norris, the Graduate Resourcing Advisor for MinterEllison, delivered a workshop on Cover Letters, CV's & Networking. Many Western Sydney University students attended this inaugural event to receive personalised advice and tips to help put their foot forward in a highly competitive graduate market.

Feedback from the workshop was overwhelmingly positive as students told us how they felt more confident and prepared to tackle the upcoming summer clerkship period for 2016/17. Below Eric has provided some tips to keep in mind when applying for Summer Clerkships. These tips are universally applicable to any job applicant!

FOR YOUR COVER LETTER

1. **Know what you are selling** – Before you even put pen to paper (fingers to keyboard) you need to decide what you bring to the table. Have a clear idea of 3 – 5 key values; these are the basis of your business case that you will deliver to the organisation. You need to be able to communicate these values clearly and confidently, so get comfortable with them for your interview!

2. **Yes, it is a letter** – Yes this means you need to find the name of the recruiter that is in charge of your application. All it takes is a quick Google search to make sure that your cover letter looks well researched.

3. **Keep it simple** – The clerkship recruitment process is one of the highest volume recruitment processes that you will ever be exposed to, so you need to make sure that the recruiter is able to extract the most pertinent information as fast as possible.

A great way to do this is by splitting your cover letter in to three main sections:

- The first section is where you should clarify what role you are applying for and any critical logistical details that are important for the role: "Penultimate student, Bachelor of Laws etc".

- The second section is your chance to tailor your message. Have you interacted with anyone inside the organisation? What specific matters is the organisation working on that resonate with you (and why).

- This last section is your call to action, the goal is to have the recruiter want to turn the page to read through your CV. It is time to use key values that you defined earlier and support them with accomplishment statements.

FOR YOUR CV

1. **Create a new document** – We all have those CV's that we created at school for our first job at the video store down the street, It is time to start afresh (if not just for formatting purposes). This will allow you to import across the key information and leave behind those things that are no longer relevant in describing your current skill-set.

   When deciding what to include, try to remember that you don't want your best achievements to get lost! A 3 – 5 year rule is useful for these areas as it will help you make sure that the recruiter won't miss your important achievements. You may need to be ruthless when cutting out certain entries. Keep it punchy

2. **Be Professional** – Photos. Please don't. What you look like is not relevant to your ability to do the job and it takes up space that you can use for more useful information. This goes for other information that is not needed (e.g. age, height, marital status etc).

   Email addresses should be kept to first and last name or university addresses, this is your chance to update from the email account you signed up to when you were younger. Your voicemail message should also be active and professional.

3. **Employment Entries** – These are vital part of any CV. Make sure the recruiter can pick out all the information that they need by including:

   - Organisation and job title (include area ie. Paralegal - Commercial Disputes).
   - Start and finish dates
   - Responsibilities – These are your overarching operational duties (bullet points are good here).
   - Development – It is important to list what you gained from that period of employment such as what skills you have now that you did not have when you commenced.

4. **References on request?** – Outside of a clerkship application, "References available on request" is entirely reasonable entry for this section. However, put yourself in the recruiter's shoes and picture gathering referee names and phone numbers for every clerkship applicant. Making things as easy as possible can only work in your favour!

FOR YOUR INTERVIEW

1. **First impressions matter** – While it is important to remember the basics like a firm handshake and good eye contact, you can also really set yourself apart from other candidates through research. A little research on the interviewers or on the firm can go a very long way, especially if you can use it to break the ice and build a rapport early on (maybe even before you sit down in the room!).

2. **Don't fit a mould!** – You may already have some idea as to who a top tier lawyer needs be. Don't be bound by this. While there are definitely certain skills and attributes that firms are looking for, firms want to see you be authentic and different from other candidates.

   Have a unique talking point about you and your achievements, the interviewers will want to get to know you as a person. This can include some of your quirky hobbies. You might just find that you and the interviewer have something in common!

3. **There is no substitute for preparation** – If it's on your CV, make sure you know it and can talk about it! Decide on the qualities that you intend to highlight when asked and then practice verbalising it. This will allow you to be more comfortable and deliver yourself in a better way in the interview room. Have someone give you some critical feedback on your presentation and then practise some more!

4. **Clear communication is vital** – Be specific when discussing your previous work experience. For each experience you worked on you should be able to confidently discuss what your responsibilities were, what skills you applied and how you professionally developed from this experience. As a bonus you should try to quantify the outcomes and results of projects that you have worked on.

5. **Don't panic if you don't know the answer** – You will inevitably get a curveball question that you didn't prepare for and your mind will go blank. It's okay! Just breathe. Relax and simply let them know you don't have an answer on the spot and come back to it slightly later.

6. **What should I ask them?** – Make maximum impact by tailoring your questions. This is a great chance to showcase your research on the firm. Questions can range from, why your interviewers themselves chose to join the company, through to how the business intends to respond to a particular current event.

Be confident and proud of your accomplishments, you have made it to the interview for a reason. You deserve to be there! Don't feel daunted by the occasion.

On behalf of the Western Sydney Law School we are extremely thankful for being able to host this practical skills workshop with MinterEllison and look forward to cultivating a strong relationship with MinterEllison for the future benefit of all WSU Law students.

NSW Law Society open applications for legal summer clerkships in June every year. Penultimate year students are strongly encouraged to apply to these programs if they are interested in a corporate law career. Further information about these programs can be found on the NSW Law Society website:

lawsociety.com.au/about/StudentHub/GraduateAndClerkshipsPrograms/index.htm

BREAKING THE BAMBOO CEILING: CULTURAL DIVERSITY WITHIN THE LEGAL PROFESSION

In early 2016, the Australian Asian Lawyers Association (AALA), with the support of Clayton Utz, hosted the inaugural annual William Lee Address.

- **Marija Yelavich** -

AALA, originally launched in Melbourne, began its Sydney branch in November 2015. The purpose of the organisation is to provide a support network for lawyers and law students of all cultural backgrounds.

The importance of organisations such as the AALA in leading the legal profession into the Asian Century was affirmed in every conversation throughout the night. The conversations between the panellists and practitioners revealed the underlying theme of the event: the cultural and business value of professional development in responding proactively to the Asian Century.

The panellists of the night were extremely distinguished and valuable in providing a diverse contribution to each question. Keynote speakers included: Justice Jane Jagot of the Federal Court of Australia; Sam Mostyn, Deputy Chair of the Diversity Council Australia Board; Tony McAvoy, First Indigenous Senior Council; and, Tim Soutphommasne, the Race Discrimination Commissioner.

The opening question of the night touched upon key themes and issues practitioners have in the area of cultural diversity.

As the first speaker, Tim Soutphommasne provided a thorough response:

"We don't see enough cultural diversity in any leadership position...the cultural diversity of Australia is not represented... there is convincing to do to recognise this problem. Only through advocacy we will see chance. Data collection, accountability, training and professional development for cultural awareness...It is encouraging to see organisation such as these that are seeing and hearing these developments."

Following this, Sam Mostyn emphasised the important role of cultural competency. This theme proved vital in the conversations that continued beyond the close of the panel. I spoke with lawyer and visiting lecturer at the University of Sydney, Amrita Goel, who expressed that cultural education is important because it will rejuvenate the value of meritocracy. The key to overcoming cultural misconceptions is education. It is through professional development and training that we can begin redesigning the leadership and business models that have unfortunately been based on power. It is on this note that many appreciated the event by the AALA, and hope to see more initiatives that aim to engage in cultural education.

As a student from the most culturally diverse region in the state, Western Sydney University has spearheaded initiatives that engage with cultural understanding. The School of Law particularly launched their Foundations of Chinese Law winter program, immersing students in both cultural and legal knowledge. Additionally, students studying International Studies hold a sub-major in Asian Studies and choose one of four languages: Mandarin, Japanese, Indonesian and Arabic.

Developing these skills in our students is extremely important in ensuring that this cultural divide in our firms and professions are closed by our graduates. With the support of organisations such as the AALA, and our universities, we hope that the glass ceiling racked with bamboo is obliterated by the next generation of forward thinkers. However, it is the current leaders in the boardrooms who must take the immediate initiative to accept accountability and engage in training. This will ensure Australian values are honestly represented and Australia's future within the Asian Century is undoubted.

Sapere Aude encourages all students to engage in cultural education. If you are interested in joining the Australian Asian Lawyers Association as a student member, visit their website:

http://aala.org.au

Alternatively, if you are interested in how the University can provide cultural or leadership training for you or your student club, contact *Sapere Aude* today:

sapereaude@daretoknowpublications.com

SHOULD I HAVE CHANGED MY NAME?

A reflection by lawyer,

- **Amrita Goel** -

When I moved to Sydney in early 2013, I was confident that I could find a job as a lawyer, given my work experience and the similar legal framework of both Australia and India. I met with several recruiters who told me that I had a great resume and that getting a job would not be too hard, which only reinforced my confidence. However, not being admitted in Australia and not having any Australian work experience was going to be a challenge.

Close to two hundred applications, zero interviews and a few months later, my confidence started to dwindle. I could not for the life of me understand what was going on. Several times I was tempted to simply switch career paths, until I eventually got a break at a boutique law firm in Sydney CBD.

After some time, I spoke to a recruiter who had been helping me in early 2013. I asked her the uncomfortable question: should I have changed my name in order to have secured an interview earlier? She did not answer. Her silence found words in Justice Kirby's keynote speech at the NSW Australian Asian Lawyers Association ('AALA') launch in November 2015. He said that based on a survey conducted by him; he found that in spite of submitting identical resumes to law firms, some which had a Western name and some which had an Asian name, that firms tended to demonstrate bias towards lawyers who had a Western name.

I recently attended a panel discussion hosted by the AALA, during which Dr Tim Soutphommasne, the Race Discrimination Commissioner of Australia stressed upon the importance of cultural education to promote and encourage cultural diversity in the legal profession. He highlighted that there are subconscious assumptions regarding different cultural backgrounds that cloud our minds when we consider leadership positions, promotions, and recruitments. I cannot agree more. He gave an excellent example where he stated that the general perception of board members and leaders is that they are aggressive, bold and strong. This was contrasted by the assumption that people belonging to different ethnic backgrounds tend to be soft.

It is necessary that people are educated and exposed to different cultural backgrounds. This is so that assumptions based on limited knowledge - which more often than ever are based on sitcoms - can be reassessed and therefore opportunities can be given based on fairness and merit.

Organisations such as the AALA encourage members to talk about cultural awareness and promote cultural diversity. They recognise this topic and the need to address this matter as a genuine concern. In today's globalised economy, it would be detrimental for any business to continue harbouring stereotypical notions. Decisions relating to promotions, recruitments and

leadership which are guided by assumptions can only lead to a serious loss of talent, fresh and new ideas, and even the loss of opportunities to connect to a whole new market.

On a more positive note, it is encouraging to note that certain law firms are actively promoting cultural awareness and are conscious of this issue. A few organisations have also started assessing resumes on a no name, no sex basis. These are small steps which hopefully one day will at the very least create some cracks in the 'bamboo ceiling'.

As law students with diverse names looking to get into the 'glamorous' world of Harvey Specter, you should be conscious of the reality that, notwithstanding the lopsided ratio of law graduates to jobs, you will need to work hard to move forwards in the industry and prove that assumptions may not always be correct.

If you're interested to learn more about the Australian Asian Lawyers Association, visit:
http://aala.org.au

SPORTS, SEXISM AND THE LAW

Event Review

- Arooshi Gauba -

On Thursday 26th April 2016, Western Sydney University School of Law held a public seminar on **Sports, Sexism and the Law** at the Collector Hotel, Parramatta. The seminar consisted of four respected speakers, Erin Riley, Belinda Smith, Dr Tom Hickie and David Rowe. Apart from the variety of delicious food served by the pub, the seminar itself was also very memorable as the guest speakers brought up controversial issues that were not only informative but also got the audience to tune in.

Erin Riley, a well respected sports journalist spoke about discrimination against females in sports industry. "Sportswoman are not very popular within this industry", as she points out the pressing need for change within the industry. Riley looks at the current barriers preventing change, as she uses the sexist remarks of male sports role models, such as Shane Sutton and Ian Ferguson towards women as an example of the systemic undervaluing and hostility towards female athletes in a male dominated sporting culture. Erin continues that these attitudes continually allow women to be underpaid in a culture where they cannot make a decent living from the game they play, unlike men.

David Rowe, professor of cultural research at Western Sydney University examined the topic from a historical perspective. Using Ancient Greece as an example (where the Olympics were only played by men), Rowe emphasised how "the modern Olympics are pastiche of recovered elements of the ancient games." Examining the beginning of the modern Olympics, many male authorities had views that females still shouldn't be allowed in the Olympics as they were seen as the weaker gender and seen as 'rewards' to the male winners of the games. As 'Sport is historically, a male dominated popular culture, during the 19th century, it came to define masculinity itself.' Summarising his analysis, Rowe ultimately presented a thought provoking opinion - "In the 21st Century, Sportswomen are just as good as men. Undervaluing them just pushes them to play harder and value their sport even more. I do not see why sport needs to be defined. When I watch sport, I see players playing the game they love and supporters cheering the game and cheering the team. In the end there is no difference."

Belinda Smith an associate professor and lecturer at the University of Sydney, went into detail how the Anti-Discrimination Act 1977 (NSW) and Anti-Discrimination Act 1984 (Cth) changed the values of Australian society, especially in the sporting industry. Looking at the issue of the Matildas pay strike in 2015, Belinda provided a comparison of what the anti-discrimination laws are about. Drawing upon this, she emphasised how the law doesn't help us resolve differences in pay as Men and women teams have separate agreements, pay scales and separate conditions. Matildas are paid significantly less, have different conditions and are not entitled to the same luxuries as the men. This example shows where the law is in less favour of women and the only way these issues are getting coverage is through media. I do not favour the media quite well as the industry tackles issues quite unethically, however at times, for an issue to be brought to attention, media is the only option.

Dr Tom Hickie is a barrister and an academic at University of New South Wales and will join the Western Sydney University's School of Law in the second semester of 2016. Dr Hickie, didn't necessarily give us a speech but presented us with a series of visuals defining discrimination and the lack of gender equality in Australian society. In a very unorthodox way, Tom started off his speech with a song, A Beautiful Noise, from Neil Diamond. Tom added this song to the presentation because ' a beautiful noise' is the general public pushing the 'politicians and administrators' in a very conservative institution, sport. Tom talks about if the Australian Federal Government should legislate a condition that every channel that broadcasts sport, should televise women's sport. Tom continues how women have excelled in many areas of politics such as in a prime minister role, attorney general, minister for community services, minister for social inclusion, minister for sport and many more, however, none of them pushed for gender equality in sport.

Australian society has not yet accepted female athletes in sports and 'there is still a long way to go.' However, raising awareness of these issues, is the first step to the change of values of women in the industry.

Read online:
http://www.daretoknowpublications.com/

THE WESTERN SYDNEY LEGAL EDUCATION PROGRAM (WSLEP)

- Gerard McGookin -

The Western Sydney Legal Education Program (WSLEP) is an initiative supported by the Western Sydney U School of Law that has been aimed at strengthening Western Sydney's connections in the local community.

Established in early 2016 under Western Sydney U Academic Catherine Renshaw with the assistance of Michael Brogan, the program has sought to create a student run community program that seeks to empower local high school students in their knowledge of the law. The WSLEP is designed to not only inform high school students about the legal issues that are relevant to them but also inform them of their rights.

Georgia Good and I (Gerard McGookin) are the elected Co-Founding Directors of this program. We are currently responsible for the administrative, co-operation and facilitation of this program with plenty of assistance of plenty of keen student volunteers from Western Sydney U.

What has the program achieved so far?

This semester has seen the program has focus on strengthening its connection with the local students from Arthur Phillip High School in Parramatta. Arthur Phillip High School has afforded us with many opportunities to promote and encourage students to pursue future studies at Western Sydney University.

On the 13th of May 2016, the program kicked off with our first schools visit. The year 9 and 10 classes were driven by discussion on a plethora of legal challenges that these students faced. This also included very interesting questions regarding issues such as the age of consent and specific drug offences and their respective penalties.

As the student volunteers advised that they couldn't provide any legal advice, the students were redirected to many amazing services such as the Legal Aid Youth Hotline (1800 10 18 10) or Local Community Legal Centres. This information was provided for situations in which the students felt that they needed support but did not feel comfortable to speak to their parents, teachers or a counsellor.

The feedback on the day was glowing positive and instilled a very bright introduction to the future of this School of Law program.

How Can I Get Involved?

We are currently looking for more student volunteers to continue this work within the local community. We are looking towards the inclusion of a school at Campbelltown and many more school visits throughout the Spring semester. We are also looking at the potential of another director joining the program.

If you would like to find out more or are interested in getting involved, please contact Georgia or myself through our respective student emails below.

Gerard McGookin – 17660945@student.westernsydney.edu.au
Georgia Good - 18012330@student.westernsydney.edu.au

Stay tuned!

Gerard McGookin
Co-Founding Director of the Western Sydney Legal Education Program

YES, LAW STUDENTS HAVE LIVES

Do you have an interesting story to tell? Email us:

sapereaude@daretoknowpublications.com

MY TIME AT THE AHRC

- Jeremy Hardy -

From June – August 2016, I completed a six week internship at the Australian Human Rights Commission. The internship afforded me a number of incredible opportunities, including attendance at various conferences and keynote events, interaction with some of Australia's most influential people in politics, business and law, and involvement in researching various human rights issues.

The main areas I worked in were LGBTI rights, Asylum Seeker Camp; Refugee policy, and the rights of cognitively and psychiatrically impaired persons in the criminal justice system. I would highly recommend this opportunity to any student with a passion for human rights. Applications typically open a couple of times per year, and for various teams within the Commission.

Check out the Commission's website to find more information.

LEGAL ADRENALIN

- Andrea Galvin -

After finishing my first degree and securing full time employment, I had obtained the total trust and respect from my parents and hence had nil obligation to do any further study. I took on law purely for fun and because I found the stuff pretty interesting. I feel less pressure and aim to always try and make studying a fun experience.

In order to supplement the love of law I regularly engage in activities like barefoot beach runs to boat harbor, long distance hikes at the royal national park, rock climbing and mountain biking in various tracks including at the Blue Mountains. Also do bit of traveling doesn't hurt. The activities not only make me physically strong but also clears my mind and thought process.

After a long week of work, study and assessments, when my brain feels fried and can no longer process information, the mountains and the fresh air restores my mental balance. Nature to me is like a get away from the over exposure of the technology that drains my mind. The altitude and the physical challenges keep my adrenaline pumping and my mind sharp.

Fellow students, remember that time outdoors is time well spent- and the key to a strong degree is a well-balanced life.

REFLECTIONS ON THE INTERNATIONAL NEGOTIATION COMPETITION, SWITZERLAND

- Andrew Ciantar and Emma Nichelsen -

Lost luggage can do a lot to a person - temporary insanity at best. Often questions you might never have thought of are on a perpetual loop, slowly, surely convincing you that the obvious answer might not be so. Is it better to shower with your clothes on, will pigeons try to steal my single sanctimonious piece of underwear drying on the balcony, if I don't take this shirt off I've technically worn it once, right?

The answer to the second question is actually yes, if you were wondering. Unfortunately, my luggage didn't arrive until five days after I had arrived for the International Negotiation Competition and my partner, Emma Nichelson, was kind enough to not laugh hysterically at my worsening predicament for the first two.

Three days into the trip, and Emma and I were prepared well for each round. We had our strategies, tactics, and facts all recorded to memory to a degree well enough to seduce John Juriansz into a coma of relief. And as each round passed by, so to followed an intensive utilisation of washing liquid sachets. Once we reached the night of the announcement I looked back on my time in Lucerne, Switzerland and thought how fortunate I was to be there- I promised myself I would come back.

The result came through that Emma and I, in representing Australia, and our University, had achieved a second place ranking and suddenly the many pains that the luggage had caused over the past week didn't seem so important. At the very least, the skills I developed would come in handy with the grief travel insurance representatives are sure to give me in the coming weeks.

Want to know more about international competitions? Learn from this dream team, and contact the LSA today!

40K GLOBE

Bangalore, India

- Lauren Alexander -

During mid-semester break of 2016, I participated in an international internship in India, courtesy of the Academy, through an organisation titled 40K Globe. Our team's task was to implement an educational resource 'library' into a local store, so to increase access to educational resources to the young people in the village of Hosahalli, Bangalore. How successful the program grows to be, will be made evident over time; whilst 40K tout one large success story of English education 'Plus Pods', there are many failed programs that have been left unseen under its shadow. My own personal growth however was invaluable to me. Starting from a small person that was staring at the street from behind the safety of her hotel window, wondering what the hell she had gotten herself into, I managed to grow into a woman that could happily navigate streets swollen with traffic, whilst on foot, and haggle with rickshaw drivers. The trip put me out of my comfort zone in every sense of the phrase, and truly made me grow as a person in many different respects.

Mehdi from a man on the street of the shopping precinct. 200 rupees, i.e. $4AUD

Obligatory photo with the younger residents of Hosahalli. There is another photo of us flexing our muscles – only the boys would join that photo, and only the girls would join this photo

Bangalore street art – there was quite a bit of it around. Bangalore is a young city with a lot of youth culture

Dinner on the roof, no joke the highlight of most of our days (not that our days were not enjoyable), but our cook was just amazing and so talented.

Hitch hiking in a truck – Maralakunte (our village) wasn't exactly a rickshaw hub. If you couldn't find one (and we often couldn't) you either had to hitch hike or walk

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INTERNATIONAL NUREMBERG MOOT COURT COMPETITION 2016

- Sarah Dowswell, Bethany Rowlands, Emma Michaels, Marija Yelavich and Isabel Mellor -

Courtroom 600, in the Palace of Justice in Nuremberg, is not only the birthplace of International Criminal Law, the Courtroom also symbolises the end of impunity and the struggle for justice. For our team, Sarah Dowswell, Bethany Rowlands, Emma Michaels, Marija Yelavich and Isabel Mellor, it also has another meaning: the Courtroom we mooted together on behalf of Western Sydney University. Five young women from Western Sydney, each in varying stages of their law degree, took on the International Criminal Court...in Courtroom 600. *This isn't an experience you hear about every day.*

Not only did our team represent Western Sydney University, but we were also the first Australian team to compete in the competition. Together, we explored an ancient medieval city, sat where international judges sentenced Nazi war criminals, and formed life-long friendships.

Whilst the months before it involved countless hours of dedicated research and team communication, our team proudly came 9th of 33 international teams comprising more than 100 undergraduate and postgraduate law students. One point kept us from the quarter-finals, with our regional partners, National University of Singapore, taking first place.

If you would like to learn more about international criminal law and justice, mooting and international networking, join this Competition in 2017. We are honored for the support of the University, which without, we couldn't have focused so well and been so truly dedicated to our task.

We would also like to extend our congratulations to our regional neighbour Singapore on their well-deserved win.

For more questions about international competitions, contact the Law Students' Association or the School of Law.

WOW, WHO KNEW?

The famous people with Law Degrees

- Jessica Fenech -

Most law students probably think they are familiar with the 'famous' lawyers - and by this I mean the 'well known' of the legal industry...beginning at the honourable Michael Kirby to the TV-glamour Harvey Spectre. But what many law students have not realised is that some of our favourite Hollywood Stars have also dabbled in a feat where no stunt-man is willing to trek...law school.

The list below includes some silver screen stars and history icons who have successfully earned a Law Degree. No doubt some of these will surprise you:

1. GERARD BUTLER

Before his acting career Butler graduated from Glasgow University and became a trainee lawyer.

2. JOHN CLEESE

Went to Cambridge University for law! But he never began to practice because Monty Python was taking off. How different would the world be if he chose the other path?!

3. REBEL WILSON

Completed her arts/ law degree at UNSW and used these skills to negotiate her contracts in Hollywood.

4. JERRY SPRINGER

Springer's first major career move following his law degree was as a campaign aide to Robert Kennedy, following the election he worked in a firm for a number of years.

5. FIDEL CASTRO

Involved in student politics, Castro graduated with a docrite of Law in 1950 and upon graduating, co-opened an unsuccessful law firm. The natural choice would be then to join politics.

6. NELSON MANDELA

A name familiar to most but what many of you won't know is that he opened the first black law partnership in South Africa.

7. ANDREW O'KEFFE

Graduated from Sydney University and was an Intellectual property lawyer

8. AMAL ALAMUDDIN CLOONEY

AKA George Clooney's wife - International barrister

9. AHN DO

Most likely the funniest person with a law degree.

10. ANDREA BOCELLI

He practised law in Italy during the 80's.

LETTER TO A FIRST YEAR

- David Ghebranious -

I wish I could say that I've arrived in my fourth year of a double degree in Law & Science with no regrets - *but that I must confess I have a fair few.* With the ostensibly elusive end to my university journey finally looming, I've recently been reflecting on some of my mistakes during my time at Western Sydney. I hope that sharing some of these may benefit even just one person.

'You Reap What You Sow'

It is no surprise that this Biblical maxim holds unequivocally true for anyone attempting a law degree. There's absolutely no shortcut to getting good marks. However, we are all equal when it comes to this. The difference between you and that 'nerdy' colleague who seems to just sneeze High Distinctions is simply hard work! Put the hours in and you will definitely see the results.

Learn to apply this from your very first year. Repeating subjects, or not being given a second glance in job applications for your academic transcript are painful but completely avoidable experiences. Visualize your goal, take it one semester at a time, and make every single unit you do count. Marks definitely do matter to employers, so do future you a favour and get those readings done!

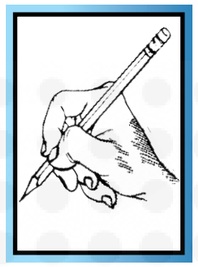
Start early and don't miss any of your classes! Do some of the readings before semester begins, and chip away at essays that are due in six weeks time – tricks of the trade to prevent existential crises in the corner of the library five minutes before an assignment is due.

'Carpe Diem'

Many people will tell you that university will be some of the best years of your life. This will absolutely be the case as long as you make the most of it! Be the best you can be and enjoy the programs and opportunities WSU provides, social and academic. Try your best not to be anti-social; some of the greatest friendships of your life will be formed in your classes over the next few years, so embrace those study group and coffee invitations!

Network Now

It's never too early to start brushing shoulders with as many legal professionals as you can. Again, think of your future goals and try to get some voluntary experience (or even better a paid legal role) early on in your degree. Not only with this give you a platform to go off once graduation hits, but you'll get genuine insights into the working life that awaits and transfer what you hear in class into real life matters.



To end on a cliché, be true to yourself as Polonius said, – do you, boo boo! University life will present you with a number of ethical and personal dilemmas and setbacks. Face them with integrity and ensure you always maintain a healthy balance between your studies, work and personal life. All the best!!

ARE YOU FOR REAL?

Since I am not a solicitor, you should do your own research and consult a professional before you take my advice in this article.

- Jessica Fenech -

We get to a certain stage of our studies and start to randomly remember pieces of legislation that we once may have glanced over in our last minute attempts to pass an exam. I'm sure there are a fair chunk of us that will recall s54A of the Conveyancing Act 1919 (NSW) until we die.

But here is a list of some quirky laws they don't teach you at law school. I am sure that as you read, you will question why the legal profession has any prestige associated with it at all...

Thanks to some interesting 2am googling, here is my list of wacky and weird Australian laws:

Section 22 of the Marketing of Potatoes Act 1946 (WA) states that it is illegal to be in possession of more than 50kg of potatoes in Western Australia. Sorry to all you huge potato fans.

If you lost something and offered a reward with no questions asked you would be in some trouble down in Tasmania and South Australia. You may be stuck paying the reward and a fine of $500.00 for offering a reward with no questions asked for stolen property.

The girl of your dreams is getting married in South Australia?
Think twice before you go and become an infamous wedding crasher. It is illegal under section 7A of the Summary Offences Act 1953 (SA) to disrupt a wedding or a funeral. You could even go to prison for two years.

In New South Wales the government is so controlling they even tell you how to walk under section 238 of the Road Rules 2014. When walking on a road you need to walk on the side facing traffic and you must keep far left or right and cannot walk alongside more than 1 person or 1 car, ie: the law only allows two people to walk along aside each other, or, one person to walk alongside one car. Lucky we mostly come from suburbs with footpaths right? #yaytoavoiding20penaltyunits.

Remember being underage and drinking and/or smoking tobacco? Yeah me neither- I wasn't into that! But if you were, the Public Health (Tobacco) Act 2008 says you were doing nothing illegal unless you actually bought the cigarettes or consumed the alcohol without parental permission or in public.

Black on black is not only a major fashion crime, but it may also get you in some serious trouble around Australia. It is apparently illegal to dress in all black with black on your face because you may resemble a cat burglar. I thought cat burglars' were just a thing on Home Alone?

My number one favourite out-dated wacky law is that Bars are required to stable, feed and provide water for your horse. Imagine going to Ivy with your pal from the farm and telling the manager to feed your horse. Maybe since we all drive cars now the bars could chip in for petrol?

Have you come across something completely wacky?

Let us know at:
sapereaude@daretoknowpublications.com

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