

Integrating Statutory Interpretation into Administrative Law Teaching

Judith Bannister and Anna Olijnyk (University of Adelaide)

It is increasingly recognised that a strong understanding of statutory interpretation is one of the most valuable attributes a law graduate can bring to their future career, both in and beyond legal practice. Yet teaching statutory interpretation can run the risk of appearing pointlessly technical and divorced from substantive law. Meanwhile, statutory interpretation has become absolutely central to the development of administrative law.

The Administrative Law course at Adelaide Law School has taken advantage of these trends by integrating statutory interpretation into all aspects of teaching and assessment. Throughout the course, students apply real legislation to realistic fact situations. They are required to locate, understand and accurately cite complex legislation. They learn about, and are tested on, the theory and application of statutory interpretation techniques.

This approach to teaching administrative law has twin benefits. Not only do students develop theoretical and applied knowledge of statutory interpretation; they also attain a detailed and critical appreciation of substantive administrative law because they understand the technical reasoning processes at play.

Multiple Choice Questions in a Constitutional Law Exam

Luke Beck (Western Sydney University)

Can multiple choice questions be an effective form of assessment in Constitutional Law? Do students perform better or worse with multiple choice questions compared with traditional problem questions? Do students perceive multiple choice questions to be more or less difficult than traditional problem questions? Do students perceive multiple choice questions to be a fair method of assessment?

My poster will present the preliminary findings of a learning and teaching project I undertook in the Constitutional Law unit at Western Sydney University involving trialling a multiple choice component in the final end of semester exam.

Constitutional Law in the Cloud

Peter Black (QUT)

In 2015, LLB203 Constitutional Law at QUT was redesigned so that instead of face-to-face lectures, the core unit content was delivered by breaking each topic into a module on QUT Blackboard (most weeks there were 2-4 modules). Within each module, there were a series of activities, including (but not limited to): an opening song relevant to the topic, a series of short video podcasts (from 5-15 minutes) that provided an overview of the relevant law, multiple choice questions so that students could test their knowledge and understanding, links to relevant readings and other materials, discussion board topics to illuminate some of the relevant policy or big picture issues, wikis to allow collaboration and teamwork surrounding key cases or concepts, and mind maps to provide a summary of the law. Students worked through each module before attending a two hour tutorial (held fortnightly) that allowed them

to apply the law to problem scenarios, ask questions, and discuss current issues in constitutional law.

Students overwhelmingly found that this innovation of breaking the learning resources down into smaller modules enhanced their learning, and influenced, motivated and inspired them to learn.

In addition to structuring the unit content in this way, the teaching team also utilised a range of complementary social media tools. Social media allows teachers to engage learners and create communities of learners in innovative and meaningful ways. The tools included YouTube, Facebook, Twitter, Tumblr, RebelMouse, Flipboard, Spotify and even Snapchat.

Together with the move to online delivery, this holistic, innovative approach to using complementary social media tools to enhance student learning, saw Constitutional Law become one of the most popular units in the LLB.

Developing Critical Thinking Skills in Secondary Legal Studies Students – how using the Rule of Law Pyramid assists students to analyse and evaluate current legal issues

Nick Clark and Jackie Charles (Rule of Law Institute of Australia)

The Rule of Law Institute of Australia is an organisation which runs education programs for secondary school students and teachers in Australia. Its two main initiatives are visiting schools to deliver seminars and conducting guided tours of the Sydney CBD courts. These programs utilise the Rule of Law Pyramid (see attached) as a framework and graphical representation of the key principles of the rule of law in Australia.

Behind these education programs is a framework developed by the Institute's educators which aims to use a narrative approach to engage students in discussions about rule of law issues, the workings of the law and government. The framework offers a way to scaffold the teaching of a complex legal concept from the black-letter of the law through to the discussion of issues relating substantive equality and human rights.

Students are taken through the pyramid and taught explicit critical thinking and analytical skills by considering the tensions and competing interests within the legal system and how they impact on fundamental rule of law principles being examined.

The poster and presentation will demonstrate how this framework is applied to rule of law issues such as: anti-association laws, mandatory sentencing, bail law reform and human rights.

Practicing Public Law: a practice-based teaching and learning model for Constitutional Law

Brendan Gogarty (University of Tasmania)

Constitutional law is an exciting, engaging and exceptionally important area of legal practice. The problem is that the traditional teaching model isn't always the best mechanism to convey that message to students. Our response has been to shift to a practice-centric teaching and learning model <<http://www.utas.edu.au/law/left-quick-links/practice-model>>. Students work in firms, shadowing real constitutional cases before the courts and studying submissions of counsel in the court registries. They produce written and oral submissions in moot court through semester and receive instruction in both constitutional theory and practice. This approach significantly increased engagement and interest in constitutional law across the

undergraduate student cohort. Our research indicates that it also strengthens embedded knowledge of constitutional law and improves their ability to apply it to real world problems. This presentation outlines the practice-centric approach, how it can be applied within a constitutional unit and its benefits for both students and academics.

The Relevance of Irrelevance in Administrative Law Teaching

Grant Hooper (UNSW)

Justice Antonin Scalia famously stated:

Administrative law is not for sissies – so you should lean back, clutch the sides of your chairs, and steel yourselves for a pretty dull lecture.

But Justice Antonin Scalia was wrong!

Administrative law is a vital tool in a lawyer's armoury, but, more importantly, its underlying themes and concepts can be experienced throughout almost all aspects of our "non law" lives. Importantly, parts of these "non law" lives are commonly perceived by students as far more interesting than administrative law.

How then can we ask our students to think about the subject more broadly and in doing so learn far more? With this question in mind and after speaking with students, I made a conscious teaching decision early in the semester to commence lessons with an idea reflected in a quote from a non-administrative law source (and on most occasions a non law source). Depending upon the actual lesson, I would begin by explaining what I believed the quote's relevance to be, or asking the students to tell me how they believed it was relevant, or challenging the students to offer a connection at the end of the lesson (the later approaches were used more often as the students became comfortable with the course content). While a connection to the subject matter of the lecture may at times have been readily apparent in the quote itself, the author's background and why they had made the quote often stimulated discussion. In addition to quotes, at times pictures were also used and music with a relevant theme played to finish the lesson, although music proved far more difficult to select.

As the semester progressed it was interesting to see students enter the class-room and look to the quote and then think about it (admittedly not all students but nevertheless a surprisingly large amount). It was also satisfying to receive some suggestions for quotes and very reinforcing to have one group of students commence and incorporate into a class presentation a quote from, of all places, a WWW wrestler: "Thank you for your irrelevant opinion".

I initially trialled the systematic use of quotes to provide a bit of fun and to challenge the students to think more widely by framing a concept in a manner they did not expect. I continued to use quotes as it generated additional interest and discussion and students themselves were drawing parallels between administrative law and the wider world – the seemingly irrelevant was becoming relevant and therefore interesting.

Creating Cohesion: Mini-Moots & Administrative Law

Niamh Kinchin (University of Wollongong)

In 2016, the University of Wollongong (UOW) School of Law will introduce a pilot programme into the teaching of Administrative Law, in which some of the course content will be delivered via assessable 'mini-moots'. The objective of the mini-moots pilot is to

address the concerns outlined above through an assessable mooting component. The aims of the program are as follows:

- The introduction of experiential and problem-based learning into Administrative Law.
- The encouragement of a formative, rather than summative, form of assessment.
- The usage of moots to demonstrate to students how a matter may proceed through the levels of review.
- The usage of moots to help develop a clearer understanding of the grounds of judicial review.
- The development of legal skills such as legal research, application of law to fact scenarios, development of submissions and advocacy.
- Learning through peer review and by being informed spectators.

A Thematic Approach to Teaching Administrative Law

Rick Snell (University of Tasmania)

This poster will outline the University of Tasmania's unique teaching practice in administrative law, which has been employed over the past twelve years. Key aspects of this methodology include:

- Conceptual Emphasis: The UTAS course largely eschews detailed analysis of doctrinal, 'black-letter law'. Instead, students are required to analyse administrative law by reference to its role and effectiveness in mediating between the state and citizen, delivering administrative justice, maintaining the rule of law and good governance, and controlling government power within a Westminsterian constitutional framework.
 - Assessment for both judicial and non-judicial review therefore is predominantly undertaken through self-directed essays requiring engagement with legislation and primary and secondary literature.
 - Judicial review is predominantly assessed through an immigration case study, examining judicial review's uniquely important role in this context. Particular attention is given to the merits/legality distinction, the separation of powers, the rule of law, and judicial review's symbiotic relationship with Australia's Constitutional, domestic and international law.
- Reflective Analysis: Students are required to maintain and submit 2 reflective journals (non-judicial review and judicial review), documenting their personal learning experience, and their opinions regarding current developments, the responsibilities of professional engagement and citizenship, and the appropriateness/effectiveness of administrative law institutions, mechanisms and values in light of the previously discussed concepts.
 - This reflective process encourages students to explore their own identities as learners and citizens, develop and articulate their own (often critical) perspectives, and apply these in real-world scenarios. This produces a deeper, experimental process of active learning which 'means' something to students.
- Seminar-Style Teaching: Lectures are supplemented through optional, small seminars which encourage students to experiment and engage with ideas and current events, emphasising discussion, collaboration and interaction between tutors and students. This

process progressively increases students' mastery of the content, and is designed to assist students' in preparing for their assessment. Students are encouraged to discuss their essay plans and ideas with unit staff, who are available to read and comment upon draft papers.

- **Tiered Material Database:** In place of a synopsis, students are given an extensive reading list relevant to the lectures/seminars/assessment. Readings are 'graded' from 'pass' (e.g. 'read this if you want to pass') to High Distinction level, permitting students to selectively engage with topics as they wish.
 - A substantial electronic database of previous student assessment, conference papers, video and audio material and unpublished material is provided to students to extend/facilitate their research. Students are also encouraged to access the Unit Co-ordinator's Facebook page titled '[Administrative Law & Governance](#)', which collects recent scholarship and news articles.

Together, these concepts address the TLOs and Priestley Requirements in an integrated manner, cultivating a self-directed critical analysis of administrative law (described by one student as a 'truer' appreciation of the subject). This aligns with the broader awareness and creative problem solving skills required of an effective public lawyer. Students report finding this teaching method rewarding, interesting, and thought provoking (if challenging and unusual). Most report feeling completely confused early in the subject which is later replaced by powerful insights.

Pioneering Territory: Welcoming Undergraduate Comparative Study of Administrative Law

Rick Snell (University of Tasmania)

Associate Professor Rick Snell spearheaded the introduction of comparative administrative law studies in to the syllabus of elective units for the University of Tasmania's Law Faculty in 2003. Since this time, students have embraced the opportunity to engage with, and contribute to, this pioneering legal discipline. The unit is offered approximately every two years. This subject encourages students to address key challenges of comparative public law studies, including a lack of extensive materials and minimal agreement on methodology or approaches to teaching and learning. Students keenly enrol in this experimental unit, embracing the opportunity to scope out and define their own areas of interest, research, study and assessment, which is rarely available at undergraduate level. This is achieved through a unique blend of teaching practices, amounting to an academically and creatively satisfying course delivery, inclusive of:

- **Comparative Method** – The preliminary weeks of this unit see students engaging with a wide range of literature, outlining the difficulties of comparative method, the importance of comparative 'thinking' and a variety of comparative models and approaches – from the theoretical to the pragmatic. Students are then encouraged to deploy these base models throughout the substantive portion of this unit, resulting in diverse papers as well as varied interpretations of worldwide administrative law. 'Non-traditional' comparisons are encouraged, with previous papers exploring administrative law in the United Kingdom, France, USA, the Pacific Islands, South East Asia, New Zealand, Sri Lanka, India, Israel, Pakistan, Egypt, South Africa, Latin America and sub-Saharan states.
- **Thematic Focus** – the unit takes a 'thematic' approach to the teaching of comparative administrative law, set out in four key areas of study – (1) Theoretical approaches to comparative study, (2) Access to information, (3) Ombudsman and (4) Judicial review -

all examined from a comparative perspective. Instead of focusing on the semantics of the 'black-letter law' and the technical functioning of institutional structures, students are encouraged to analyse and compare approaches to administrative law by reference to its role and effectiveness in mediating between the state and citizen, delivering administrative justice, and maintaining the rule of law and good governance (accounting for jurisdictional difference regarding these concepts).

- Student-Directed Learning – Classes steer away from the characteristic lecture and tutorial structure, towards interactive seminars guided by student input prior to, and during, seminars. These seminars encourage students to experiment and engage with ideas, various comparative approaches and current events, emphasising discussion, collaboration and interaction between peers and professor alike. Similarly to the university's core administrative law unit (a unit pre-requisite), the unit has a 'tiered' reading list and materials database which provides extensive access to relevant materials that ultimately supports students to excel in the research aspect of this unit. Finally, at the conclusion of this unit, students must submit a reflective journal which they have maintained throughout the semester. This process encourages students to explore their identities as learners and citizens, develop and articulate their own (often critical) perspectives, and apply these in multi-national scenarios – reflecting on the difficulties and rewards of comparative study in a developing discipline. Incidentally, these reflective journals contribute to the continuous revision and improvement of this course.

Together, these teaching practices have amounted to a comparative administrative law elective that is both academically and creatively satisfying. Allowing for student creativity in developing individualised opinions of Australian and international administrative law, whilst providing an abundance of support and resources to encourage academic success within this liberal approach to learning.

The Foundations of Public Law

Adam Webster and Alex Reilly (University of Adelaide)

At Adelaide Law School, the teaching of public law is scaffolded across 3 subjects: Principles of Public Law, Australian Constitutional Law and Administrative Law. The institutions of government and their formal relationship is introduced in Principles of Public Law. This includes the separation of judicial power (including the consequences for State Courts), accountability of the Executive Government (merits review, judicial review and freedom of information) and an introduction to the State Constitution.

After completing Principles of Public Law in the second semester of first year, students then study the compulsory specialist courses, Australian Constitutional Law and Administrative Law in either the second or third year. Before students take any of these courses, they study a course, Foundations of Law (in the first semester of their first year), which introduces them to legal ethics, interpretation of cases and statutes, and introduces legal theory. These topics cannot sensibly be taught without some knowledge of public law. This poster explains how the Adelaide Law School's Foundations of Law course currently incorporates elements of public law into the teaching of these topics, both formally and informally, and considers options for improving the current approach.