

Bond University  
Research Repository



**Extending public law: Digital engagement, education and academic identity: Digital engagement, education and academic identity**

Castan, Melissa; Galloway, Kathrine

*Published in:*  
Legal Education Review

*Licence:*  
CC BY-NC-ND

[Link to output in Bond University research repository.](#)

*Recommended citation(APA):*  
Castan, M., & Galloway, K. (2015). Extending public law: Digital engagement, education and academic identity: Digital engagement, education and academic identity. *Legal Education Review*, 25(2), 331-348.  
<https://epublications.bond.edu.au/ler/vol25/iss2/4/>

**General rights**

Copyright and moral rights for the publications made accessible in the public portal are retained by the authors and/or other copyright owners and it is a condition of accessing publications that users recognise and abide by the legal requirements associated with these rights.

For more information, or if you believe that this document breaches copyright, please contact the Bond University research repository coordinator.

1-1-2015

## Extending Public Law: Digital Engagement, Education and Academic Identity

Melissa Castan  
*Monash University*

Kate Galloway  
*James Cook Universit*

Follow this and additional works at: <http://epublications.bond.edu.au/ler>

 Part of the [Legal Education Commons](#)



This work is licensed under a [Creative Commons Attribution-Noncommercial-No Derivative Works 4.0 License](#).

---

### Recommended Citation

Castan, Melissa and Galloway, Kate (2015) "Extending Public Law: Digital Engagement, Education and Academic Identity," *Legal Education Review*: Vol. 25 : Iss. 2 , Article 4.

Available at: <http://epublications.bond.edu.au/ler/vol25/iss2/4>

This Article is brought to you by the Faculty of Law at [ePublications@bond](mailto:ePublications@bond). It has been accepted for inclusion in *Legal Education Review* by an authorized administrator of [ePublications@bond](mailto:ePublications@bond). For more information, please contact [Bond University's Repository Coordinator](#).

# EXTENDING PUBLIC LAW: DIGITAL ENGAGEMENT, EDUCATION AND ACADEMIC IDENTITY

---

MELISSA CASTAN\* AND KATE GALLOWAY\*\*

## I INTRODUCTION

In Australian legal education, ‘public law’ is understood as an umbrella concept,<sup>1</sup> covering both constitutional and administrative law subjects. More expansively, public law is understood as the analysis and evaluation of the state structures of power and control<sup>2</sup> between governments and their people, and between governments, at both the formal and substantive levels. Thus ‘public law’ readily accommodates topics such as statutory construction, human rights, state sovereignty, electoral law, legal philosophy, and the rule of law. While increasingly observation is made of the weakening of the traditional distinction between public and private law, that is probably a discussion best ventilated elsewhere.<sup>3</sup> For current purposes, the traditional distinction is a useful point of departure for a more expansive view of public law and public law teaching – an idea that we seek to develop here.

The expansive view aligns with the broader conceptualisation of the law curriculum ushered in by the Discipline Standards for Law,<sup>4</sup> while retaining the law’s doctrinal integrity. The practice of public law education in this mold requires a more critical and authentic approach, giving scope for student engagement in the broader contexts of law.<sup>5</sup> Together these approaches represent a more contemporary and potentially enlivened public law curriculum. The question is how this might be achieved in a way that cohesively invokes the elements of academic practice.

---

\* Senior Lecturer, Monash University, Melbourne, Victoria, Australia.

\*\* Senior Lecturer, James Cook University, Queensland, Australia

<sup>1</sup> Graeme Orr, ‘Teaching Public Law: Content, Context and Coherence’ (2015) 25 *Legal Education Review* (forthcoming).

<sup>2</sup> Gabrielle Appleby, Alexander Reilly and Laura Grenfell, *Australian Public Law* (Oxford, 2<sup>nd</sup> ed, 2014).

<sup>3</sup> Dawn Oliver, *Common Values and the Public-Private Divide* (Butterworths, 1999) but see also Darryn Jensen, ‘Keeping Public Law in its Place’ (2014) 33 *University of Queensland Law Journal* 285, 285-8. See Orr’s very useful exploration in above n 1.

<sup>4</sup> Sally Kift, Mark Israel and Rachael Field, ‘Bachelor of Laws Learning and Teaching Academic Standards Statement’ (Australian Learning and Teaching Council, 2010).

<sup>5</sup> *Ibid*, Threshold Learning Outcome (‘TLO’) 1.

In this article we explore the dimensions of digitally-mediated, collaborative, academic practice in public law. We are interested in the way in which the pursuit of education in public law reflects the domains of academic practice. Notably, integral to our understanding of teaching is broader community engagement and promotion of an ‘educated citizenry’,<sup>6</sup> conscious of the operation of power within the structures of the state. We therefore focus on the extent to which we engage diverse audiences: colleagues in the academy and the profession, our students and the general public.<sup>7</sup> As communicators of law we reflect on our methods of communication through the prism of digital literacies as a means both of modelling effective use of digital media and exploring its meaning and potential in learning public law. This article is part of a wider series that aims to advance discussion about the utility of social media as a democratizing form of communication of scholarly work.<sup>8</sup> Accordingly, this article offers a collaborative auto-ethnographic account,<sup>9</sup> explicitly exposing how the authors have embraced social media as an extension of scholarly work in the public law domain.<sup>10</sup>

<sup>6</sup> It is widely recognised that ‘[k]nowledge has become the currency of the new global market, and a major determinant in assessing the wealth of nations.’ David T Gamage and Elliot Mininberg, ‘The Australian and American Higher Education: Key Issues of the First Decade of the 21st Century’ (2003) 45(2) *Higher Education* 183, 184. See also Angela Brew, ‘Teaching and Research: New Relationships and their Implications for Inquiry-Based Teaching and Learning in Higher Education’ (2003) 22(1) *Higher Education Research and Development* 3. This idea is implicit within the so-called Bradley Review of Higher Education: Denise Bradley et al, *Review of Australian Higher Education* (Australian Government, 2008).

<sup>7</sup> Chris Gibson and Leah Gibbs, ‘Social Media Experiments: Scholarly Practice and Collegiality’ (2013) 3(1) *Dialogues in Human Geography* 87.

<sup>8</sup> Kate Galloway, Kristoffer Greaves and Melissa Castan, ‘Gatecrashing the Research Paradigm: Effective Integration of Online Technologies in Maximising Research Impact and Engagement in Legal Education’ (2013) 6 *Journal of the Australasian Law Teachers Association* 83; Kate Galloway, Kristoffer Greaves and Melissa Castan, ‘Interconnectedness, Multiplexity and the Global Student: The Role of Blogging and Micro Blogging in Opening Students’ Horizons’ (2012) 5 *Journal of the Australasian Law Teachers Association* 1; Kate Galloway, ‘The Future of Legal Education’, *Curl: Property Law, Women and Law, Contemporary Legal Issues* (online), 6 June 2014 <<http://katgallow.blogspot.com.au/2014/06/the-future-of-legal-education.html>>; Kate Galloway, ‘Legal Education in a Digital Context’, *Curl: Property Law, Women and Law, Contemporary Legal Issues* (online), 15 June 2014 <<http://katgallow.blogspot.com.au/2014/06/legal-education-in-digital-context.html>>; Kate Galloway, ‘Steps to Generate (Digitally Enhanced) Change in Legal Education’, *Curl: Property Law, Women and Law, Contemporary Legal Issues* (online), 3 July 2014 <<http://katgallow.blogspot.com.au/2014/07/steps-to-generate-change-in-legal.html>>.

<sup>9</sup> Auto-ethnography is ‘a qualitative research method that utilizes data about self and its context to gain an understanding of the connectivity between self and others within the same context.’ F Ngunjiri, K Hernandez, and H Chang, ‘Living Autoethnography: Connecting Life and Research’ (2010) 6(1) *Journal of Research Practice* [editorial].

<sup>10</sup> This discussion of the role of the legal academic is based upon research earlier published in Galloway, Greaves and Castan, ‘Gatecrashing the Research Paradigm’, above n 8.

## II THE EXPANDED CONTEXT OF PUBLIC LAW

As the concept or category of ‘public law’ encompasses legal principles and practices that govern the exercise of power by public bodies, including parliaments and the executive, we can now expect that in legal education we encounter public law and public law principles in a much-expanded context. Wherever we describe, evaluate or critique the exercise of public power, we are engaging public law concepts such as sovereignty, rights and liberties, participatory democracy, the rule of law and separation of power.<sup>11</sup> Public law anticipates judicial review of the rules of governance,<sup>12</sup> but it is not fixed in its approaches or expressions. In that context we witness renewed enthusiasm for the mythology of Magna Carta.<sup>13</sup> It represents the keystone of public law precepts of transparency, accountability and due process, and renewed expression of the rule of law.<sup>14</sup> Further, its contemporary iteration has renewed engagement in common law principles such as the doctrine of legality as the basis for judicial review.<sup>15</sup>

The contemporary iteration of other concepts such as globalisation, civil society and political community are also part of the expanded context of public law.<sup>16</sup> Consequently, we undertake public law analysis when we evaluate issues of participatory democracy such as electoral laws, the scope of ‘move on’ protest laws, or the validity of ‘law and order’ developments. Justice Spigelman says that

[p]ublic law is, or should be, primarily concerned with the way the institutionalised governance system generates power, rather than focussing, as is often done, on the way in which power is constrained. Constraints are an inextricable component of the conferral of governmental power.<sup>17</sup>

He goes on to endorse Loughlin’s observation that ‘in this sphere, constraints on power generate power.’<sup>18</sup> Power is central to public law.

This brings us to the aspects of public law that often seem to motivate law students (and perhaps some members of the general public): human rights, civil liberties and the use of law to pursue social justice. All of these involve the evaluation of constraints on government power, and the expression of legal rights of the individual or a community. They often also centre on issues of political debate. Recent contemporary public

<sup>11</sup> For instance, see Orr, above n 1, 4-5.

<sup>12</sup> See James Spigelman ‘Public Law and the Executive’ (2010) 34 *Australian Bar Review* 10, 13.

<sup>13</sup> The Great Charter has taken on new resonance in this year, its 800<sup>th</sup> anniversary: Rule of Law Institute Australia, *Magna Carta Committee* <<http://www.magnacarta.org.au/>>. See also the discussion in David Allen Green, ‘The Myth of Magna Carta’ (16 June 2014) <<http://blogs.ft.com/david-allen-green/2014/06/16/the-myth-of-magna-carta/>>.

<sup>14</sup> Lord Bingham, *The Rule of Law* (Penguin, 2011), Chapter 1.

<sup>15</sup> Dan Meagher, ‘The Principle of Legality in the Age of Rights’ (2011) 35 *Melbourne University Law Review* 449.

<sup>16</sup> Ashley Crossland, ‘A New Public Law? Australian Constitutionalism in the Age of Globalisation’ (2001) 24 (3) *University of New South Wales Law Journal* 817.

<sup>17</sup> Spigelman, above n 12.

<sup>18</sup> M Loughlin, *Foundations of Public Law* (Oxford University Press, 2010) 11.

debates have focused on the proper role of the President of the Australian Human Rights Commission,<sup>19</sup> the scope of powers of anti-corruption bodies,<sup>20</sup> the role of Legal Aid funding for community legal centre advocacy for law reform,<sup>21</sup> and the various models for recognition of Aboriginal and Torres Strait Islander Australians in the *Constitution*.<sup>22</sup> These issues go to the heart of our system of democracy. To the extent that the citizen does not understand them, their participation in public debate is limited. They are only a few examples of public law issues in mainstream and online media and public debate, but all have recently called on the contribution of public law educators to fill in the deficit in community legal comprehension.

The apparent call for community legal education is, in a way, a call for support of participatory democracy. It represents an opportunity for us as public law academics to engage with a constituency beyond our own student bodies. We have taken up this task as a component of what we see as an expanded academic role. Moreover, we participate in community legal education as an expression of public law lawyering, which includes a strong tradition of public service.<sup>23</sup> We suggest that the role of community legal education and public service is integral to an expanded idea of public law teaching.

### III THE EXPANDED CONTEXT OF TEACHING

To begin to explain an expanded role for the public law teacher, we reflect on our own roles as legal educators. We situate our work with reference to Boyer's examination of the academic's role. To better

<sup>19</sup> One interesting manifestation of public law discourse was the 'Open Letter in Support of the Australian Human Rights Commission', *Castan Centre for Human Rights Law* (16 February 2015) <<http://castancentre.com/2015/02/16/2717/>>, which was reported in 'Open letter to PM expresses dismay at personal attacks on HRC president Gillian Triggs', *ABC News* (online), 20 Feb 2015, <<http://www.abc.net.au/news/2015-02-20/open-letter-to-pm-expresses-dismay-at-personal-attacks-triggs/6163918>>.

<sup>20</sup> Andrew Tiedt, 'The High Court was Right to Rein in ICAC', *The Guardian* (online), 21 April 2015, <<http://www.theguardian.com/commentisfree/2015/apr/21/unfortunately-for-outraged-journalists-the-high-court-was-right-to-rein-in-icac>>; Gabrielle Appleby, 'High Court Forces ICAC to Drop Cunneen Inquiry and Review Others', *The Conversation* (online), 15 April 2015, <<http://theconversation.com/high-court-forces-icac-to-drop-cunneen-inquiry-and-review-others-40171>>.

<sup>21</sup> James Farrell, 'Reversing Legal Aid Cuts Isn't Enough to Ensure Access to Justice', *The Conversation* (online), 31 March 2015 <<http://theconversation.com/reversing-legal-aid-cuts-isnt-enough-to-ensure-access-to-justice-39463>>.

<sup>22</sup> Melissa Castan, 'Explainer: What Indigenous Constitutional Recognition Means', *The Conversation* (online), 18 September 2014 <<http://theconversation.com/explainer-what-indigenous-constitutional-recognition-means-31770>>.

<sup>23</sup> See eg Robert French, 'Lawyers, Causes and Passion' (Speech delivered at EDO New South Wales 30<sup>th</sup> Anniversary Dinner, Sydney, 25 June 2015) <<http://www.hcourt.gov.au/assets/publications/speeches/current-justices/frenchcj/frenchcj25June2015.pdf>>; Mary Anne Noone and Stephen Tomsen, 'Service Beyond Self-interest? Australian Lawyers, Legal Aid and Professionalism' (2001) 8(3) *International Journal of the Legal Profession* 251; Deborah L Rhode, *Pro Bono in Principle and in Practice: Public Service and the Professions* (Stanford University Press, 2005).

understand the scope and diversity of the academic's role Boyer articulated four layers of scholarship: 'the scholarship of discovery ... of integration ... of application and ... of teaching.'<sup>24</sup> Thus academic work provides a flexible and varied career path for the individual academic, while meeting the university's obligation to serve society.<sup>25</sup>

Boyer's work is a useful articulation of the domains of the academic's role, and he suggested strategies for recognising each of these domains as scholarly endeavour.<sup>26</sup> Importantly, his recognition of the 'mosaic of talent' involved in scholarship implicitly acknowledges there will be differently-skilled individuals within the institution.<sup>27</sup> This implies perhaps variation in the relative emphasis for a single academic as between, say, teaching and research activity. But for this discussion, we see this also as contemplating differential skills in or attitudes towards the uptake of social media as an integral part of academic practice.

Boyer also acknowledges the development and changes in academic interests and focus over time as a necessary part of promoting faculty renewal and, ultimately, creativity within the educational institution.<sup>28</sup> Boyer argued for reformulating notions of what constitutes and is valued in terms of academic life.<sup>29</sup> This process of reformulation is ongoing, and evolves with the changing modes and tools of communication. As we reflect on our own practice, we see Boyer's articulation of academic practice as sufficiently flexible to accommodate our own expanding notion of teaching. Additionally, we consider that our expanded activities as public law educators fall within his contemplated reformulation of what is involved in academic life. Our engagement of new audiences and our use of new communication technologies are examples of how we are exploring the boundaries of existing concepts of academic work.

Applying this to teaching in particular, we suggest here that within Boyer's 'mosaic of talent', scholarship of teaching need not be limited to the classroom of enrolled students. While universities themselves tend to identify teaching, research and engagement as three domains of academic practice,<sup>30</sup> increasingly there need be little differentiation between them. Thus the role of the academic can – and we argue, should – involve educating an audience far wider than their own class. The 'qualitative variations' will exist from one academic to the next in terms of their own

---

<sup>24</sup> Ernest Boyer, *Scholarship Reconsidered: Priorities of the Professoriate* (Carnegie Foundation for the Advancement of Teaching, 1990) 16.

<sup>25</sup> In the context of the legal academic, see eg Carel Stolker, *Rethinking the Law School: Education, Research, Outreach and Governance* (Cambridge, 2014) 263-89. More generally see Universities Australia, *An Agenda for Australian Higher Education 2013-2016* (2013).

<sup>26</sup> Boyer, above n 24, 61.

<sup>27</sup> *Ibid*, 27.

<sup>28</sup> *Ibid*, 43.

<sup>29</sup> *Ibid*, 43, 77.

<sup>30</sup> See eg Alexandra Winter, John Wiseman and Bruce Muirhead, 'University-Community Engagement in Australia: Practice, Policy and Public Good' (2006) 1(3) *Education, Citizenship and Social Justice* 211. This is illustrated in university plans, eg James Cook University, *University Plan 2013-2017* (2013) <<http://www.jcu.edu.au/about/plan/index.htm>>, 3: 'Core Business: Learning and Teaching, Research, and Engagement'.

interpretation of the bounds of any particular sphere of academic practice. Aligned with our own reflection on the role of the public law academic, there are reasons particular to the subject matter of the discipline that demand that we consider an expanded notion of the role of teacher. That is the premise of this article.

Our own perceptions of the evolution of academic work are informed also by reformulation of academic work that is taking place through the disruption caused by digital technologies. Technology is permitting research – or the building blocks of research – to be fully integrated with teaching and engagement, generating a seamless academic persona in the online environment. For those fearful of the erasure of the embodied academic, the digital footprint can be understood as enhancing and expanding the academic’s live presence beyond the bounds of the bricks and mortar institution.

As academics, we are interested in advancing a discussion about the utility of social media as a democratising form of communication of scholarly work – in this case, in public law. In our experience digital technology affords a means by which to synthesise Boyer’s dimensions of academic work. Social media allows us, as educators in public law, to serve the public through a blend of discovery, interaction, application and teaching. In the university’s more prosaic interpretation, in our experience using social media has enhanced our armoury of tools for publication and external scrutiny of our work. It also enables us to engage diverse audiences in our academic work, furthering an educative purpose.

Engagement – or in our framework, public law education as an aspect of participatory democracy – involves our own direct involvement in a public law network, or community, which exists far beyond our geographical location and whose horizon includes our own students and the public at large. To do this requires understanding what is the right (digital) tool for the job, and how to use it. This lies at the heart of digital literacies.

#### IV DIGITAL LITERACY AND THE RIGHT TOOL FOR THE JOB

Digital literacy is known to be a ‘complex and contested term’<sup>31</sup> that is difficult to pinpoint. It is regarded however as a ‘condition, not a threshold’.<sup>32</sup> That means that digital literacy is an enabler of knowing and doing, rather than an end in itself. For our purposes, digital literacy is competency in ‘professional, social, cultural and personal communication

---

<sup>31</sup> Cassie Hague, ‘It’s Not Chalk and Talk Any More: School Approaches to Developing Students’ Digital Literacy’ on *FutureLab* (2010) <[http://www.futurelab.org.uk/sites/default/files/Digital\\_participation\\_strand\\_1\\_final\\_report.pdf](http://www.futurelab.org.uk/sites/default/files/Digital_participation_strand_1_final_report.pdf)>, 4.

<sup>32</sup> D Bawden, ‘Information Problems, Digital Literacy Solutions’ (Paper presented at the International Conference on Human-Computer Interaction and Information Services, Prague, Czech Republic, October 2008) 6, citing A Martin, ‘Literacies for the Digital Age’ in A Martin and D Madigan (eds), *Digital Literacies for Learning* (Facet Publishing, 2006) 3.



practices appropriately utilising a variety of digital media.’<sup>33</sup> In the context of academic work, the digitally literate legal educator meets the conditions enabling communication practices through selection of appropriate digital media. In our case, we use these *professional* communication practices to serve the educational purpose of broad engagement in public law. These practices enable us to meld ostensibly separate domains of teaching, research and engagement. Importantly, through digital media, we are able to give form to our conception of the public purpose of public law, which we consider to be a pre-condition of an educated and therefore empowered citizenry.

For the academic seeking to expand their horizon beyond the classroom, academic digital literacy facilitates the expanded role beyond traditional means of scholarly communications, namely teaching (to a room of present people) and peer-reviewed research. As will be argued here, through the use of blogs and supported by Twitter and Slideshare, the academic has at their disposal a range of tools that enable effective and indeed global scholarly communication. Importantly, however, these are just some of the digital tools available to mediate contemporary scholarly communication.

Part of the challenge for many academics in building digital literacy is resistance to digitally mediated scholarship. Within the academy, despite a growing acceptance of some forms of social media as a scholarly endeavour, there remains scepticism of digital ‘outputs’ that principally centre on quality. This largely occurs because social media genres, such as blogging, are not ‘peer reviewed’ in the way it has been historically understood.<sup>34</sup> The scholarly quality of an online post is, however, as with any other resource, largely to be determined through the application of information literacy. By this we mean ‘the ability to search for, select, critically evaluate and use information for solving problems in various contexts.’<sup>35</sup> The first hurdle for the academic encountering non-traditional scholarly work is to accept the genre as at least potentially viable – and the potential of digital genres is discussed below.

### A Blogging

A blog is an online discussion or information site consisting of individual articles or ‘posts’; the most recent appears at the front page. Nearly a decade ago, Australian public law academic and early social media adopter, Peter Black, provided a comprehensive description of the evolution and nature of the blog:

---

<sup>33</sup> Kate Galloway, ‘A Rationale and Framework for Digital Literacies in Legal Education’ (forthcoming).

<sup>34</sup> For a discussion of online, public commenting as review, see Sabine Hossenfelder, ‘Open Peer Review and its Discontents: Criticism is an Integral Part of Science – Essential for Progress and Cohesion’ on *LSE Impact Blog* (23 February 2015) <<http://blogs.lse.ac.uk/impactofsocialsciences/2015/02/23/open-peer-review-and-its-discontents/>>.

<sup>35</sup> Louise Limberg, Olof Sundin and Sanna Talja, ‘Three Theoretical Perspectives on Information Literacy’ (2012) 11(2) *Human IT* 93, 96.

A blog is a website where regular entries are made (such as in a journal or diary) and presented in reverse chronological order. They often comment on the news or on a particular subject, such as food, politics, or music. Some are personal online diaries.<sup>36</sup>

With free blogging platforms available to be personalised, blogs now require little technical expertise; a new one can be established in a couple of hours.<sup>37</sup> Blogs differ from regular static websites as they allow public feedback, through ‘comments’, which give authors the ability to build relations with their readers and with other bloggers. The use of microblogging (such as Twitter) assists in integrating blogs within social news streams. Blogs are therefore regarded as *social media*.<sup>38</sup>

The ‘social’ element of social media and the blog’s history of use for non-scholarly pursuits have probably damaged its reputation as a legitimate form of scholarly expression.<sup>39</sup> However, despite the contested worth of blogging, there is a wealth of examples that suggest it to be a legitimate mode of scholarly communication. The well-regarded *LSE Social Science Impact Blog* maintains that

[a] new paradigm of research communications has grown up - one that de-emphasizes the traditional journals route, and re-prioritizes faster, real-time academic communication. Blogs play a critical intermediate role. They link to research reports and articles on the one hand, and they are linked to from Twitter, Facebook, Pinterest, Tumblr and Google+ news-streams and communities. So *in research terms* blogging is quite simply, one of the most important things that an academic should be doing right now.<sup>40</sup>

Of interest here is the law blog. Peoples points out that (in the United States context), ‘[b]logs are used by lawyers, scholars, and others who want to have an impact in judicial decision making.’<sup>41</sup> Both he and Volokh cite the reach of legal blogging, though in different ways. Volokh examines the broad intellectual engagement he experiences via his own posts (the *social* element of social media),<sup>42</sup> while Peoples has

---

<sup>36</sup> Peter Black, ‘Uses of Blogs in Legal Education’ (2006) 13 *JCU Law Review* 8. Our focus here is on public law blogs. There is an online compendium of Australian legal blogs on *Amicae Curiae: Girlfriends of the Court* <<http://amicaecuriae.com>>.

<sup>37</sup> See, for example, *Wordpress* <[wordpress.com](http://wordpress.com)>. More lately, *Medium* <[www.medium.com](http://www.medium.com)> provides a simplified publishing interface, though not on a unique web page.

<sup>38</sup> For a detailed explanation of blogging and microblogging, see, for example, Galloway, Greaves and Castan, ‘Interconnectedness, Multiplexity and the Global Student’, above n 8.

<sup>39</sup> Asit Biswas and Julian Kirchherr, ‘Citations are Not Enough: Academic Promotion Panels Must Take Into Account a Scholar’s Presence in Popular Media’ on *LSE Social Science Impact Blog* (9 April 2015) <<http://blogs.lse.ac.uk/impactofsocialsciences/2015/04/09/academic-promotion-scholars-popular-media/>>.

<sup>40</sup> See eg ‘Shorter, Better, Faster, Free’ on *Writing for Research* (11 September 2014) <<https://medium.com/advice-and-help-in-authoring-a-phd-or-non-fiction/shorter-better-faster-free-fb74bddaec03>>. This is part of the *LSE Impact of Social Science Blog*.

<sup>41</sup> Lee F Peoples, ‘The Citation of Blogs in Judicial Opinions’ (2010) 13 *Tulane Journal of Technology & Intellectual Property* 39, 40.

<sup>42</sup> Eugene Volokh, ‘Scholarship, Blogging and Tradeoffs: On Discovering, Disseminating and Doing’ (2006) 84 *Washington University Law Review* 1089.

‘exhaustively’ examined the extent to which legal blogs are cited in the United States courts as one facet of the scholarly element.<sup>43</sup> According to Peoples, law blogs ‘have been heralded as a replacement for law review case commentary, as a vast amicus brief, and have even been compared with the Federalist Papers.’<sup>44</sup>

In support of Peoples’ contention, Justice Kennedy of the United States Supreme Court has praised the legal blog, contrasting its utility to that of law reviews (or journals):

Professors are back in the act with the blogs... The professors within 72 hours have a comment on the court opinion, which is helpful, and they are beginning to comment on when the certs are granted. And I like that.<sup>45</sup>

Apart from a recent overview by Blackham and Williams of Australian courts’ use of social media,<sup>46</sup> there is little (if any) systematic review of judicial use of blogs in Australia. The predictions made in the United States context that law blogs will have a ‘growing influence with the courts’ is not yet apparent in the Australian context. Perhaps the experience in Australia reflects Justice Posner’s observation that ‘the web is an incredible compendium of data and a potentially invaluable resource for lawyers and judges that is underutilised by them.’<sup>47</sup> Importantly for this discussion, the potential for the blog – just one aspect of Posner’s ‘incredible compendium’ – lies in the genre itself.

The first observation for the public law academic is that *scholarly* public law blogs are written by known experts in this field.<sup>48</sup> The genre

<sup>43</sup> Peoples, above n 41. See also J Robert Brown, ‘Law Faculty Blogs and Disruptive Innovation’ (2012) 2(3) *Journal of Law* 525. Canadian courts have also started to cite blogs: see Nate Russell, ‘Law Blogs: The Refuge of Compulsive Exhibitionists No More’ on *The Stream: Courthouse Libraries BC Blog* (16 May 2013) <[http://www.courthouselibrary.ca/training/stream/13-05-16/Law\\_blogs\\_the\\_refuge\\_of\\_compulsive\\_exhibitionists\\_no\\_more.aspx](http://www.courthouselibrary.ca/training/stream/13-05-16/Law_blogs_the_refuge_of_compulsive_exhibitionists_no_more.aspx)>.

<sup>44</sup> Peoples, above n 41. References omitted.

<sup>45</sup> Kevin O’Keefe, ‘Supreme Court Justice Kennedy on the Value of Law Blogs’ on *Kevin O’Keefe’s Real Lawyers Have Blogs* (10 October 2013) <[http://kevin.lexblog.com/2013/10/10/supreme-court-justice-kennedy-on-the-value-of-law-blogs/?utm\\_source=feedburner&utm\\_medium=feed&utm\\_campaign=Feed%3A+KevinOKeefe%2FRealLawyersHaveBlogs+%28Real+Lawyers+Have+Blogs%29](http://kevin.lexblog.com/2013/10/10/supreme-court-justice-kennedy-on-the-value-of-law-blogs/?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+KevinOKeefe%2FRealLawyersHaveBlogs+%28Real+Lawyers+Have+Blogs%29)>.

<sup>46</sup> Alysia Blackham and George Williams, ‘Australian Courts and Social Media’ (2013) 38 (3) *Alternative Law Journal* 175. See also Judge Judith Gibson ‘Judges, Cyberspace And Social Media’ on *AIIA Speech* (4 June 2014) <<http://www.aija.org.au/Quick%20Links/Judges%20and%20Social%20Media%202014.pdf>>.

<sup>47</sup> Richard Posner, *Reflections on Judging* (Harvard, 2013) 134.

<sup>48</sup> See eg: Cheryl Saunders, ‘Reflections on the Local Government Referendum That Wasn’t’ on *Opinions on High* (23 September 2013) <<http://blogs.unimelb.edu.au/opinionsonhigh/2013/09/23/saunders-local-government-referendum>>; Sarah Joseph, ‘Ticking Down to a Possible Date with Executioners’ on *Castan Centre for Human Rights Blog* (19 January 2015) <<http://castancentre.com/2015/01/19/ticking-down-to-a-possible-date-with-executioners>>; Graham Orr, ‘Can Julian Assange be Elected to Australia’s Parliament and Can Craig Thompson Stay There?’ on *Castan Centre for Human Rights Blog* (5 February 2013) <<http://castancentre.com/2013/02/05/can-julian-assange-be-elected-to-australias-parliament-and-can-craig-thompson-stay-there>>; Helen Irving, ‘Knocking on the Door of Cabinet? The Shortage of Women in Australia’s New Government’ on *A Woman’s Constitution* (24 September 2013) <[http://blogs.usyd.edu.au/womansconstitution/2013/09//knocking\\_on\\_the\\_door\\_of\\_cabinet.html](http://blogs.usyd.edu.au/womansconstitution/2013/09//knocking_on_the_door_of_cabinet.html)>; Anne Twomey, ‘D’jà vu: The Commonwealth’s Response to the Williams

allows for immediate publication, capturing the zeitgeist of any current issue. For an example of this, see *Opinions on High*, a multi-author blog published by the Melbourne Law School.<sup>49</sup> The blog features summaries of High Court decisions, often on the day they are published, in posts written by leading scholars in the field. More recently, *AusPubLaw* has joined the field, with the aim of providing ‘expert commentary and analysis on recent cases and legislative change as well as updates on the latest research and scholarship in Australian public law’.<sup>50</sup>

These resources are not necessarily longer, more considered or targeted analyses, but they do represent an immediate expert source of information about what must be the key issues in weighty judgments. In this respect, the genre is a new one that complements the traditional armoury of journal articles, conferences and books.

Blog posts allow scholars to work through contemporary issues or ideas as short-form writing. In this sense too, the blog post is a *different genre* from the refereed journal. Thinking of the law blog in this way opens the possibility for its use as a scholarly work, recognizing the boundaries of the genre itself.

For the educator, free and fast access to scholarly views is a valuable resource that can effectively be put to educational use – or in Peoples’ analysis, put to work before the court.<sup>51</sup> In this sense, blogs are a democratic approach to scholarship. The scholarship is not locked in subscription databases or tied up in lengthy reviewing and publishing processes, but can instead become immediately accessible to the general public. O’Keefe observes that ‘legal commentary has been democratized with open publishing available to practicing (sic) lawyers. Blogs don’t have the gatekeepers law reviews do that limit commentary to primarily law professors and law students.’<sup>52</sup> Additionally, and relevant to the public law scholar, ‘public legal information is part of the common heritage ... and its access promotes justice and the rule of law.’<sup>53</sup>

Thirdly, while not peer reviewed in the generally understood sense, blogs are in the public domain and therefore subject to considerable scrutiny, including by one’s peers. When supported by a Twitter account, the discussion with a broad spectrum of experts and the general public can be extensive – more so than a journal article. Recent analysis has identified that some 50 per cent of journal articles are likely to be read only by the author, editor and reviewer.<sup>54</sup> In contrast, the ‘social’ aspect

---

Case’ on *Constitutional Critique* (3 July 2014) <[http://blogs.usyd.edu.au/cru/2014/07/deja\\_vu\\_the\\_commonwealths\\_resp\\_1.html](http://blogs.usyd.edu.au/cru/2014/07/deja_vu_the_commonwealths_resp_1.html)>.

<sup>49</sup> Melbourne Law School, *Opinions On High* <<http://blogs.unimelb.edu.au/opinionsonhigh/>>.

<sup>50</sup> Gilbert and Tobin Centre of Public Law, University of New South Wales, *AusPubLaw* <<http://auspublaw.org/about/>>.

<sup>51</sup> Peoples, above n 41.

<sup>52</sup> O’Keefe, above n 45.

<sup>53</sup> Daniel Poulin, “Free Access to Law” and “Open Data”: Similarities and Differences’ (Paper presented at Austlii Seminars, Sydney, 19 November 2013) <[http://www.austlii.edu.au/austlii/seminars/2013/5\\_slides.pdf](http://www.austlii.edu.au/austlii/seminars/2013/5_slides.pdf)>.

<sup>54</sup> Lokman I Meho, ‘The Rise and Rise of Citation Analysis’ (2007) *Physics World* <[arXiv:physics/0701012](http://arXiv:physics/0701012)>. Furthermore, only 20 per cent of citers are likely to have

of the online medium is the capacity for comment and further exchange of ideas. Ideas expressed on a blog are available for discussion, feedback and instruction with any reader.

Finally, blogs involve direct involvement in a network or community that exists far beyond any geographical location, but one that also includes our own students. The genre is a source of law, analysis and critique for students, modelling discipline thinking<sup>55</sup> on topics that might be a long way from reaching the journal or the textbook. They break down the barrier between student (or member of the public) and the academic, through the ‘comment’ function, further rendering academic expertise available to the public. In the German constitutional law blog *Verfassungsblog*, American academic Jack Balkin writes that ‘blogging is a way of changing the relations of authority in the public sphere’.<sup>56</sup> In other words, the medium itself moves beyond simply a mode of communication, to an act emblematic of the democratising purpose implicit in the expanded notion of the practice and teaching of public law.

Through the features particular to this medium, blogging integrates the domains of academic scholarship into a seamless scholarly work. Volokh calls this ‘discovering, disseminating and doing’ – another version of Boyer’s domains and representative again of the ‘triad of work on which academics are evaluated.’<sup>57</sup> Blogs can embody the text of the academic’s research and reach globally to educate and engage an interested public.

As each blog post is published, the author or the institution publishing the blog can integrate the post with other social media – for example, by sending a link out via Twitter. This promotes ‘traffic’ to the blog post and discussion both on Twitter and via comments on the blog itself, thus enhancing engagement in the ideas presented, and expanding the geographic and demographic reach.

---

read the original paper: M V Simkin and V P Roychowdhury, ‘Read Before You Cite!’ (2003) 14 *Complex Systems* 269.

<sup>55</sup> In this respect it is useful to consider the range of ‘thinking skills’ articulated in the Discipline Standards for Law. See Kift, Israel and Field, above n 4; Nick James, *Good Practice Guide (Bachelor of Laws) Thinking Skills* (ALTC, 2011).

<sup>56</sup> Jack Balkin, Hannah Birkenkitter, Maximilian Steinbeis, ‘Focus: Legal Blogging: How? What for? For Whom?’ on *Verfassungsblog* (2 June 2014) <<http://www.verfassungsblog.de/en/blogging-way-changing-relations-authority-public-sphere-interview-professor-jack-balkin-founder-balkanization-2/#V5ultBceYwE>>.

<sup>57</sup> Eugene Volokh, ‘Scholarship, Blogging and Tradeoffs: On Discovering, Disseminating and Doing’ (2006) 84 *Washington University Law Review* 1089, 1090. The field of altmetrics is presently developing means of measuring impact of scholarly blogging and social media. See eg Jason Priem, Heather A Piwowar and Bradley M Hemminger, ‘Altmetrics in the Wild: Using Social Media to Explore Scholarly Impact’ <[arXiv:1203.4745v1](https://arxiv.org/abs/1203.4745v1)> [cs.DL] (20 Mar 2012). As a sign of the increasing relevance of social media in academia, Altmetrics (the company) announced in 2015 that ‘over 20 world-leading research institutions [were] using its platform’ to measure research impact., ‘Over 20 Research Institutions Now Using Altmetrics Platform’ on *Altmetric* (20 January 2015) <<https://www.altmetric.com/pressreleases/altmetric-for-institutions-adoption.php>>.

## B Twitter

Twitter is a form of microblogging; by subscribing to Twitter, the subscriber can send information in the form of a 140-character message known as a 'tweet'. The subscriber can elect to 'follow' other accounts, and others can follow the subscriber.<sup>58</sup> Through following accounts, or searching the platform on a particular topic, the user can view a 'stream' of tweets. Importantly, the user can embed a link in a tweet. The academic might wish to provide links to published articles either direct or via a repository,<sup>59</sup> to Amazon to purchase a book, to blogs, or to other scholarly resources.

There is an active public law community on Twitter, tweeting under #auslaw, #auscon, #auspublaw and #humanrights. These 'hashtags' allow readers to follow this topic exclusively in addition to (or instead of) selecting their own list of tweeters. Using hashtags enables a targeted discussion on public law topics within an interested community, capitalising on the 'social' aspects of social media. In the Australian public law context, this community includes public law professors such as Cheryl Saunders, George Williams, Megan Davis, Sarah Joseph and Graeme Orr,<sup>60</sup> all of whose expertise is readily available via the medium.

We have written previously on the use of Twitter to develop a community – of scholars, academics, professionals and members of the public.<sup>61</sup> This community is receptive to reading work published in blogs and in journal articles. Twitter – whether the academic's own account or a Faculty or University account – is an ideal medium for communicating ideas and research. While Twitter has been described derogatively as an 'echo chamber'<sup>62</sup> and 'electronic graffiti',<sup>63</sup> the medium can be used to

<sup>58</sup> For a comprehensive overview of subscribing and functions, see Amy Mollett, Danielle Moran and Patrick Dunleavy, *Using Twitter in University Research, Teaching and Impact Activities: A Guide for Academics and Researchers* (London School of Economics Public Policy Group, 2011).

<sup>59</sup> See eg Galloway, Greaves and Castan, 'Gatecrashing the Research Paradigm', above n 8.

<sup>60</sup> See @CherylSaunders1, @ProfGWilliams, @Mdavisqlder, @ProfSarahJ, @Graeme\_Orr respectively. There are of course many more.

<sup>61</sup> Galloway, Greaves and Castan, 'Interconnectedness, Multiplexity and the Global Student', above n 8. See also James Farrell 'Social Media for Social Change Lawyers: An Australian Housing Rights Lawyer's Experience' (2013) 20 (2) *International Journal of the Legal Profession* 209; Liesel Spencer and Elen Seymor, 'Reading Law: Motivating Digital Natives To "Do The Reading"' (2013) *Legal Education Review* 177, 193.

<sup>62</sup> Jordan Stephen, 'Warning: This is How Twitter Can Trap You in a Political Echo Chamber' (21 November 2014) <<http://dcinno.streetwise.co/2014/11/21/twitter-political-discussions-dangers/>>; Chris Kenny, 'Why the Unbearable Darkness of the Twitsphere has Made me Quit Twitter' on *The Australian Opinion* (22 March 2014) <<http://www.theaustralian.com.au/opinion/columnists/why-the-unbearable-darkness-of-the-twitsphere-has-made-me-quit-twitter/story-fn8qlm5e-1226861618055>>; Tom Westland, 'The Neverending Echo Chamber of Chris Kenny's Prolonged Twitter Farewell Tour' on *Crikey* (11 August 2014) <<http://www.crikey.com.au/2014/08/11/the-neverending-echo-chamber-of-chris-kennys-prolonged-twitter-farewell-tour/>>.

the advantage of an academic wishing to engage in scholarly thinking and grassroots engagement in contemporary issues, with a broad and interested audience: in other words, for teaching and research to have impact beyond the scholarly community of the academic's institution.<sup>64</sup> That is, after all, the goal of engagement. For the public law academic, this includes the educative process and a commitment to broad educational aims.

To illustrate the way in which social media can be used to engage a broad audience in learning about public law issues, we use two case studies based on our own experience. In each case, we used our presence on social media platforms to enter into conversation with a diverse audience on topical issues. We harnessed our knowledge of legal issues, disseminated via social media, to promote public understanding of pressing issues of social justice. These case studies represent an activist approach to public legal education that serves our broader conceptualisation of teaching and public engagement. In short, they showcase an aspect of contemporary scholarly activity.

### C 'Hacking' the Queensland Election: Case Study

By way of background, the Queensland *Electoral Act 1992* was amended in 2014 to require voters to present identification before voting.<sup>65</sup> The rationale was stated to be preventing voter fraud, despite an apparent paucity of evidence as to voter fraud in Queensland.<sup>66</sup>

As public lawyers would appreciate, voter identification laws are known to disenfranchise particular groups, notably the elderly and the young, people in remote and rural Australia, people with disabilities,

<sup>63</sup> Lucy Battersby, 'Tony Abbott Dismisses Social Media as Electronic Graffiti. Again', *The Age* (online), 26 January 2015 <<http://www.theage.com.au/it-pro/government-it/tony-abbott-dismisses-social-media-as-electronic-graffiti-again-20150126-12yg26.html>>; Collette Snowdon, 'No Tony Abbott, You Can't Dismiss Social Media as Electronic Graffiti' on *The Conversation* (28 January 2015) <<http://theconversation.com/no-tony-abbott-you-cant-dismiss-social-media-as-electronic-graffiti-36819>>.

<sup>64</sup> Tweets have been cited into Hansard. For example: 'CHAIR: ... I am going to add into the mix a Tweet from Melissa Castan before I hand over to Mr Waterford. Her Tweet question is: Williams & Pape cases disturbed the 'common assumption'. Is it HCA's proper role to impose novel constraints on Cth?'. 'Standing Committee on Social Policy and Legal Affairs - 20/06/2013 - Constitutional reform' <<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;adv=yes;orderBy=dateFirst;page=0;query=Content%3A%22melissa%20castan%20%22%20Dataset%3Ahansardr,hansardr80,hansards,hansards80,estimate,comSen,comJoint,comRep;rec=0;resCount=Default>>.

<sup>65</sup> Electoral Reform Amendment Bill 2013 (Qld), clause 9.

<sup>66</sup> No rationale was offered for the change in, for example, the Attorney-General's second reading speech, nor in the recommendations for reform. See Hon Jarrod Bleijie, *Hansard* (21 November 2013) 4226-30. There was no debate on the Electoral Reform Amendment Bill 2013. See also Queensland Government, *Electoral Reforms: Queensland Electoral Review Outcomes* (July 2013) <[http://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/rp1415/VoterID](http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1415/VoterID)>.

Aboriginal and Torres Strait Islander Australians and the homeless.<sup>67</sup> The laws were criticised by human rights groups, and there was an active grassroots public education campaign in the lead up to the 2015 Queensland election to ensure voters were informed about their rights.<sup>68</sup> On Twitter, this ran under the hashtags #QldEnroll and #Qldvotes. Twitter proved to be a useful vehicle for the dissemination of information about enrolment and voting, through both the grassroots campaign and blogs such as those of Antony Green, the ABC's psephologist.<sup>69</sup>

The new ID requirements were operational for the Stafford by-election in 2014, and no problems were reported. However social media reports on the day of the Queensland election, on 31 January 2015, indicated state-wide issues with the implementation of the requirements. By mid-morning on election day, Twitter and Facebook users (including the authors) were reporting that voters were being turned away for want of identification: voters were being told to go home and return with ID before being eligible to vote. However s121 of the *Electoral Act 1992* provides for voting by declaration: it is sufficient that the voter declare their identity to be eligible to vote. According to reports, it appears that at many booths, electoral workers failed to offer the voter the opportunity to make a declaration vote.

Not only was Twitter used to report these alleged breaches, but the platform was used to broadcast the correct legal information. The issue had become sufficiently widespread that some tweeters started to 'trend' nationally towards the close of the polls. ('Trending' means that either a person's tweets or a hashtag have been so widely shared that they were among the most shared topics for that time period, nationwide.)

In contrast to the information being shared online, the Queensland Electoral Commission representative on the evening's election coverage

<sup>67</sup> Human Rights Law Centre, 'Queensland Passes First Australian Voter ID Laws as Liberal Party Flags Reforms at National Level' (22 May 2014) <<http://hrlc.org.au/queensland-passes-first-australian-voter-id-laws-as-liberal-party-flags-reforms-at-national-level/>>. The majority of scholarship in this regard has occurred in the US. See eg Spencer Overton, 'Voter Identification' (2007) 105(4) *Michigan Law Review* 631; Samuel Issacharoff, 'Beyond the Discrimination Model on Voting' (2013) 127 *Harvard Law Review* 95. In the Australian context, see Graeme Orr, 'Submission to Queensland Parliament Legal Affairs and Community Safety Committee, Electoral and Other Legislation Amendment Bill 2015, Submission 530' <<https://www.parliament.qld.gov.au/documents/committees/LACSC/2015/01-ElectoralOLAB15/submissions/530.pdf>>; Paula Gerber, 'Submission to the Queensland Legal Affairs and Community Safety Committee on the Electoral Reform Amendment Bill 2013, Submission 010' <<https://www.parliament.qld.gov.au/documents/committees/LACSC/2013/ElectoralReform2013/submissions/010.pdf>>.

<sup>68</sup> See eg Queensland Association of Independent Legal Services and Aboriginal and Torres Strait Islander Legal Service, 'Submission to the Queensland Parliament Legal Affairs and Community Safety Committee on the Electoral Reform Amendment Bill 2013' (21 January 2013); Queensland Association of Independent Legal Services, *Factsheet: You Need to Show ID to Vote at this Election* (7 January 2015). For a history of dissemination of the information, see Kate Galloway, 'Grassroots Public Law: The Queensland Election 2015' on @katgalloway Storify <<https://storify.com/katgalloway/grassroots-public-law-the-qld-election-2015>>.

<sup>69</sup> *Antony Green's Election Blog* <<http://blogs.abc.net.au/antonygreen/>>.



indicated that there were ‘no reports’ of any problems.<sup>70</sup> Subsequently, on an interview on Brisbane’s 4BC Radio, a representative of the Queensland Electoral Commission admitted that there had been ‘some reports’ and that the Commission was investigating.<sup>71</sup>

The accounts of voting collected on Twitter have been borne out by subsequent analysis. Orr, observing a drop in voter turnout at the 2015 Queensland election, has since identified a correlation between electorates with higher ‘ID-less votes’ and their community demographics – places remote from metropolitan areas, with a less bureaucratic culture and high numbers of Indigenous voters.<sup>72</sup>

This case study demonstrates that the medium of Twitter can facilitate grassroots public law engagement. It is a participatory medium that exemplifies the democratic aims of an expanded public law practice. Through participation in online networks, the public law academic can reach out to members of the public, to non-government organisations, to media and to other experts to share expertise and enact public law consciousness in the form of community legal education.

This account also shows how the public law academic can reach out to their students. Not only are students able to engage in the same public discussion facilitated by the academic, but the academic models for students one means of public engagement on behalf of the vulnerable. Through additional social media such as Storify,<sup>73</sup> which enable the collection of tweets into a story, the academic can provide students with an authentic account of public law practice.

For the authors, broad engagement with the public on contemporary public law issues was further demonstrated in the days following the Prime Minister’s comments about the plans for the forced closure of remote Aboriginal communities in Western Australia.

#### D ‘Lifestyle’ Comments: Case Study

For the academic seeking to engage in public debate, the journal article (and certainly the book) is a slow vehicle. As Liptak quipped, the journal publication process ‘feel[s] as ancient as telegrams, but slower.’<sup>74</sup> Online media, on the other hand, facilitate nimble engagement in the public sphere. For example, on more than one occasion, Prime Minister Abbott has made reference to Australia being ‘unsettled ... barely settled’. A key finding of the leading High Court decision in *Mabo v Queensland* was that Australia was a territory that was settled (by the English), but inhabited.<sup>75</sup> A factually and legally incorrect statement, too much to bear for the academic lawyer, can be almost instantly corrected through a blog

<sup>70</sup> ABC Television, *Election Coverage*, 31 January 2015.

<sup>71</sup> 4BC Radio, *Drive Program*, 6 February 2015 (Ben Davis).

<sup>72</sup> Orr, above n 67, 2-4.

<sup>73</sup> See <<http://www.storify.com>>.

<sup>74</sup> Adam Liptak, ‘When Rendering Decisions, Judges Are Finding Law Reviews Irrelevant’, *New York Times* (New York) 19 March 2007, cited in Peoples, above n 41, 40.

<sup>75</sup> *Mabo v Queensland (No 2)* (1992) 175 CLR 1.

post<sup>76</sup> and via Twitter.<sup>77</sup> The blog post and Twitter conversations can thus become useful contextual teaching tools for an audience broader than enrolled students – in this case, on issues surrounding sovereignty and land law.

Early in 2015, the Prime Minister again stepped into Indigenous affairs, endorsing the West Australian government's proposal to exercise its power to close remote Aboriginal communities. The Prime Minister said: 'What we can't do is endlessly subsidise lifestyle choices if those lifestyle choices are not conducive to the kind of full participation in Australian society that everyone should have.'<sup>78</sup> Interest on Twitter was intense, and the comment spawned a significant number of opinion pieces in the mainstream and online media – including internationally. More particularly, for the public law academic, the statement became a teaching moment, and the conduit for that, at a grassroots level, was social media.

For those encouraging critical thinking and including Indigenous perspectives in their teaching, the Prime Minister's comment is a useful way of framing a discussion about issues of sovereignty and citizenship – key elements of public law discourse. The question arises, however, how best to express the complex history of colonisation that resulted in the 'lifestyle choices' comment. Blogs – and their close relation, online opinion pieces – are one source, but the history is a long one to retell.

In this case, for one of us, the comments were made in the week of teaching about colonisation in a foundation law subject introducing public law. Reframing the lecture through the 'lifestyle choices' comments aligned with the *zeitgeist* in the online environment. The PowerPoint presentation was updated and shared using the Slideshare tool.<sup>79</sup> By signing up to Slideshare, an author can share PowerPoint presentations, including embedding them in learning management systems and blogs, and by tweeting a link. Slideshare is a medium that lends itself to both scholarly and populist audiences. In this case, not only did first year public law students view the presentation, but the Slideshare attracted over 500 views in the first 24 hours. It was the 'most talked about Slideshare on Twitter' during that time.<sup>80</sup> Since that week, a public campaign against exclusions of Aboriginal people from their lands has

---

<sup>76</sup> See eg Kate Galloway, 'Unsettled Great South Land? Umm Indeed' on *Curl: Property Law, Women and Law, Contemporary Legal Issues* (4 July 2014) <<http://katgallow.blogspot.com.au/2014/07/unsettled-great-south-land-um-indeed.html>>.

<sup>77</sup> See eg @mdavisqlder (Megan Davis) '@PPDaley is right. This is an opportunity for those confused about unsettled/um scarcely-settled to read Bill Gammage', 3 July 2014, 9:58pm <<https://twitter.com/mdavisunsw/status/484924209466855424>>.

<sup>78</sup> Myles Morgan, 'Abbott's "Lifestyle Choice" Gaffe Shows Ignorance But Let's Be More Than Angry' on SBS (11 March 2015) <<http://www.sbs.com.au/news/article/2015/03/11/comment-abbotts-lifestyle-choice-gaffe-shows-ignorance-lets-be-more-angry>>.

<sup>79</sup> Kate Galloway, 'Conquest and Colonization: The Challenge for Australia of Sustainable Governance' on *Slideshare* <<http://www.slideshare.net/Katgallow/conquest-colonisation-in-australia>>.

<sup>80</sup> Email from Slideshare to the author, 'Hot on Twitter' (16 March 2015).

evolved, a number of public rallies have occurred,<sup>81</sup> and widespread public political debate has ensued.<sup>82</sup>

The public law academic in their practice – in the extended sense – critiques power and the dominant discourse. This example illustrates a critique of the dominant paradigm of sovereignty and the distribution of power in a constitutional system. Closely aligned with teaching, and reflective of ongoing research in the field, the critique in this instance was more than simply dissemination of scholarly information – although this did occur. A simple feeding of information to one’s students in the traditional lecture format is not unlike the ‘banking’ model of education described (and criticised) by Freire.<sup>83</sup> Instead, the choice of media in this case allowed for a greatly expanded conceptualisation of education and scholarship. It was active engagement in public debate, giving immediacy and authenticity to the educational context. That it spoke to a broad audience to promote justice and equality through the lens of the law again models for students the ethical and critical practice of the socially aware lawyer. Additionally and importantly, it is the democratising medium of digital technologies that itself destabilises the discourse of power embedded in our political processes and also often in our academic practice.

In these two case studies, we have illustrated aspects of our scholarly engagement of a broad community, extended and enhanced through a variety of social digital tools, to serve the purpose of grassroots public law practice.

## V CONCLUSION

Despite the division of contemporary academic practice into ostensibly discrete areas of teaching, research and engagement, Boyer’s framework recognises the possibility of shifting boundaries and scope for creative interpretation of the academic’s work. For the authors, the advent of digital technologies has facilitated a means of mediating these domains, to draw together elements of academic work into a cohesive and expanded vision of academic practice.

For the public law academic, this expanded practice comes at the right time. Far from existing in an ivory tower, our mission as public law academics exists now in its own expanded context. Not only does this exist beyond the perceived boundaries of constitutional and administrative law but also extends to citizen-government relations as a

---

<sup>81</sup> ‘Thousands Rally in Melbourne in Support of Remote Aboriginal Communities’ on *ABC News* (11 April 2015) <<http://www.abc.net.au/news/2015-04-10/rally-in-melbourne-in-support-of-remote-aboriginal-communities/6384826>>. On Twitter, the campaign continues under the hashtag #SOSBlakAustralia and #lifestylechoices.

<sup>82</sup> Sabra Lane, ‘PM’s Lifestyle Comments Wrong But Highlight Important Debate, Says Chief Adviser’ on *7:30* (11 March, 2015) <<http://www.abc.net.au/7.30/content/2015/s4195873.htm>>; Bill Shorten MP, ‘Matter of Public Importance: Indigenous Affairs’, Speech to House of Representatives (19 March 2015) <<http://billshorten.com.au/matter-of-public-importance-indigenous-affairs>>.

<sup>83</sup> Paolo Freire, *Pedagogy of the Oppressed* (Myra Bergman Ramos Trans) (Penguin, 1972).

representation of power. For us, the expanded role of the public law academic, aligning with contemporary iterations of academic work, is to engage the public imagination promoting understanding of contemporary legal issues. In doing so, the public law academic not only enacts the democratising contexts of public law, but carries out scholarly work within its broadest construction.

Relevantly here, broad public law engagement can be mediated through the use of digital technologies – in particular through various social media. Diverse media can streamline what might be considered different domains of scholarship, providing access to an existing scholarly community while simultaneously reaching far beyond. The digitally literate public law scholar thus has at their disposal a variety of tools with which to undertake their scholarly tasks, functioning to open the academic's horizons while engaging with the global community.