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Digesting Discourse: How Animal Law Facilitates High Quality Legal Education

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DIGESTING DISCOURSE: HOW ANIMAL LAW FACILITATES HIGH QUALITY LEGAL EDUCATION

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I INTRODUCTION

The first Australian animal law course was offered in 2005.[1] Since that time, 15 Australian law schools have introduced the subject into their curricula.[2] While this figure sounds relatively modest, it is in fact over one-third of the law faculties in the country. Australian animal law scholars and teachers often point to the significant growth of animal law in the United States as an indicator of things to come in Australia.[3] Despite the astounding growth of animal law course offerings in the United States, Australia and, more broadly, across the globe,[4] there is a surprisingly limited amount of scholarly literature concerning teaching and learning aspects of an animal law course. In the United States, there are a few publications that specifically concern animal law teaching,[5] but less than one might expect when considering the prominence that the subject has attained. The annual Australian Animal Law Teaching

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1 Geoffrey Bloom taught the course at the University of New South Wales School of Law.

2 Australian National University, Bond University, Flinders University, Griffith University, Macquarie University, Monash University, Southern Cross University, University of Adelaide, La Trobe University, University of Melbourne, University of New South Wales, University of Sydney, University of Tasmania, University of Technology Sydney, and University of Wollongong.

3 See, eg, Steven White, 'The Emergence of Animal Law in Australian Universities' (2007) 91 *Reform* 51.

4 There are approximately 140 animal law offerings in the United States, including at renowned institutions like Harvard, Stanford, Columbia and New York University. Animal law courses are also offered in Austria, Canada, China, Israel, New Zealand, Spain, and the United Kingdom.

5 See, eg, Maneesha Deckha, 'Critical Animal Studies and Animal Law' (2012) 18(2) *Animal Law* 207; Maneesha Deckha, 'Teaching Posthumanist Ethics in Law School: The Race, Culture, and Gender Dimensions of Student Resistance' (2010) 16(2) *Animal Law* 287; Peter Sankoff, 'Charting the Growth of Animal Law in Education' (2008) 4 *Journal of Animal Law* 105; and more generally, see David Favre, 'Twenty Years and Change' (2013) 20(1) *Animal Law* 7; Kathy Hessler, 'The Role of the Animal Law Clinic' (2010) 60(2) *Journal of Legal Education* 263; Megan A Senatori and Pamela Frasch, 'Future of Animal Law: Moving Beyond Preaching to the Choir' (2010) 60(2) *Journal of Legal Education* 209; and Joyce Tischler, 'Brief History of Animal Law, Part II' (2012) 5 *Stanford Journal of Animal Law and Policy* 27.

and Learning Workshop was established in 2014 in an attempt to fill this gap. This event provides an opportunity for Australian animal law teachers to come together each year to engage in constructive debate about the teaching of animal law and share ideas for scholarly research in this area. Legal education scholarship has a rich history and there are many reasons why animal law educators can make a meaningful contribution to this important body of research. Animal law teachers often claim that the subject offers a distinctive opportunity to facilitate high quality legal education outcomes. Of course, a good teacher can deliver high quality legal education outcomes regardless of the relevant subject area. That said, this paper serves to illustrate that some subjects arguably offer a *better* platform for facilitating high quality student learning than others and that animal law, in particular, offers an exceptionally good platform.

Illustrating how and why the uniqueness of animal law makes it an ideal setting for achieving high quality legal education outcomes necessarily requires an initial enquiry into the factors relevant to our understanding of the notion of 'teaching law'. If there is a difference in the fertility of the teaching and learning landscapes cultivated by different law subjects, what then are the primary points of differentiation? To answer this question, ideas relating to both *how* law should be taught and *what* law should be taught must be considered. Another important consideration is the *outcomes* sought by legal educators.[6] At first sight, one might expect that the teaching of law rests upon a relatively consistent and stable body of knowledge and practices regarding these matters. The reality, however, is that the discipline of legal education is characterised by distinct and competing discourses with respect to the nature of law teaching, namely, doctrinalism, vocationalism, corporatism, liberalism, radicalism and educationalism.[7] The first part of this paper serves as an introduction to the ongoing battle of ideologies existing within legal education by way of a brief overview of Michel Foucault's ideas relating to power, knowledge and discourse. The six legal education discourses are described and some fundamental aspects of their co-existence are explored. Following a description of animal law curriculum design, the second part of the paper serves as an examination of animal law through the lens of each of the six legal education discourses. The purpose of this exercise is to identify and examine the distinctive features of an animal law curriculum and learning environment that make the subject an ideal setting for facilitating high quality student learning, regardless of the predominant discourse in operation. In other words, while each discourse fosters different ideas regarding the values and goals of law teaching, it is argued that animal law can address all of them in different ways. Rather

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6 Nickolas James, *Power-Knowledge and Critique in Australian Legal Education 1987–2003* (PhD Thesis, Queensland University of Technology, 2004) 285-6. See also Richard Johnstone, 'Whole-of-Curriculum Design in Law' in Sally Kift et al (eds), *Excellence and Innovation in Legal Education* (Lexis Nexis, 2011) 7–8.

7 This proposition is a central tenet in Nickolas James' doctoral thesis. See James, ibid, 285–93, for a detailed explanation.

than critiquing the relevant discourses, the author's objective is to elucidate the value of assessing a law subject's appeal to a plurality of discourses.

II FOUCAULDIAN DISCOURSE ANALYSIS

A *Power, Knowledge and Discourse*

The work of influential French intellectual Michel Foucault was exceptionally diverse. While most often referred to as a philosopher, he is also a historian, social theorist, political activist, philologist and literary critic. Foucault's ideas were influential across a multitude of disciplines, including, most notably, philosophy, psychology, politics, cultural studies, sociology, and literary studies.[8] He is best known for his theoretical conception of *power* and *knowledge* and the manner in which they are used as instruments of control in Western social institutions.[9] Foucault emphasised the close relationship between them by coining the phrase 'power-knowledge'. This expression is often misunderstood as meaning 'knowledge is power'. Foucault interests lay in unravelling the complex relations between knowledge and power, but he never professed that they are one and the same. Rather, Foucault insisted 'knowledge is always an exercise of power and power always a function of knowledge'.[10] In other words, the construction and propagation of knowledge always entails an exercise of power and an exercise of power always entails the construction and propagation of knowledge.[11]

When Foucault examined the various topics that interested him,[12] he was not concerned with the truth or fallacy of the statements that were made about the relevant topic. Whilst denying the universality of truth, Foucault asserted that truths were real and had significant effects on the broad range of social institutions that featured in his work. He sought to discover the way in which such truths emerged by studying the formation and emergence of discourses. Put simply, a discourse is an institutionalised means of communicating reality within a discipline or institution that defines what can be said and thought, and by whom.[13] Foucault was interested in the evolution of discourses within society, primarily regarding how the discovery and identification of discourses existing within any given institution or discipline facilitated a deeper

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8 For a useful summary of Michel Foucault's life and ideas, see Social Theory Re-Wired, *Michel Foucault* (21 January 2016) <http://routledgesoc.com/profile/michel-foucault>.

9 Ibid. See also Gavin Kendall and Gary Wickham, *Using Foucault's Methods* (Sage Publications, 1999) 47.

10 For a detailed analysis of Michel Foucault's ideas regarding power and knowledge, see James, above n 6.

11 Ibid.

12 Foucault's interests were spread across a broad range of topics, including, amongst many others, insanity, discipline, selfhood, spirituality and sexuality.

13 See James, above n 6, 13–20 for a detailed explanation of the various elements making up the definition of 'discourse'. See also Social Theory Rewired, above n 8.

understanding of the realities of the institution or discipline and the people, ideas and other phenomena existing within it. They allow us to better understand ourselves and our external environment, while also constructing that environment and those who are permitted to exist within it. For Foucault, discourses establish the platform upon which knowledge is constructed and power is exercised.[14] They do not result in the discovery of pre-existing core truths about the identity of relevant subjects, but rather they create those truths and the identities of the subjects through the forces of power-knowledge. In the words of Foucault, discourses are 'practices that systematically form the objects of which they speak'.[15]

B *Legal Education Discourse*

Although Foucault's influence in the discipline of law has been relatively limited, there are examples of legal scholars applying Foucauldian theory.[16] In the context of legal education specifically, Dr Nickolas James[17] has produced an extensive body of scholarship centered on the Foucauldian discourses existing within the sphere of legal education.[18] The central tenet of James' work is the idea that the discursive field of legal education is characterised by distinct and competing ideologies or discourses with respect to the nature of law teaching, including doctrinalism, vocationalism, corporatism, liberalism, radicalism and educationalism. James asserts that each discourse is 'simultaneously a form of knowledge and expression of disciplinary power within the law school', that is, a 'vector of power-knowledge'.[19]

Much of James' research in this area involves an examination of critique, a notion central to the teaching of law and a useful tool to illustrate the complex relationship between the legal education

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[14] Michel Foucault, *The Will to Knowledge: The History of Sexuality I* (Allen Lane, 1978) 101.

[15] Michel Foucault, *The Archaeology of Knowledge* (Harper and Row, 1972) 49.

[16] See James, above n 6, 12–13 for a list of examples in which Michel Foucault's work has been used within the discipline of law.

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[18] See, eg, Nickolas James, 'How Dare You Tell Me How to Teach: Resistance to Educationalism within Australian Law Schools' (2013) 36(3) *University of New South Wales Law Journal* 779; Nickolas James, 'The Marginalisation of Radical Discourses in Australian Legal Education' (2006) 16 *Legal Education Review* 55; Nickolas James, 'Liberal Legal Education: The Gap Between Rhetoric and Reality' (2004) 1(2) *University of New England Law Journal* 163; Nickolas James, 'Expertise as Privilege: Australian Legal Education and the Persistent Emphasis Upon Doctrine' (2004) 8 *University of Western Sydney Law Review* 1; Nickolas James, 'Why Has Vocationalism Propagated so Successfully in Australian Law Schools?' (2004) 6 *University of Notre Dame Australia Law Review* 41; Nickolas James, 'Australian Legal Education and the Instability of Critique' (2004) 28 *Melbourne University Law Review* 375; Nickolas James, 'The Good Law Teacher: The Propagation of Pedagogicalism in Australian Legal Education' (2004) 27(1) *University of New South Wales Law Journal* 147; and Nickolas James, 'Power-Knowledge in Australian Legal Education: Corporatism's Reign' (2004) 26(4) *Sydney Law Review* 587.

[19] Nickolas James, 'Australian Legal Education and the Instability of Critique' (2004) 28 *Melbourne University Law Review* 1, 378–9.

discourses. He contends that while most law teachers and scholars identify critique as the lifeblood of legal education, there is significant disparity in terms of how the concept is defined and employed in the classroom.[20] James describes the instability of critique as a product of power-knowledge: 'As a form of knowledge, each discourse accords critique a different meaning and a different emphasis. As an expression of power, each discourse is an attempt to normalise a particular approach to the teaching of law and to enhance the status of a particular type of legal scholar'.[21] Accordingly, James' research encourages a deeper level of reflection upon what critique is assumed to mean and how this might affect the way that one teaches law.

While a detailed explanation of the underlying power-knowledge interplay within each legal education discourse is beyond the scope of this paper, it is necessary to provide at least a brief overview. James explains that each discourse is a form of knowledge about the teaching of law:

> Doctrinalism and vocationalism are concerned primarily with what is taught. Doctrinalism insists that the emphasis should be upon the teaching of legal doctrine and vocationalism insists that the emphasis should be upon the teaching of legal skills. Corporatism and educationalism are concerned primarily with how law is taught. Corporatism insists that law be taught efficiently and profitably and educationalism insists that law be taught in a way that facilitates student learning. Liberalism and radicalism are concerned primarily with the objectives of legal education. Liberalism insists that the purpose of teaching law is the inculcation of liberal values, and radicalism insists that the purpose of teaching law is to contribute to social and political change.[22]

Each discourse is also an expression of power. As previously stated, each discourse produces and privileges particular roles within the law school and promotes the universalisation of a particular approach to the teaching of law. As a means of clarification, James conceived the following representation of the teacher/student dynamic shaped by each discourse: doctrinalism creates the specialist teacher and the indoctrinated student; vocationalism creates the technician teacher and the employable student; corporatism creates the administrator teacher and the marketable student; liberalism creates the philosopher teacher and the ethical student; radicalism creates the radical teacher and the activist student; and educationalism creates the good teacher and the good student.[23]

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20 Ibid 375.
21 Ibid.
22 James, above n 6, 285–6.
23 Ibid 286.

III ANIMAL LAW AND DISCOURSE

A *The Standard Curriculum*

Like all law courses, animal law is structured and delivered in different ways. This proposition is, of course, an essential thread in the fabric of this paper. That is, questions regarding *what* content is delivered, *how* that content is delivered, and the *objectives* underlying the mode and substance of the delivery are best answered by reference to the predominant discourse in operation in any given classroom. For instance, an animal law teacher influenced by doctrinalism will focus primarily on the reading of cases and legislation with a view to ensuring that students are abreast of all the relevant law, whereas one influenced by radicalism will focus primarily on issues of law reform with a view to encouraging students to contribute to social and political change. On the basis that any law subject can be deconstructed in this manner, one could never positively claim that any given subject area is, without exception, better than another with respect to creating a learning environment that facilitates quality legal education outcomes. Ultimately, everything depends on the teacher delivering the course. The purpose of this part of the paper is to demonstrate that the process of examining a law subject through the lens of each legal education discourse is a useful way of obtaining a deeper understanding of the subject area and evaluating its 'ability' to foster high quality student learning. Most importantly, this process is intended to shine a light on the uniqueness of animal law and to equip those teaching in the area with an understanding of legal education discourse and an appreciation of how such knowledge can positively impact curriculum design.

Before proceeding with the multi-discourse analysis of animal law, a brief overview of a 'standard' curriculum is provided for the benefit of readers who have not experienced animal law as a teacher or student. The content and structure of Australian animal law courses is relatively consistent. Generally speaking, the course begins with an examination of the historical, philosophical and theoretical foundations underpinning animal-human relations. This process necessitates a thorough inquiry into the property status of animals and the distinction between animal *rights* and animal *welfare*. A detailed overview of the regulatory framework is provided, most often with a focus on the relevance of the Commonwealth Constitution and impact of federalism.

Once these important foundational paths have been laid, students are taken on a journey through a vast array of different topics, including, for example, animal cruelty and sentencing, companion animals, animals in entertainment (eg circuses, zoos/aquaria, and film) and sport (eg thoroughbred and greyhound racing, rodeos and recreational hunting), assistance animals, scientific research, wild animals, intensive farming, live export, animal slaughter and food labelling. Most courses also include some international dimensions (eg illegal wildlife trade and whaling) and all courses generally incorporate discussion of the practical aspects of animal advocacy (eg standing) and law reform (eg

strategic litigation strategy). The relevant law in each of these topics stems from a diverse range of legal disciplines.[24] Clearly, there is no shortage of subject matter for an animal law teacher to draw upon in designing a curriculum.

B *Doctrinalism*

Doctrinalism insists that the emphasis should be upon the teaching of legal doctrine. The indoctrinated student expects that legal education be about learning what the law is.[25]

An animal law course comprises a vast array of legislation and cases. As a starting point, the nature of the primary sources of law in this field is significantly affected by the legal classification of animals as personal property. This fundamental aspect of the relevant doctrine, in and of itself, opens up unique points of discussion and learning outcomes for law students. With respect to the legislative framework specifically, animals are governed by a matrix of hard and soft rules, underpinned by the fragile dynamics of a federal system of government. Constitutional restrictions significantly limit the Federal Parliament's ability to legislate in the animal arena, meaning that most laws relevant to animals are enacted at the state level. Students must explore the relevant state legislation, while also considering industry codes of practice that have most often arisen at a federal level and been interwoven into state legislation in interesting, and sometimes complex, ways. Ascertaining whether compliance with a particular rule is mandatory or discretionary is an important part of the process. Key legislative provisions are often characterised by classic malleable legal expressions such as 'reasonable', 'necessary' and 'justified', affording students the chance to meaningfully engage with the grey areas created by such rules. Due to the diverse range of applicable legal disciplines, opportunities to explore overlapping laws arise often. The various ways in which animals are categorised (eg economic/non-economic, companion/agricultural, feral/native etc) also adds to the distinctiveness of the relevant legislation.

The study of animal law cases offers unique learning outcomes for similar reasons. While most aspects of animal law are regulated by legislative rules, there is still a lot of space left for judges to navigate, in the context of both giving effect to parliamentary intention and filling the gaps that legislators have left open entirely. Interesting and controversial lines of reasoning are plentiful. One notable example is the inadequate sentencing in companion animal cruelty prosecutions. While the maximum penalties set by state legislatures are, generally

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[24] Examples of traditional legal practice areas encountered include administrative law, constitutional law, property law, criminal law, contract law, tort law, intellectual property law, consumer protection law, tax law, and family law.

[25] See James, above n 6, 51–82 for a detailed explanation of Doctrinalism. See also Nickolas James, 'Expertise as Privilege: Australian Legal Education and the Persistent Emphasis Upon Doctrine' (2004) 8 *University of Western Sydney Law Review* 1.

speaking, significant terms of imprisonment and monetary fines, judges rarely venture anywhere close to the maximum penalty in their sentencing decisions. Examining this category of decisions affords students the chance to explore the fundamental role and function of the judiciary. Closely related to companion animal cruelty is the issue of compensation for loss of an animal. While there are limited cases on this issue, reading them gives students the opportunity to tackle some novel issues relating to the 'value' of our animal companions. And, finally, the discussion of cases in the animal law classroom is not complete without reference to the judgments concerning the issue of standing. Standing is a key issue in this area of law and exposure to the way in which judges grapple with the relevant common law gives students an insight into one of the most important aspects of our judicial system. Animal law teachers are spoilt for choice when it comes to having interesting and challenging legal doctrine for the students to engage with.

C *Vocationalism*

Vocationalism insists that the emphasis should be upon the teaching of legal skills necessary to function effectively as a legal practitioner. The employable student expects that legal education should lead to legal employment.[26]

Much has been said in recent years about the benefits of teaching legal skills to law students. So called 'integrated skills programs' have become the flagship for a number of law schools around the country. The idea is that law students should learn to both '*think* like a lawyer and *do* like a lawyer'.[27] Research suggests that deeper levels of learning occur when students are actively involved in a process of constructing meaning and knowledge through involvement in a practical skills exercise as opposed to passively receiving information in a traditional lecture environment. Animal law provides a unique platform for teaching professional legal skills in the form of practical exercises. I have experimented with a broad range of them in my animal law classes. Example skills exercises include: contributing to a group presentation; participating in a debate; conducting a client interview; writing a letter of advice; participating in a parliamentary committee meeting; planning a legislative reform proposal; preparing a judicial review application; drafting written submissions and conducting a moot; and participating in a negotiation. The most ambitious undertaking involved supervising a simulated pro bono animal law service in which the students provided advice to mock clients and worked on a real law reform project. The success of these types of

[26] See James, above n 6, 83–124 for a detailed explanation of Vocationalism. See also Nickolas James, 'Why Has Vocationalism Propagated so Successfully in Australian Law Schools?' (2004) 6 *University of Notre Dame Australia Law Review* 41.

[27] Charles Brabazon and Susan Frisby, 'Teaching Alternative Dispute Resolution Skills' in Charles Sampford, Sophie Blencowe, Suzanne Condlln (eds), *Educating Lawyers for a Less Adversarial System* (Federation Press, 1999) 156, 167.

teaching strategies depends on a number of key factors, most notably, the class size and the allocated teaching space.[28] Other important considerations include providing comprehensive preliminary instruction to ensure students understand the relevant learning outcomes, setting a reasonable workload to avoid student resistance, and ensuring an appropriate number of exercises are undertaken to maintain student enthusiasm. If all of these boxes are ticked, animal law provides an excellent platform upon which to teach students the vocational skills of lawyering.

D *Corporatism*

Corporatism insists that law should be taught efficiently and profitably. Similar to the employable student, the marketable student expects that legal education be about making students attractive to employers.[29]

Animal law is on the rise. As previously stated, more than a third of Australian law schools have introduced the subject into their curricula. A number of animal law courses accommodate more than 100 students annually, which is significant for an unconventional elective. Student demand is high, even in the more traditionally conservative law schools around the country. Reports of student groups being established with the primary objective of advocating for the inclusion of an animal law course at their institution are not uncommon. Few subject areas can boast this sort of passion amongst students. There are certainly still examples of aspiring animal law teachers encountering faculty resistance to their elective subject proposal, but it is seemingly now a lot less likely that the resistance would stem solely from concerns about the legitimacy of the subject area, as it might have a decade ago. Law school administrators have many factors to consider when deciding whether to approve a new elective, most of which are corporatist in nature. While corporatism is concerned with the utility of legal education, its main concern is the utility of the law school itself.[30] The relationship between teacher and student is perceived as one of service provider and consumer. The key question faced by law school administrators in this context is, 'are we providing a quality product?' There is a strong argument that animal law makes a positive contribution to the quality of the product provided by a law school. The subject area is still novel enough to be considered 'cutting edge' and to

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[28] The ideal class size, in my experience, is between 15-25 students. Most of the exercises would be difficult to supervise and/or assess in a class that has 30+ students enrolled, particularly those with an oral component. A large flat room is ideal as it allows for 'break out' group exercises. Tiered theatres are generally not suitable. Moot courts and interview rooms are ideal for the exercises because most students thrive on the shift to a 'formal' environment.

[29] See James, above n 6, 125–158 for a detailed explanation of Corporatism. See also Nickolas James, 'Power-Knowledge in Australian Legal Education: Corporatism's Reign' (2004) 26(4) *Sydney Law Review* 587.

[30] Ibid.

qualify as a market differentiator. Moreover, an increasing demand for cross-institutional study is also evident, which undoubtedly enhances marketability. Put simply, popular elective subjects are good for business and there is now no second-guessing animal law's increasing popularity amongst Australian law students.

E *Liberalism*

Liberalism insists that the purpose of teaching law is the inculcation of liberal values. The ethical student expects that legal educators acknowledge the fact that many law graduates choose not to practice law by including the perspectives of other disciplines in their teaching.[31]

Law is steeped in liberalism. Animal law scholarship has, thus far, embraced this intellectual tradition.[32] Liberalism is a political philosophy or worldview founded on ideas of liberty and equality, both of which are a central concern in animal law. Whilst these ideas assume a different significance when one moves from the human to non-human animal paradigm, it could be said that an animal law teacher encourages a deeper understanding of the fundamental themes of liberalism by introducing animals into the field of concern. There are two key themes that best illustrate how animal law appears through the lens of liberalism. The first is *social responsibility*. Liberalism softens its emphasis upon individual freedom by also insisting upon the importance of social responsibility. An animal law student, as a member of the broader community, is taught the importance of thinking rationally and responsibly with respect to animal advocacy, consistent with the liberal ideal of promulgating moral integrity and responsible citizenship. The concept of 'social justice' is necessarily expanded to encompass animals. The second theme is *informed rationality*. In this context, animal law encourages intellectual rigour beyond doctrinal expertise and vocational skill. Significant emphasis is placed on teaching philosophical and theoretical foundations of analysis. Animal law also satisfies the related mission of teaching law in a contextual manner that incorporates other disciplines. While philosophy is the key complimentary discipline in this sense, an animal law curriculum lends itself well to brief ventures into other disciplines such as, for example, earth jurisprudence, political theory, anthropology and psychology, all of which assist in improving our understanding of the complicated and fragile dynamics of human-animal relations.

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31 See James, above n 6, 159–200 for a detailed explanation of Liberalism. See also Nickolas James, 'Liberal Legal Education: The Gap Between Rhetoric and Reality' (2004) 1 (2) *University of New England Law Journal* 163.

32 The marriage between the two is complicated, however. See, eg, Maneesha Deckha, 'Critical Animal Studies and Animal Law' (2012) 18(2) *Animal Law* 207. Deckha asserts (at 227) that the relationship strain stems from the way in which liberalism has moulded the legal sphere by 'placing a premium on reason' and 'casting a rational and autonomous agent as the central subject of law'.

F *Radicalism*

Radicalism insists that the purpose of teaching law is to contribute to social and political change. The activist student expects to be equipped with the knowledge and tools necessary to fight against the injustices perpetuated by law and legal institutions.[33]

Radicalism represents the resistance against orthodox legal education discourses. Established social, political and theoretical dimensions of law (and law teaching) are challenged through the exploration of critical legal studies and a broad range of other unconventional socio-legal and political theories.[34] Animal law sits comfortably within this fragmented discourse. The propensity of radicalism to privilege the perspective of the 'excluded other'[35] is evident in the challenge to anthropocentrism inherent in an animal law curriculum. Animal law represents a challenge to the status quo in legal education and the law more broadly. The radical underbelly of animal law serves to highlight the fact that orthodox legal education conditions students to 'unquestionably accept their place within the larger organisational, institutional or social structures and, as legal specialists, to work towards maintenance of the status quo'.[36] Animal law students are often encouraged to think critically about the power structures within society and the oppressive nature of the law that governs our relationship with animals. Some students perceive this process as an invitation to step outside of the 'system' and to become politically active and socially responsible. Former President of the Australian Law Reform Commission, Professor David Weisbrot AM, recently proclaimed that animal protection may just be 'the next great social justice movement'.[37] In this context, animal law teachers generally encourage discussion of law reform agendas, which sometimes transforms the classroom into an overtly political environment in which theoretically savvy students most often take the side of the marginalised.

G *Educationalism*

Educationalism insists that law be taught in a way that facilitates student learning. The good student expects legal educators to teach in a manner consistent with contemporary education theory.[38]

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33 See James, above n 6, 201–236 for a detailed explanation of Radicalism. See also Nickolas James, 'The Marginalisation of Radical Discourses in Australian Legal Education' (2006) 16 *Legal Education Review* 55.

34 Ibid.

35 James, above n 6, 237.

36 James, above n 33, 60.

37 David Weisbrot, 'Comment' (2007) 91 *Reform* 2.

38 See James, above n 6, 201–236 for a detailed explanation of Educationalism. Note that James uses the phrase 'pedagocicalism' instead of educationalism. See also Nickolas James, 'How Dare You Tell Me How to Teach: Resistance to Educationalism within Australian Law Schools' (2013) 36(3) *University of New South Wales Law Journal* 779.

Educationalism insists that there is no good reason to separate legal education from any other form of education. That is, it should be conducted in a manner consistent with the ideas and insights developed within general education scholarship.[39] Being a legal expert is no longer the benchmark for teaching law. It is now expected that one also strive to be an effective teacher. The unique challenges faced by students engaged in an animal law curriculum, most notably grappling with the personally confronting nature of the content, create an environment in which deep learning comes naturally. When one becomes willing to confront the 'moral schizophrenia'[40] associated with professing a love for animals on the one-hand and a love for eating them on the other, an interesting and difficult personal journey ensues. This journey is a must for anyone engaging meaningfully with the relevant philosophical and theoretical frameworks underpinning animal-human relations. A deliberate and considered effort by the teacher to positively exploit the inherent discomfort that breeds inside an animal law classroom in a respectful and considered way can lead to excellent learning outcomes. Students are constantly encouraged to question their own framework of thought and to sensitively deconstruct ideas contrary to their own. Getting students to a place where their critique is directed both *inward* and *outward* is the goal.[41] When students take the leap into the realm of self-directed critique, which is the linchpin of educationalism, they no longer question only when the teacher directs them to do so. Acting on their initiative and impelled by their own desires, they begin to question everything they ever understood about themselves and the world around them.[42] This, an educationalist would insist, is where the magic happens. Animal law creates the perfect environment within which a teacher can address the 'whole self' of the student.[43]

III CONCLUSION

Ideas about the teaching of law are plentiful and disparate. Answers to the fundamental questions regarding *how* law should be taught, *what* law should be taught, and what *outcomes* should be sought vary significantly. The ongoing tension between the legal education discourses should not be seen as a problem that needs solving. There will be no discourse peace treaty, ever. Rather, the competition for dominance that characterises the legal education landscape must be accepted for what it is. Legal educators are encouraged to embrace the

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39 Ibid.

40 Prominent animal rights scholar Professor Gary Francione coined the expression 'moral schizophrenia' in his book *Introduction to Animal Rights: Your Child or the Dog?* (Templeton Press, 2000) to refer to the difference between what humans say about their relationship with animals and how they actually behave toward animals.

41 See James, above n 6, 214–17. For a helpful discussion of self-directed critique see Richard Paul, *Critical Thinking: What Every Person Needs to Survive in a Rapidly Changing World* (Foundation for Critical Thinking, 1994).

42 See James, above n 6, 217.

43 James, above n 6, 217, quoting Karl Llewellyn, 'On What Is Wrong with So-Called Legal Education' [1935] *Columbia Law Review* 676.

chaos. An understanding of legal education discourses and the power-knowledge strategies employed by each gives academics a sense of clarity that can significantly improve their ability to fulfil their roles effectively. One of the purposes of this paper was simply to increase awareness of legal education discourse amongst those teaching animal law courses.

It is perhaps even more useful for aspiring animal law teachers in the sense that it arms them with useful weaponry should they encounter resistance to their elective proposals. By identifying the aspects of an animal law curriculum that align with the ideological underpinnings of each individual discourse, one is better equipped to strategically adapt a proposal to suit the perceived discourse alignment of those responsible for assessing the proposal, which will almost always be corporatism.[44] Moreover, an understanding of legal education discourse is also important for law students. An insight into the range of possible discourses and the relationship between them is likely to reduce student anxiety about variation in teaching styles and expectations.[45]

The examination of animal law through the lens of each of the six legal education discourses is intended to demonstrate that the subject shines brightly regardless of which lens is in place. More specifically, the multi-discourse analysis in this paper serves to answer the questions as to how and why the uniqueness of animal law makes it an ideal setting for providing students with a high quality legal education. Importantly, however, the author acknowledges the inherent difficulties associated with 'ranking' subjects in terms of their capacity to appeal to the ideological mantra of each legal education discourse and foster high quality student learning. Accordingly, the author does not suggest that animal law is so unique that it is the only subject that can appeal to a plurality of discourses. Rather, the author is presenting the broader idea that knowledge of discourse is a powerful tool that allows us to gain a much deeper understanding of a subject area and evaluate its 'ability' to foster high quality student learning. If there is a difference in the fertility of the teaching and learning landscapes cultivated by different law subjects, then the multi-discourse analysis tool is an effective means of teasing out some of the key differentiators. While applying this method of analysis to other law subjects is beyond the scope of this paper, it is asserted that most law subjects would likely not have the high level of harmony with all six legal education discourses as that maintained by animal law. It is hard to imagine, for example, a radical teacher flourishing in a contract law course. Likewise, the liberal concepts of social responsibility and informed rationality are unlikely to translate naturally in a property law curriculum. It is hoped, therefore,

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[44] While some suggestions have been made with respect to aligning animal law with corporatism, a detailed analysis of strategies for combatting institutional resistance is beyond the scope of this paper.

[45] I received positive feedback from my most recent class of animal law students after providing them with an overview of the legal education discourse in the last class of the semester. The only criticism received was from one student who said that I should have introduced the discussion in the first week of the course, rather than the last.

that the analysis in this paper is enough to satisfy the reader that the author was justified in choosing to use the adjective 'unique' to describe animal law.