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WHAT ARE WE TRYING TO ACHIEVE BY TEACHING ANIMAL LAW TO LAW STUDENTS?

NICK JAMES* AND ROCHELLE JAMES**

I INTRODUCTION

‘The great aim of education is not knowledge but action.’ – Herbert Spencer¹

In 2008, Professor David Weisbrot, then President of the Australian Law Reform Commission, identified animal law as the ‘next big thing’ in legal education. He attributed the increasing popularity of animal law to changing consumer habits and the prevalence of animal welfare legislation, and compared animal law to environmental law:

When I was a law student in the early to mid-1970s, very few law schools taught environment law but within a few years this area had exploded. Soon, every law school was offering the subject, and now many offer master’s degrees specialising in this field. It’s the same with animal law. Almost no one was teaching this as a discrete subject just a few years ago. You might have got the odd dangerous animals case in a torts class, but now there are 85 law schools teaching it in the US, including Harvard.²

In the United States, although it is still a ‘fledgling movement’,³ animal law is now ‘one of the nation’s fastest growing fields of legal study and practice’.⁴ The first animal law unit was delivered in the US at Pace Law School in 1986.⁵ There are now more than 130 law schools teaching animal law in the US.⁶ The Center for Animal Law Studies at Lewis & Clark Law School in the US offers 26 different animal law units, and has even started offering a Masters in Animal Law.⁷

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¹ Cited in Dale Carnegie, *How to Win Friends and Influence People* (Simon & Schuster Inc, 1936) xix.

² Quoted in Michael Pelly, ‘Animal Law a Strong Draw for Students’, *The Australian* (Sydney), 7 March 2008.

³ Joyce Tischler, ‘A Brief History of Animal Law, Part II’ (2012) 5 *Stanford Journal of Animal Law and Policy* 27, 75.

⁴ Laura Ireland Moore, ‘A Review of Animal Rights: Current Debates and New Directions’ (2005) 11 *Animal Law* 311, 311.

⁵ Peter Sankoff, ‘Charting the Growth of Animal Law in Education’ (2008) 4 *Journal of Animal Law* 105, 106.

⁶ Fran Ortiz, ‘Animal Law in the Classroom’ (2011) 74 *Texas Bar Journal* 902.

⁷ Nancy V Perry, ‘Ten Years of Animal Law at Lewis & Clark Law School’ (2003) 9 *Animal Law* ix.

In Australia, animal law was first taught in 2005 at the University of New South Wales.⁸ Of the 40 law schools now offering law programs in Australia, fifteen offer animal law units: six in New South Wales, three in Victoria, two each in Queensland and South Australia, and one each in Tasmania and the ACT: see Table 1. (Note that some of these law schools offer animal law units less frequently than annually.)

Table 1: Animal Law Units in Australia

| University | Unit | State | Since | Most recent |
|--------------------------|-----------------------|-------|-------|--------------------|
| University of NSW | LAWS3144 Animal Law | NSW | 2005 | 2016 ⁹ |
| Griffith University | 5069LAW Animal Law | QLD | 2007 | 2016 ¹⁰ |
| Bond University | LAWS13-538 Animal Law | QLD | 2008 | 2016 ¹¹ |
| University of Wollongong | LLB366 Animal Law | NSW | 2008 | 2016 ¹² |
| Flinders University | LLAW3268 Animal Law | SA | 2009 | 2013 ¹³ |
| University of Sydney | LAWS3410 Animal Law | NSW | 2009 | 2013 ¹⁴ |
| Monash University | LAW4230 Animal Law | VIC | 2015 | 2015 ¹⁵ |

⁸ Stephen White, 'The Emergence of Animal Law in Australian Universities' (2008) 91 *Reform* 51.

⁹ University of NSW, LAWS3144 Animal Law (2016) <<http://www.handbook.unsw.edu.au/undergraduate/courses/2016/LAWS3144.html>>.

¹⁰ Griffith University, *Animal Law (5069LAW)* (2016) <https://courseprofile.secure.griffith.edu.au/student_section_loader.php?section=1&profileId=90586>.

¹¹ Bond University, *LAWS13-538 Animal Law* (2015) <http://outlines.bond.edu.au/LAWS13-538_SEP_2015_20425_1_1>.

¹² University of Wollongong, *List of 2016 LLB Electives* (2016) <<http://lha.uow.edu.au/law/UOW114603.html>>.

¹³ Flinders University, *LLAW3268 Animal Law* (2013) <<http://www.flinders.edu.au/webapps/stusys/index.cfm/topic/main?subj=LLAW&numb=3268&year=2013>>.

¹⁴ University of Sydney, *Handbooks 2013 – Archive* (2013) <https://sydney.edu.au/handbooks/archive/2013/law/undergraduate/units_of_study/table.shtml.html>.

¹⁵ Monash University, *LAW4230 Animal Law* (2015) <<http://www.monash.edu.au/pubs/2015handbooks/units/LAW4230.html>>.

| | | | | |
|---------------------------------|--|-----|------|--------------------|
| Australian National University | LAWS2234 Animals and the Law | ACT | 2009 | 2016 ¹⁶ |
| University of Melbourne | LAWS50122 Animal Law | VIC | 2009 | 2011 ¹⁷ |
| Southern Cross University | LAW10487 Animal Law | NSW | 2010 | 2011 ¹⁸ |
| Macquarie University | LAW448 Animal Law | NSW | 2012 | 2016 ¹⁹ |
| University of Adelaide | ANIML SC3250RW Animals and the Law | SA | 2012 | 2016 ²⁰ |
| University of Technology Sydney | 76033 Animal Law and Policy in Australia | NSW | 2012 | 2016 ²¹ |
| University of Tasmania | LAW629 Animal Law | TAS | 2014 | 2017 ²² |
| La Trobe University | LAW3ANI Animal Welfare Law and Policy | VIC | 2016 | 2017 ²³ |

This is not a complete list. New animal law units are introduced periodically, and units that include coverage of animal law do not always use the title ‘animal law’ or some obvious variation. At the University of Queensland, for example, animal law is included as a module in the compulsory first year unit *Law and Society*. At other law schools, animal law is taught as a topic in *Property Law*. In Australia, animal law teachers are fortunate to have access to some excellent Australian animal law textbooks, including Alex Bruce’s *Animal Law in Australia: An Integrated Approach*,²⁴ Deborah Cao’s *Animal Law in*

¹⁶ Australian National University, *LAWS2234 Animals and the Law* (2015) <<http://programsandcourses.anu.edu.au/course/LAWS4234>>.

¹⁷ University of Melbourne, *LAWS50122 Animal Law* (2016) <<https://handbook.unimelb.edu.au/view/2016/LAWS50122>>.

¹⁸ Southern Cross University, *LAW10487 Animal Law* (2016) <<http://courses.scu.edu.au/units/law10487-animal-law/2016>>

¹⁹ Macquarie University, *LAW448 Animal Law* (2016) <<http://www.handbook.mq.edu.au/2016/Units/UGUnit/LAW448>>.

²⁰ University of Adelaide, *ANIML SC3250RW Animals and the Law* (2016) <<https://www.adelaide.edu.au/course-outlines/106488/1/winter/>>.

²¹ University of Technology Sydney, *76033 Animal Law and Policy in Australia* (2016) <<http://handbook.uts.edu.au/subjects/details/76033.html>>.

²² University of Tasmania, *LAW629 Animal Law* (2016) <<http://www.utas.edu.au/courses/law/units/law629-animal-law>>.

²³ La Trobe University, *LAW3ANI Animal Welfare Law and Policy* <<http://www.latrobe.edu.au/students/subjects/2016/law3ani-animal-law>>.

²⁴ Alex Bruce, *Animal Law in Australia: An Integrated Approach* (LexisNexis, 2012).

Australia and New Zealand,²⁵ Malcolm Caulfield's *Handbook of Australian Animal Cruelty Law*,²⁶ and *Animal Law in Australasia: A New Dialogue* edited by Peter Sankoff and Stephen White.²⁷ They also have access to an extensive list of animal law, animal ethics and animal welfare texts from other jurisdictions and other disciplines.²⁸ All of this affirms David Weisbrot's 2008 comments: animal law does appear to be increasing in popularity and influence in Australia. It is thus timely to reflect upon the way animal law is taught, and specifically to think deeply and critically about what it is law teachers are seeking to achieve when they teach animal law to law students.

This article is a critical reflection upon the objectives of animal law units, with a focus upon whether or not it is appropriate to explicitly identify personal, community and legal transformation amongst those objectives. Part II of this article is a reminder of the importance of being clear about one's objectives when teaching law to law students, and an explanation of the ways in which those objectives can – and should – inform teaching practices, curricula and assessment. Part III of the article may appear to be something of a *non sequitur* but it is of direct relevance to the objectives of teaching animal law: it is a description of one author's experiences in teaching conservation and animal welfare issues in Zambia, her explicit objective of not simply expanding the scope of student knowledge but transforming the perceptions and behaviours of both the students themselves and the communities in which they reside, and the extent to which that objective was achieved. Part IV presents scholarly support for the explicit identification of transformation as an outcome of learning, in the form of the literature regarding 'transformative learning' and, in particular, the work of Jack Mezirow. Part V of the article is an examination of the merits and consequences of explicitly identifying personal, community and legal transformation as objectives when teaching animal law, and how those objectives might inform animal law curricula and assessment.

²⁵ Deborah Cao, *Animal Law in Australia and New Zealand* (Thomson Reuters, 2010).

²⁶ Malcolm Caulfield, *Handbook of Australian Animal Cruelty Law* (Animals Australia, 2008).

²⁷ Peter Sankoff and Stephen White (eds), *Animal Law in Australasia: A New Dialogue* (Federation Press, 2009).

²⁸ These include: Susan J Armstrong and Richard Botzler (eds), *The Animal Ethics Reader* (Routledge, 2nd ed, 2008); Mirko Bagaric and Keith Akers, *Humanising Animals: Civilising People* (CCH Australia, 2012); David S Favre, *Animal Law: Welfare, Interests and Rights* (Aspen, 2008); Gary L Francione and Robert Garner, *The Animal Rights Debate: Regulation or Abolition?* (Columbia University Press, 2010); Clare Palmer, *Animal Ethics in Context* (Columbia University Press, 2010); Clive Phillips, *The Welfare of Animals: The Silent Majority* (Springer, 2009); Peter Sandøe and Stine B Christiansen, *Ethics of Animal Use* (Blackwell, 2008); Peter Singer and Jim Mason, *The Ethics of What We Eat* (Rodale, 2006); Bruce A Wagman and Matthew Liebman, *A Worldview of Animal Law* (Carolina Academic Press, 2011); Bruce A Wagman, Sonia S Waisman and Pamela D Frasch, *Animal Law: Cases and Materials* (Carolina Academic Press, 4th ed, 2009).

II WHY TEACH ANIMAL LAW?

Since 2009, Nick has taught a module in animal ethics and animal law to first year law students at the University of Queensland and at Bond University. He usually begins the first animal law class with a story of two mice. A few years ago, a Brisbane drinking establishment hosted a ‘Jackass’ style competition with patrons as participants. The increasingly intoxicated participants progressed through the rounds of the competition by completing various physical challenges, including allowing mousetraps to be sprung on their tongues, pouring cockroaches over their heads, drinking shot glasses full of Tabasco sauce and eating bird feed cups full of live maggots. By the final round of the competition, only two participants remained. The organizers set a final challenge: each participant was instructed to hold a live mouse in their mouth. When both participants were willing and able to follow the instruction, the organizers announced that the winner of the competition would be the person who could chew the live mouse. One of the participants spat their mouse out, and the other chewed.²⁹ Amidst a chorus of groans, gasps of shock and (unfortunate) chuckles, Nick then presents the students with a multiple-choice question:

Chewing on a live mouse:

- A. shows admirable courage and determination.
- B. is hilarious.
- C. is disgusting, ew!
- D. is morally wrong.

On a show of hands, the majority of students invariably choose D. Nick then asks the majority of students who are opposed to the actions of the competition winner on the basis that it is morally wrong *why* it is morally wrong. After all, he explains, the mouse in question was purchased from a pet store by the competition organizers, and it was chewed with their consent. The students’ response is usually to the effect that regardless of the status of the mouse as personal property, it is still wrong for the mouse to be treated in this way. This then leads into a lengthy presentation and discussion about the moral status of animals, and an examination of the arguments for and against ‘anthropocentrism’ (the granting of moral status to humans only) and the utilitarian and rights-based justifications for the extension of moral status to animals. This in turn leads to an examination of the extent to which these various ethical models are reflected in the various laws relating to and impacting upon animals.

Beginning the class in this way immediately engages the majority of students by providing them with a pressing question to which they seek an immediate answer: Why exactly is it ‘wrong’ to cause an animal to suffer pain unnecessarily if the owner of the animal consents to that

²⁹ Australian Associated Press, ‘Mice Chewed and Spat Out in Pub Jackass Contest’, *Sydney Morning Herald* (online), 22 July 2004 <<http://www.smh.com.au/articles/2004/07/22/1090464784669.html>>.

suffering? More relevantly, it immediately creates the conditions for the possibility of a significant transformation in personal outlook by the students by provoking them to think deeply about their own beliefs and assumptions. It is not an explicit objective of the unit of which this particular class is a component to change the way students relate to animals. The explicit objectives are far more pedestrian: enhancing student understanding of the various theories regarding the moral status of animals, and of the various laws relating to animals, and developing their ability to reason critically about legal and ethical issues involving animals. However, it is an *implicit* objective of the unit to encourage the students to radically rethink their relationship with animals, and to become role models for others, demonstrating a respect for the wellbeing of animals that others will emulate. Is such an objective, even if it is implicit, an appropriate one? And, if such an objective is appropriate, is the way in which animal law is usually taught and assessed the best way to achieve that objective? These are questions of relevance to any animal law teacher who seeks to provide their students with a transformative learning experience.

Questions about the explicit and implicit objectives of an animal law unit are important because learning objectives play – or are at least supposed to play – an important role in the design and delivery of curricula, and it is appropriate that the identification of learning objectives be taken seriously. It is often the case that when called upon to create a new unit, a law teacher will begin the process with a list of topics. They identify the things that they would like to teach, or are obliged to ‘cover’ for accreditation purposes. The list may be the outcome of individual brainstorming, consultations with colleagues, familiarity with the literature, or perusing the chapter headings of a particular textbook. This list forms the basis for the lecture topics and tutorial program. The law teacher then gives some thought to the assessment, often falling back upon the traditional assessment methods: the final exam, the research paper and the oral presentation. Eventually they might think about the learning objectives for the unit – often as a result of being obliged to do so in order to complete a standard format unit outline.

The educational literature, however, suggests that law units and law teaching – and by extension the quality of learning by law students – will be improved by approaching unit design more thoughtfully and more deliberately. When designing a unit, the law teacher should begin by identifying what it is that they want to achieve in teaching *this* unit to *these* students. This overall goal should then inform the specific learning objectives the teacher sets for the unit – that is, the details of what it is they would like their students to know and be able to do upon completion of the unit. Once they have their explicit learning objectives they should work out how they are going to determine whether or not each student has achieved these learning objectives; in other words, they develop the assessment methods for the unit. And finally, once they have identified the learning objectives (what they want to do) and the assessment methods (how they will determine if they have done

what they want to do), they develop the content and curricula: how they are going to facilitate their students' journey from where the students are at the beginning of the unit to where the teacher would like them to be at the end of the unit.³⁰

We suspect that many law teachers who teach animal law are, like Nick, motivated by a personal concern for the wellbeing of animals. And when they teach animal law to their students, they want their students to not only know the law and be able to use the law to solve problems, they want them to use the law to help animals. As role models and community leaders, law students and lawyers influence the behaviour of others. Teaching animal law to law students is thus a way for some law teachers to – directly and indirectly – have an impact upon the way humans relate to animals. As David Favre explains:

Eventually, the wave of individuals passing through law schools will have their full effect on legal institutions. As they become legislators, judges and community leaders, the issues of animal welfare will rise on the community agenda.³¹

Is it appropriate to identify personal, community and legal transformation as explicit objectives of an animal law unit? Before considering whether or not animal law teaching *should* be taught in this way, we will consider the extent to which education *can* play a role in transforming personal and community attitudes and behaviours. On this point, Rochelle's experiences teaching school children in Zambia will be informative.³²

III ROCHELLE'S STORY

In 2011, Rochelle spent the year in Mfuwe, a small township in the Luangwa Valley in the Eastern Province of Zambia, Africa, teaching local school students about animal welfare and the importance of environmental conservation. Africa contains some of the world's largest strongholds of wildlife and true wilderness areas, but developing communities in these areas are placing considerable pressure on the remaining wildlife and natural resources. The primary purpose of conservation education programs conducted in these areas is to generate positive long-term behavioural change within the local communities

³⁰ See John Biggs, 'Enhancing Teaching through Constructive Alignment' (1996) 32 (3) *Higher Education* 347; John Biggs, *Aligning Teaching and Assessment to Curriculum Objectives* (Imaginative Curriculum Project, LTSN Generic Centre, 2003); John Biggs and Catherine Tang, *Teaching for Quality Learning at University* (Open University Press, 2007); C D Smith, 'Design-Focused Evaluation' (2008) 33 (6) *Assessment & Evaluation in Higher Education* 631.

³¹ David Favre, 'Gathering Momentum' (2005) 1 *Journal of Animal Law* 1.

³² This shift in both jurisdiction and discipline does not undermine the relevance of the findings to the teaching of animal law in Australia. It is the author's experience in positioning personal and social transformation as explicit learning outcomes that is relevant here.

that will protect biodiversity and sustain local natural resources while maintaining or increasing economic prosperity.³³

Mfuwe lies on the eastern border of one of the most famous national parks in Zambia, South Luangwa National Park. The Park is home to a diverse range of native species including the African lion, leopard, elephant and buffalo.³⁴ However, the township of Mfuwe is placing considerable pressure on the wildlife and natural resources of the park and the surrounding Luangwa Valley. Large scale poaching in the 1970s and 1980s devastated the Park's elephant population: in just 15 years, the population declined from 35,000 to 2,000 individuals.³⁵ Poaching also decimated the nation's 12,000 strong black rhinoceros population, and by the early 1990s the animal was declared extinct in Zambia.³⁶ Large scale poaching is no longer a severe threat to the wildlife of South Luangwa, but other serious threats to the Park's wildlife continue, including subsistence poaching for meat, snaring of wildlife with the use of wire, trophy hunting, the use of catapults as wildlife crop deterrents, and retaliation killings.³⁷ Land clearing to produce maize crops and other staple foods has prompted large-scale deforestation.³⁸ Mfuwe is already home to more than 15,000 people and is continuing to grow due to the perceived promise of employment in the Park, but only a few residents are able to secure such employment, and subsistence hunting, fishing and farming represents the most common way of life for most of Mfuwe's residents. Unfortunately, wildlife crop damage, floods, drought and disease often hinder agricultural development. Consequently, many subsistence farmers do not harvest adequate food to feed their large families, and the level of malnutrition is high.³⁹

Rochelle was employed as the conservation education outreach manager for a small not-for-profit non-government organisation, Chipembele Wildlife Education Trust (CWET). CWET has been operating a conservation education program in Mfuwe since 2001. Similar to wildlife and conservation education programs in other

³³ Dru Clark, 'Commitments of the Heart, a West African Odyssey' (2003) 34 (3) *Journal of Environmental Education* 41; Monica Ogra, 'Attitudes Toward Resolution of Human-Wildlife Conflict Among Forest-Dependent Agriculturalists near Rajaji National Park, India' (2009) 37 *Journal of Human Ecology* 161.

³⁴ Cheryl Mvula, 'Fair Trade in Tourism to Protected Areas: A Micro Case Study of Wildlife Tourism to South Luangwa National Park, Zambia' (2001) 3 (5) *The International Journal of Tourism Research* 393.

³⁵ Lindsey Clarida, *Human Animal Conflict in South Luangwa Valley of Eastern Zambia* (PhD Thesis, 2004).

³⁶ Chansa Chomba and Wigganson Matandiko, 'Population Status of Black and White Rhinoceros in Zambia' (2011) 50 *Pachyderm* 50.

³⁷ Elephants and other herbivorous animals such as hippopotamus, buffalo and baboon frequent the township after dusk in search of food, regularly feeding on, and destroying, maize and other crops. Residents often lose much or all of their crops to elephant and wildlife damage.

³⁸ Cheryl Mvula, above n 34; Lindsey Clarida, above n 35.

³⁹ Carla Wainright and Walter Wehrmeyer, 'Success in Integrating Conservation and Development? A Study from Zambia' (1998) 26 (6) *World Development* 933.

African countries,⁴⁰ the CWET program takes the form of ‘conservation clubs’ for local students in grades 8 to 12, and ‘chongololo clubs’ for local students in grades 6 and 7. Rochelle designed and delivered the conservation education program to students from six local schools, with six conservation clubs and five chongololo clubs. The clubs were moderate in size, with approximately 30 students in each. Lessons focused primarily on human wildlife conflict, animal welfare issues, local and global environmental issues and general biology. Students were also taught practical knowledge such as planting trees, the provision of care to wild, farm and domestic animals, and elephant crop management tools. The objectives of the program included not only providing conservation education to school students, but also transforming the perceptions and behaviours of the school students, their families and the wider community. Towards the end of her year in Mfuwe, Rochelle conducted a series of interviews to evaluate the CWET program’s influence on both individual students and on the wider community via ‘intergenerational learning’, i.e. learning passed from a student to their families and community members. She sought to answer two questions: Do the knowledge, attitudes and behaviour of students in the program differ from those of students who are not in the program, and if so how? And does intergenerational learning influence the knowledge, attitudes and behaviour of families and friends of students in the program, and if so how?

In order to evaluate the knowledge, attitude and behaviour of students, the conservation club students and the non-conservation club students were asked multiple choice and open-ended questions about science and environmental topics taught to them in secondary school, and about activities they participated in both within and outside of school hours. The level of willingness to take positive environmental action, such as participation in tree planting campaigns and environmental discussions with siblings and parents, was the most meaningful difference between the two groups of students. All conservation club students described taking positive environmental action outside of club and school activities, whereas no non-conservation club students reported taking positive environmental action. One conservation club student stated:

From what I have been taught I will go and teach them [my family and friends]. From what I have seen they now understand the disadvantage of poaching and killing animals. Some others have improved, lot of people have started planting trees for shade. (Conservation Club Student 2)

Interviews conducted with conservation club students and their families confirmed that the CWET program also had an impact upon the families and friends of students. Seventy per cent of the interviewed conservation club students reported speaking about club lessons and

⁴⁰ Mallory McDuff and Susan Jacobson, ‘Impacts and Future Directions of Youth Conservation Organisations: Wildlife Clubs in Africa’ (2000) 28 (2) *Wildlife Society Bulletin* 414.

activities to others on a daily or weekly basis, and having an impact upon the behaviour of others.

My friends they were hunting and poaching impala and puku with dogs and wire snares but now no, they stopped. (Conservation Club Student 7)

I encouraged my friends to not use catapults. Now they have stopped. (Conservation Club Student 10)

School administrators also noted a change in community behaviour over time.

Because of the knowledge imparted in the lives of the people by them [the students] people have stopped killing anyhow... (School Administrator 2)

Preaching conservation to the members of the community [through activities] has lead to the reduction in exploiting wildlife. (School Administrator 4)

Knowledge of wild animal behaviour and crop management tools was found to differ significantly between families of conservation club students and families of other students. For example, chilli fences and chilli bricks can be used as humane elephant crop management tools.⁴¹ Eighty per cent of the conservation club student families knew of and could describe chilli fences and bricks, and fifty per cent of the families actually chose to employ the chilli fence or chilli brick method to protect their crops. Conversely, only twenty per cent of non-conservation club student families knew of chilli as an elephant deterrent method, and only ten per cent employed the chilli method as a crop management tool.

It appears that the CWET program is indeed transforming the perceptions and behaviours of not only the students in the program but also their peer groups and families. The question, then, is whether the objective of transforming the perceptions and behaviours of students and their communities is a feasible and appropriate objective when teaching animal law to law students. The following section of the article presents an overview of the literature relating to transformative learning, and Part V examines the arguments for and against identifying a transformation in perceptions and behaviours as an explicit objective of an animal law unit.

IV TRANSFORMATIVE LEARNING

Facilitating a transformation in the beliefs and behaviours of students is the central focus of transformative learning scholarship. 'Transformative learning' is a model of learning and an approach to teaching that focuses upon facilitating a transformation in the student's beliefs, attitudes and emotional reactions. The transformative approach to education can be contrasted with alternative approaches such as the

⁴¹ Maryann Mott, 'Elephant Crop Raids Foiled by Chilli Peppers, Africa Project Finds' (2006) *National Geographic News* (online), 18 September 2006 <<http://news.nationalgeographic.com/news/2006/09/060918-elephants-chili.html>>.

transmission approach and the transactional approach.⁴² The transmission approach sees education as the transmission of knowledge from teacher to student, i.e. it is teacher focussed. The transactional approach is student focussed, and sees education as student learning through experience, inquiry, critical thinking and interacting with other students. The transformative approach is also student focused, but the emphasis is upon facilitating a fundamental change in the student's worldview. Edmund O'Sullivan describes transformative learning as involving

experiencing a deep, structural shift in the basic premises of thought, feelings, and actions. It is a shift of consciousness that dramatically and irreversibly alters our way of being in the world. Such a shift involves our understanding of ourselves and our self-locations; our relationships with other humans and with the natural world; our understanding of relations of power in interlocking structures of class, race and gender; our body awareness, our visions of alternative approaches to living; and our sense of possibilities for social justice and peace and personal joy.⁴³

Transformative learning scholarship is thus a fruitful source of insight for those animal law teachers seeking to facilitate a deep personal transformation in their students. The leading scholar in the field of transformative learning is Jack Mezirow. Mezirow argues that perspective transformation results from a 'disorienting dilemma', which can be triggered by a life crisis or a major life transition.⁴⁴ It can also be triggered by a dramatic predicament created by a teacher. Prompted by the 'disorienting dilemma', the student engages in a rational and analytical process of critically reflecting on their assumptions and beliefs, and changing their frames of reference.⁴⁵ There are three elements to the transformation in perspective: psychological transformation, which is a change in the student's understanding of the self; convictional transformation, which is a change in the student's belief systems; and behavioural transformation, which is a change in the student's lifestyle.⁴⁶ In the context of animal law, these equate to a change in the student's understanding of their personal relationship with animals, a change in the student's belief about the moral status of animals, and a change in the way the student relates to animals including the way they treat animals and, in some cases, what they eat and what they wear. The 'disorienting dilemma' that triggers the transformation may be a series of confronting experiences in the animal law classroom, such as the story about the mouse described in Part II.

⁴² J P Miller and W Seller, *Curriculum: Perspectives and Practice* (Copp Clark Pitman, 1990).

⁴³ Edward O'Sullivan, 'Bringing a Perspective of Transformative Learning to Globalized Consumption (2003) 27(4) *International Journal of Consumer Studies* 326.

⁴⁴ Jack Mezirow, *Transformative Dimensions of Adult Learning* (Jossey-Bass, 1991).

⁴⁵ Jack Mezirow, 'Transformative Learning: Theory to Practice' (1997) 74 *New Directions for Adult and Continuing Education* 5.

⁴⁶ Jack Mezirow, above n 44.

Subsequent transformative learning scholars have criticised Mezirow's emphasis upon rationality in the process of transformation. They have examined the roles that emotion and intuition play in the transformative process. Robert Boyd, for example, applies analytical psychology to transformative learning.⁴⁷ For Boyd, transformation is a 'fundamental change in one's personality involving the resolution of a personal dilemma and the expansion of consciousness resulting in greater personality integration'.⁴⁸ Animal law teachers who have witnessed the passion, anger, distress and grief demonstrated by law students in an animal law class will agree that the disorienting dilemma and subsequent learning experience of these students is not one that is purely rational. Emotion, intuition and imagination play important roles in the student's transformative learning experience.⁴⁹

A teacher who seeks to facilitate a transformative learning experience must create a learning environment where students become aware of and question their own deeply held beliefs and assumptions. Critical reflection plays an important role in the transformative process. Students learn to view problems from new perspectives, and to apply new frames of reference to interpretation of their experiences.⁵⁰ It is important that the teacher not attempt to exert too much control over or dictate the outcome of the transformative process; rather, they should encourage the students to explore different perspectives – for example, by having the students engage with and discuss readings from a variety of different points of view about a topic – and allow the individual students to reach their own conclusions.⁵¹

Transformative learning scholarship provides animal law teachers with a wealth of strategies for engaging students in discourse and critical reflection, helping them to question what they and others take for granted about animal law and animal welfare issues, and facilitating a personal transformation in their thoughts, feelings and actions regarding animals and their wellbeing. More importantly for the purposes of this paper, it provides scholarly support for explicitly identifying personal transformation as an objective of teaching animal law.

V TEACHING ANIMAL LAW TO PROMOTE TRANSFORMATION

Part III of this article demonstrated that the objective of personal and community transformation when teaching a course can be achieved

⁴⁷ Robert D Boyd and J Gordon Myers, 'Transformative Education' (1988) 7(4) *International Journal of Lifelong Education* 261.

⁴⁸ Cited in Edward W Taylor, *The Theory and Practice of Transformative Learning: A Critical Review* (ERIC Clearinghouse on Adult, Career and Vocational Education, 1998) 13.

⁴⁹ Robert Kegan, 'What "Form" Transforms? A Constructive-Developmental Approach to Transformative Learning' in Jack Mezirow et al, *Learning as Transformation: Critical Perspectives on a Theory in Progress* (Jossey Bass, 2000).

⁵⁰ Jack Mezirow, above n 45.

⁵¹ Patricia Cranton, *Understanding and Promoting Transformative Learning: A Guide for Educators of Adults* (John Wiley & Sons, 2nd ed, 2006).

in practice. In Rochelle's case, her course about conservation and animal welfare lead to a transformation in both student attitudes and community behaviours. Part IV of this article showed that there is scholarly support for adopting an approach to teaching that focuses upon the facilitation of personal transformation in student beliefs, attitudes and emotional reactions. In this part of the article we examine the arguments for and against explicitly identifying personal, community and legal transformation as a learning outcome when teaching animal law to law students.

A In Favour of a Traditional Approach

The traditional objective in teaching law is to facilitate a thorough and rigorous understanding by law students of a particular area of legal doctrine. This 'black letter' approach has dominated legal education for many years. Legal doctrine, separated from its political origins and social context, is located at the centre of the law school curriculum, and non-doctrinal perspectives are located at the margins or excluded entirely.⁵² The traditional approach also emphasises a balanced, neutral and objective understanding of the law. The law student should engage with the law calmly rather than passionately, and partisanship has no place in the law classroom. The law is a purely rational phenomenon, and legal questions should be resolved using logic and reason rather than passion or emotion. The scope of most animal law units is non-traditional in that these units frequently include an examination not only of legal doctrine but also the ethical foundation of that doctrine and the operation of the law in practice. However, the emphasis upon a traditional – i.e. neutral, objective and disinterested – approach to the subject matter is still reflected in the wording of the learning objectives for many of these units.

The purpose of the course is to *introduce students to* the legal, ethical, regulatory, economic and social issues that are associated with human interaction with animals. (ANU)

This subject *focuses on* the ethical and legal issues arising out of the commercial use of animals and animal products. (Bond)

⁵² Nickolas James, 'Expertise As Privilege: Australian Legal Education And The Persistent Emphasis Upon Doctrine' (2004) 8(1) *University of Western Sydney Law Review* 1. This traditional approach to the teaching of law was established with the emergence of the first full time law teachers, and it is the approach that has dominated legal education ever since: 'The classic dons created a framework for viewing, classifying and explaining their lives. This framework was anchored in the notion of law as a certain body of rules and the cultural authority of judges and lawyers ... Exposition, conceptualisation, systematisation and the analysis of existing legal doctrine became equated with the dominant tasks of legal education. Here then was the *raison d'être* of the new professional jurist and university legal education.' David Sugarman, 'A Hatred of Disorder: Legal Science, Liberalism and Imperialism' in Peter Fitzpatrick (ed), *Dangerous Supplements: Resistance and Renewal in Jurisprudence* (Duke University Press, 1991) 36-38.

This topic will *provide an introduction to* animal law and *familiarise students with* the regulation of animal protection and use of animals in Australia. (Flinders)

Drawing on different ethical perspectives on the significance of animals, this course *examines* prevailing regulation of the treatment of animals. (Griffith)

The subject *examines* Australian law which aims to protect the welfare of animals. (Melbourne)

This unit *examines* the ways in which Australian law defines and regulates the relationship between humans and animals. (Monash)

This subject *explores* the way in which the law constructs the relationship between human and nonhuman animals. (Wollongong)

The use of verbs such as ‘introduce’, ‘explore’, and ‘examine’ (rather than more active and emotive verbs such as ‘motivate’, ‘inspire’, ‘participate’ or ‘transform’) portrays these units as ones where students will engage with the subject matter from the traditional (rational, neutral, and disinterested) perspective. The students will be learning about animal law in a way that will not have an impact upon animal law or upon their own personal relationship with animals. They will learn the law and then move on, better educated but otherwise unchanged, and leaving the field of animal law as they found it.

There are many arguments in favour of adopting a neutral and disinterested approach, and in this section we present three of these arguments. The first argument is its very consistency with academic tradition. The academic study of the law is characterised by a rational, politically neutral and quasi-scientific interpretation and analysis of legal doctrine. The law itself may be inextricably embedded within political, cultural, and historical contexts but the study of the law has traditionally separated the law’s content from the law’s contexts in order to allow legal scholars and law students to focus upon mastering the technical details of legal doctrine without distraction. Even today, the content of most compulsory law units is primarily doctrinal, with the teacher of these units committed to interpreting and analysing the minutiae of the law of contract, tort, etc. The Uniform Admission Rules and the 11 areas of knowledge that law students are required to have studied successfully before they can be admitted to the legal profession (the ‘Priestley 11’) facilitate and encourage a neutral and disinterested approach to legal education. They are concerned primarily with the mastery of legal rules, and no reference is made to the history of law and legal systems, to legal theory, to interdisciplinary perspectives, to law’s social and economic impact, or to law reform. Law students are required to learn legal doctrine, and personal, community and legal transformation are neither required nor relevant. Of course, unlike the compulsory units, elective units such as animal law are not obliged to comply with the requirements of the Priestley 11, but the traditional

approach is still seen as appropriate to avoid an unfavourable comparison with other units and a perceived loss of academic rigour.⁵³

The second reason for favouring a traditional approach to animal law is the potential impact of a more ideologically transformative approach upon access to justice. This is of course conjecture, but favouring one position in a social debate when educating future legal professionals could lead to a generation of lawyers who all favour that ideological position, leading in turn to a situation where those who favour other positions – in this case, those who prefer to consistently place human needs and preferences over those of non-humans – may find it more difficult to obtain legal representation. (On the other hand, since animal law is usually an elective unit there will be many law students and future legal professionals who do not study animal law.)

The third reason for favouring a traditional approach to teaching animal law is a pragmatic one. If animal law is perceived by more conservative law school leaders and decision makers as ideologically biased, it may be more difficult to introduce a new animal law unit or to retain an existing animal law unit. This is a point made by Tannenbaum, who identifies two different approaches to defining ‘animal law’, one that defines animal law as committed to advocacy on behalf of animals, including the promotion of animal rights, and the other that defines animal law in a purely descriptive manner as the area of law that relates to animals. Tannenbaum argues in favour of the descriptive definition of animal law, insisting that rejection of advocacy-oriented definitions of animal law is a necessary first step in motivating lawyers, law school faculty, and law students to pay sufficient attention to animal-related legal issues.⁵⁴

The adoption of a traditional approach when teaching animal law is therefore a strategic move in the interest of ensuring animal law continues to be taught in the law school. Some law students might be repulsed by a transformative approach that explicitly favours a particular ideological position, and enrolments might be lower. This is particularly problematic if the goal is to transform the ideological position of those who do not yet recognise the importance of reforming legal regimes and community practices to better protect the wellbeing of animals, since making that goal explicit might in fact disincline those very people from learning about animal law in the first place.⁵⁵ It may

⁵³ Sankoff describes how, despite the sudden and dramatic growth in the number of animal law courses, many in the academic community continue to regard these courses as fringe offerings, and professors who wish to teach them are often discouraged - formally or informally - from doing so: Peter Sankoff, above n 5.

⁵⁴ Jerrold Tannenbaum, ‘What Is Animal Law?’ (2013) 61 *Cleveland State Law Review* 891.

⁵⁵ The authors in Diane M Sullivan, Holly Vietzke and Michael L Coyne, ‘Animal Rights Advocacy Programs: Champions for Animal Rights’ (2009) 3 *Journal of Animal Law and Ethics* 173 argue that animal rights advocacy programs in law schools too often focus on extremist positions, marginalizing not only public education efforts but splintering the cause from within. Instead of focusing on divisive issues, they argue, more animal rights programs should pursue matters on which there is agreement. See also Megan A Senatori and Pamela D Frasch, ‘Future

be better to approach the subject matter from an ideologically neutral position, focus upon encouraging students to think critically about the subject matter, and allow them to reach their own conclusions about the need for personal change or legal reform.

B *In Favour of a Transformative Approach*

On the other hand, there are persuasive arguments in favour of making personal, community and legal transformation explicit objectives of an animal law unit. Firstly, making the goal of ideological transformation explicit is consistent with the reality of many animal law units. The reason many law teachers choose to teach animal law, and the reason many law students choose to study animal law, is because they favour a particular ideological position in debates about relations between humans and animals.⁵⁶ We suspect that many students would not be opposed to being told that the object of an animal law unit is to provide the students with the knowledge and skills to make their efforts to achieve legal and social reform more effective.

Secondly, explicitly identifying personal, community and legal transformation as objectives of an animal law unit is more realistic in the sense that law teachers *always* advocate a particular political or ideological position when teaching law, even if this position is implicit rather than explicit. An academic who chooses to explicitly advocate a particular ideological position might be accused of inappropriate partisanship or ideological bias by their more conservative colleagues, but such an objection disregards the fact that is impossible to teach anything without advocating an ideological position. An academic who, for example, teaches in a manner that emphasises a neutral understanding of legal doctrine is implicitly advocating an ideological view that the law can be understood in isolation from its various social, political and ideological contexts, and a political view that the current law is acceptable and does not require reform. As Ward puts it, law teachers who pretended not to be political are 'simply more dangerous, not less political'.⁵⁷

Thirdly, it has been claimed that the traditional emphasis upon neutrality and the consequent marginalisation of student values and opinions has a negative impact upon student and practitioner wellbeing. After repeatedly and persistently being instructed to disregard their personal beliefs and values while at law school in order to engage in formalistic legal reasoning, these beliefs and values are devalued by the students and, in many cases, abandoned entirely.⁵⁸ In their research into

of Animal Law: Moving Beyond Preaching to the Choir' (2011) 60 *Journal of Legal Education* 209.

⁵⁶ See for example Paria Kooklan, 'Animal Law' (2008) 36 *Student Lawyer* 14.

⁵⁷ Ian Ward, *An Introduction to Critical Legal Theory* (Routledge, 1998) 160.

⁵⁸ Kennon M Sheldon and Lawrence S Krieger, 'Does Legal Education Have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values and Well-Being' (2004) 22 *Behavioural Sciences and the Law* 261; Kennon M Sheldon and Lawrence S Krieger, 'Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test of Self-Determination Theory'

law student motivation, values and wellbeing, Sheldon and Krieger found that many US law students move away from the positive values they bring with them to law school and towards more superficial extrinsic values.⁵⁹ In particular, they found a significant move away from intrinsic values such as community service and towards extrinsic values such as appearance and image throughout the first year of studying law.⁶⁰ Recent research into the motivations and experiences of Australian law students has produced similar results.⁶¹ The disregard for personal values when engaging with the law continues after law school and into legal practice. Once students learn how to ‘think like a lawyer’ at law school, it is difficult to return to a way of thinking about the law that does acknowledge personal views of right and wrong.

By the time they enter into legal practice, law students find it easier to engage in ‘role-differentiated behaviour’: once a person assumes a particular social role such as a lawyer, it is acceptable for that person to ignore moral standards that, outside that role, would be inconsistent with fulfilling that role.⁶² This willingness on the part of the lawyer to subordinate their personal values has the potential to develop undesirable character traits in the lawyer. They may become ‘competitive rather than cooperative; aggressive rather than accommodating; ruthless rather than compassionate; and pragmatic rather than principled’.⁶³ And any cross-pollination of the professional and personal roles is likely to favour the professional role: the professional role may ‘infect’ the lawyer’s personal life, and the poor character traits of the professional role – the competitiveness, aggressiveness, ruthlessness, and pragmatism – may become personal traits.

Explicitly identifying personal, community and legal transformation as objectives of an animal law unit is consistent with recent calls for a shift away from favouring ideological neutrality in the teaching of law. These calls emphasise both the moral and the social responsibility of legal practitioners.⁶⁴ A ‘moral activist’ approach to lawyering, for example, emphasises the lawyer’s role as an agent for justice through

(2007) 33 *Personality and Social Psychology Bulletin* 883; Tamara Walsh, ‘Putting the Justice Back into Legal Education’ (2007) 17 *Legal Education Review* 119.

⁵⁹ Sheldon and Krieger, ‘Does Legal Education Have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values and Well-Being’, *ibid*; Sheldon and Krieger, ‘Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test of Self-Determination Theory’, *ibid*.

⁶⁰ Sheldon and Krieger, ‘Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test of Self-Determination Theory’, above n 58, 893.

⁶¹ See Anna Huggins, ‘Autonomy Supportive Curriculum Design: A Salient Factor in Promoting Law Students’ Wellbeing’ (2012) 35(3) *University of New South Wales Law Journal* 683; Colin James, ‘The Habits of Emotion: Legal Education as Performance Enhancement’ (Paper presented at ANZAPPL Conference, Sydney, 20-22 November 2014).

⁶² Richard Wasserstrom, ‘Lawyers as Professionals: Some Moral Issues’ (1975) 5(1) *Human Rights* 2.

⁶³ *Ibid* 8.

⁶⁴ Christine Parker and Adrian Evans, *Inside Lawyers’ Ethics* (Cambridge University Press, 2007) 21-40.

law reform, public interest lawyering and client counselling.⁶⁵ A lawyer has a responsibility to ensure that the legal system is fair and just. They should not only be concerned with acting on behalf of paying clients or complying with the spirit of the existing law. They should participate in public interest lawyering and in the process of law reform. They should be concerned about problems such as access to justice and inequality before the law, and they should take steps to try to do something about them. A lawyer is morally responsible for their actions as a lawyer, and rather than ignore or abandon their personal values they should make the effort to advise their clients – even to persuade them – to do what they consider to be the right thing. Explicitly emphasising personal, community and legal transformation as objectives in teaching animal law, and encouraging animal law students to reflect critically upon their own personal values and those of their peers when examining animal law issues, is consistent with this call for a shift in favour of a new approach to lawyering.

C Implementing a Transformative Approach

If facilitating personal, community and legal transformation is made an explicit goal of teaching animal law, how might this inform the unit’s learning objectives, assessment and curricula? The learning objectives in Table 2 emphasise the importance of personal transformation on the part of the student; transformation on the part of the student’s family members, friends and peers (consistent with the notion of ‘intergenerational learning’ described in Part III); and law reform in favour of social justice. ‘Mild’ and ‘strong’ versions of each learning objective are offered. The mild version is closer to the objectivity and neutrality favoured by the traditional approach to teaching law; the strong version is more explicit about the ideological positions favoured in many animal law units. It is of course possible to draft alternative learning objectives that fall somewhere between these two extremes.

Table 2: Learning Objectives

| | Mild | Strong |
|---------------------------------|--|--|
| Personal transformation | ‘Reflect upon your own values regarding animals and animal law’ | ‘Demonstrate a personal commitment to an ideological position regarding animals and animal law’ |
| Community transformation | ‘Reflect upon the values of your family members, friends and peers regarding animals and animal law’ | ‘Demonstrate a commitment to encouraging others to support your ideological position regarding animals and animal law’ |
| Law reform | ‘Contribute to public debate about animals and animal law’ | ‘Contribute to efforts to reform the law in favour of your ideological position regarding animals and animal law’ |

⁶⁵ Ibid.

Once the learning objectives have been settled, the next step would be to identify the ways in which the extent of each student's achievement of these learning objectives can be evaluated. Examples of appropriate assessment tasks are set out in Table 3. Once again, the examples are organised around personal transformation, community transformation and law reform.

Table 3: Assessment Tasks

| | Assessment tasks |
|---------------------------------|--|
| Personal transformation | <ul style="list-style-type: none"> - Reflective journal recording student's reactions to learning activities and tracking any changes in student's values. - Personal statement of values (informed by scholarly literature) and statement of commitment to those values. |
| Community transformation | <ul style="list-style-type: none"> - Survey (qualitative or quantitative) of family members, friends and peers, and critical analysis of results. - Reflective journal recording student's efforts to transform values of family members, friends and peers, and critical analysis of success thereof. |
| Law reform | <ul style="list-style-type: none"> - Drafting of proposal for law reform. - Reflective essay describing student participation in efforts to reform the law. |

The third step is to ensure the curriculum includes learning activities that will facilitate the development by students of the understanding, abilities and attitudes they need in order to complete the assessment tasks and demonstrate satisfaction of the learning objectives. Examples of appropriate learning activities include the following:

- Classroom discussions and debates about the full range of ideological positions regarding animal law issues.
- Critical analysis of media reports regarding animal welfare and animal rights issues, incorporating comparisons between the ideological position advocated in the media and the students' own personal values.
- A workshop about reflective journaling, with examples of reflective journals completed by the law teacher and/or other students.
- A presentation by the law teacher about their own personal values and commitment to animal welfare and animal rights.
- Guest presentations by academics, practitioners and activists about their own values and commitment to animal welfare and animal rights, and their own efforts to motivate and inspire others.
- A workshop about survey techniques and the analysis of survey results.

- A workshop about the law reform process, and an examination and analysis of authentic law reform proposals.
- Mock parliamentary debates about legislative reform.

All of these activities should emphasise the value and importance of the personal opinions and values the students bring with them to the animal law classroom, rather than marginalise or ignore those values in favour of a neutral and objective examination of animal law issues. It is acknowledged that the explicit identification of personal, community and legal transformation as learning objectives in the teaching of animal law will be seen by many as a bold, and even controversial, strategy. However, teaching animal law in a way that explicitly emphasises the taking of an ideological position is consistent with the view that law schools have a responsibility beyond the intellectual and dispassionate cataloguing of legal rules and beyond the creation of the next generation of lawyers. Law schools have a responsibility to promote the rule of law by educating the community about legal rights and entitlements, and they have a responsibility to contribute to the achievement of social justice through law reform. Many animal law teachers believe that the traditional notions of social justice are anthropocentric, and need to be expanded to include the interests of non-humans.⁶⁶ Once this expansion is accepted, teaching animal law in a way that explicitly promotes the interests of animals is no more controversial than teaching family law in a way that explicitly promotes the interest of children, teaching consumer law in a way that explicitly promotes the interest of consumers, or teaching human rights law in a way that explicitly promotes the protection of human rights.

VI CONCLUSION

As illustrated by Rochelle's experience in Zambia, education programs have the potential to transform the beliefs, values and behaviours of both the students enrolled in the program and members of the wider community. The notion that animal law teachers should identify personal, community and legal transformation as explicit objectives of an animal law unit is a contentious one. The arguments against making these objectives explicit include the inconsistency of such an approach with the long tradition in legal education of favouring a neutral, objective analysis of the law and legal issues; the potential long term impact upon access to justice; and pragmatic concerns that the perception by others that the animal law unit is ideologically or politically biased could make it more difficult for the unit to be introduced or sustained.

These arguments in favour of a traditional approach to teaching animal law must be weighed against the arguments in favour of an explicitly transformative approach. The adoption of a transformative

⁶⁶ See also Maneesha Deckha, 'Critical Animal Studies and Animal Law' (2012) 18 *Animal Law* 207.

approach in describing and promoting the animal law unit is consistent with the actual ideological leanings of most animal law teachers and most animal law students. Law can never be understood from a truly ideologically or politically neutral perspective, so explicit identification of a favoured ideological position is both realistic and honest. And explicit recognition of the personal values of both the law teacher and the law students is consistent with recent criticisms of the long-term impact of ideological and political neutrality in the teaching of law.

Legal academics explicitly adopt partisan positions in the delivery of units in other areas. No one complains when an academic teaching consumer law clearly favours the protection of consumer interests over the protection of business interests, or when an academic teaching human rights law clearly favours the victims of human rights violations over the interests of oppressive states. Why should an animal law unit that clearly favours the interests of animals be seen as problematic?