

# De Minimis

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## Animal Rights Lawyers Collective Generates Civic Disturbance

Amani Green

The Corporate Law Hackathon was held over the break, and some eager *De Minimis* writers were keen to inquire as to whether the occasion would involve widespread hacking of corporate law firms to release us all from the debt-shackles of global capitalism, a la Mr Robot. The answer was a firm no. It was indeed another occasion to ingratiate ourselves further with corporate law firms.

However neither this fact, nor the distinction between reality and the augmented Poké-verse was enough to stop an eager collective of law students.

Law Students for Pokemon Welfare, LSPW, staged a massive hack of Google's servers in order to, per their website, "liberate all Pokemon, big and small, from oppression at the hands of the human race (except Zubats, those little motherfuckers are pests)."

LSPW also held a candlelight vigil at Federation Square in honour of the fallen creatures. Speaking to a spokesperson, their motivation is that "Pokemon are unfairly baited, held in captivity, and forced to fight far more powerful beasts in the futile process of capturing Gyms - for god's sake, just accept that you will never take a Gym and let that Bulbasaur live in peace!

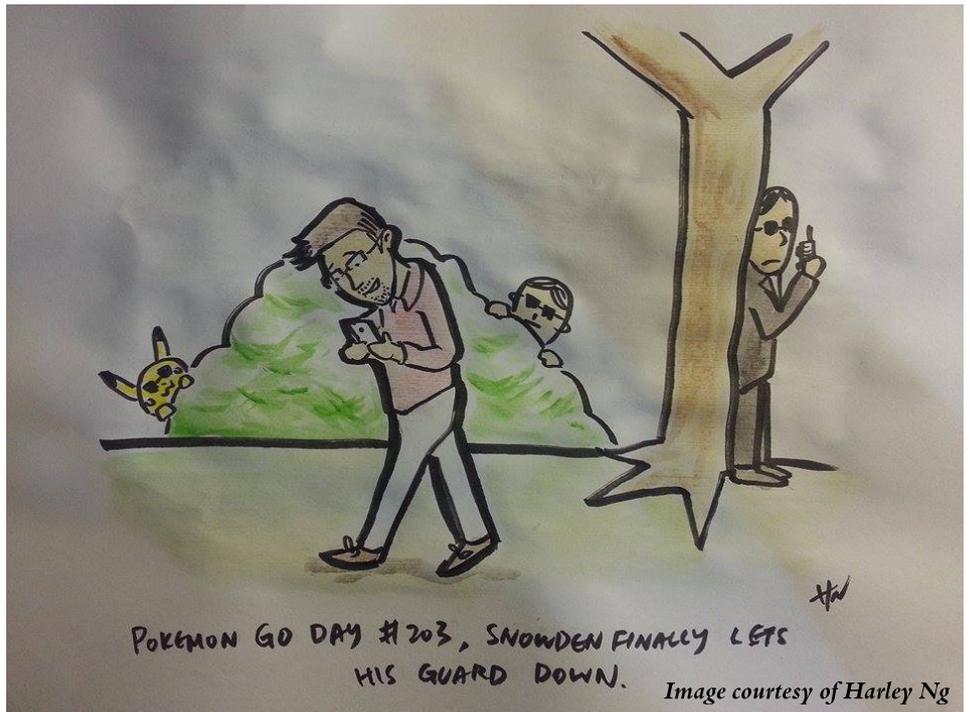
Moving around the crowd, it was revealed that the ideologies behind the collective were mixed.

One attendee said, "I spent my month's data loading and reloading the game every time it froze. I even bought a portable charger. I never even got to play!"

Another said, "in the interests of equality, this game has to stop. On day three, when I first hit level 5, there was already a Gym run by an 1800 CP Gyarados. You need to catch 100 Magikarp to evolve one of those. One. Fucking. Hundred. I tried, and I lost my job, my girlfriend, I haven't showered all week I've just been lying on St Kilda Beach catching Magikarp and having my mates bring me food. When they stopped coming I knew something had to change."

A third vigil attendee said, "Look, I don't understand the animal rights angle on this, it seems rather silly. My gripe is that Google now has unfettered access to endless swaths of or confidential information without question because we're all hopelessly addicted to this stupid game. The neo-colonial, capitalist overtones of the 'gotta catch em all' mentality is sickening, quite frankly. That, and my app crashed when I was on the verge of catching a Blastoise. That was fucking bullshit."

Amani Green is a third-year JD student. He has also reached level eleven on Pokemon Go



## Opting Out

Morgan Koegel

*I leaned forward and rested my forehead on the cold glass, staring down at a muggy Collins street below me. Business-attired ants poured onto the sidewalk in a steady stream of grey and black. I let out the sigh.*

How the fuck did I get here?

It wasn't until I was literally sitting at my 101 Collins desk that the significance of my decision to pursue a clerkship hit me. I'd spent the better half of two weeks writing and re-writing cover letters and perfected my canned laughter for cocktail parties, but there was never a moment where I really sat and thought about what I was doing - it was just the done thing and I was doing it.

Like many people, I entered this degree with a notion of what sort of law student I would be: diligent, studious and, above else, uncompromising. The whim of my classmates and sparkle of a corporate career wasn't going to change me: I'm principled.

But here's the thing - in a closed environment, principles become a little more malleable.

It goes without saying that MLS is one of these environments: it's small, it's held out to be a haven of intelligent (and competitive)

people and its culture is shaped by two institutions with similar interests. Both the law school itself and the LSS have a vested interest in elevating the status of corporate law (and clerkships by extension): the law school needs to produce success stories and future donors, and the LSS relies on corporate firms to sponsor the events they have tied to their identity as a student support body. The extent and consequences of those decisions have been well discussed, in this publication and broader, so I won't go beyond acknowledging that it exists and has an affect on all of us here.

But still - how did I end up, a mere 18 months after stepping into MLS for the first time, sitting in an office environment that I never envisioned for myself? It wasn't the money or the glamour. It wasn't the seminars and careers sessions on offer at Uni. It wasn't even the allure of free sparkling water in every office at the firm. It was the pervasive, incessant suggestion that there is no other option - if you want to be successful (or even to get a job!) you need to go corporate.

As law students we are constantly reminded of the tough job market, the oversupply of graduates and the dwindling funding for community law organisations to provide grad roles. This combined with the clerkship-fever that spreads every June to August over this building is enough to produce some mercurial principles.

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## Opting out continued

And so I, like many before me, told myself that I wasn't doing anything wrong by opting in and applying. I didn't have a choice - I was just following the only option. I told myself I would do a year, maybe two - exploit that corporate dog for my PLT - and then move on to a real job, one with meaning and purpose.

A lot of people tell themselves the "just one year, maybe two" lie. I met a lot of them at my clerkship - people who studied law to save the environment and now celebrate the acquisition of a new mining client for the firm. Or those that thought they'd be a community lawyer only to find themselves churning out corporate contracts. Two years turned into four: there were mortgage repayments and a private office was in sight. Four turned into six with a promotion. Six to eight with the allure of partnership.

The "just one year, maybe two" lie turns into the "I get to do so much good through pro bono" lie pretty quick.

Have no illusions: corporate law is a selfish choice. Pro bono is a farce. There are no mid-tier firms with different values. Firms are largely homogenous in culture and focus. No matter where you go, money is king and the

client is queen.

I won't pretend to be any bastion of moral purity, but fundamentally I live by the principle that those who are given opportunity through education and privilege owe that back to the world. Using the opportunity of a law degree from this University to advance the profits of corporations and amass personal wealth is indefensible.

The world around us is crumbling. From our vantage point as legally educated people we are well placed to see it all: wealth inequality, mass incarceration, environmental collapse, human rights abuses. Choosing a career path with the odd hour spent on a pro bono case or a few grand thrown to charity is the moral equivalent of closing our eyes on those hard truths.

I get it - an alternative is not visible. Time and time again we're told that if we want to be a judge or a barrister or a Legal Aid solicitor or a politician, that a corporate firm is the place to start. This path is presented as some rite of passage for the future do-gooders and great legal minds of the future. To me this is self-serving bullshit: the University sells it because they end up with high-powered grads and the firms because it secures them a steady

stream of applicants. Best to strike terror in the hearts of students for doing anything other than falling to their knees in gratitude for a clerkship. It's a full-circle system of creating fear to try alternative pathways and acceptance of the status quo. It's a system that rests on a shrug of the shoulders from those who could make a difference and demand appropriate funding for the community law sector and reject the notion that toiling in service to others is a feckless choice.

There is no impetus for this system to change until the best and brightest stop opting in.

If any of this sounds inauthentic coming from someone who did a clerkship, fair enough, but a quick caveat: after one, I bailed on the next two. One was enough to not only turn me off corporate law, but the law in general. Now, as I gear up to start a job in the not-for-profit sector, I'm free of the pressures that make people publish clerkship diaries anonymously.

So I'll leave you with this: clerkships and corporate law may be the easy way in - but take some time to question what's making you want to get in before realising that you can't get back out.

Morgan Koegel is a third-year JD student

# UoM Willing to Risk Human Life on Earth for Rankings Climb

Duncan Wallace

On August the 8th, the University of Melbourne will release its draft Sustainability Plan, which will outline the tangible commitments the university is making to deliver a sustainable university.

The university called for staff and students to "co-design the Plan", stating that "this is your Plan and we need your help to advance the University's sustainability performance and achieve its goals."

Staff and students responded in force, with 111 submissions made. The university has stated that "fossil fuel divestment and the University's engagement with the sector as a whole was the main theme from responses."

It is unlikely that divestment from fossil fuels will be one of the commitments made, however, undermining the idea that the Sustainability Plan is "co-designed".

At just over \$1 billion, the University of Melbourne endowment is the largest of any university in the country.

Fossil Free Melbourne University (FFMU) for the past three years has been calling for the university to cease using this money to prop up the fossil fuel industry and to divest. This has been part of a global divestment movement which has seen institutions globally divest \$3.4 trillion, including ANU, Stanford University and Oxford University.

Through sustained activism, ranging from freedom of information requests, to a student referendum (97% of students voted in favour of divestment), to a naked rooftop protest, FFMU last month finally procured a meeting with Robert Johanson and Allan Tait, two key financial decision-makers on the University

Council.

Further, FFMU negotiated to ensure Johanson and Tait would be transparent regarding the barriers the university faces in committing to divest.

At the meeting, the reasons that the university had so far refused to divest were finally laid bare. Previous arguments made by Vice-Chancellor Glyn Davis that what was holding the university back were the "likely lower returns" resulting from divestment were shown to be, at worst, lies and, at best, half-truths. FFMU reported the following:

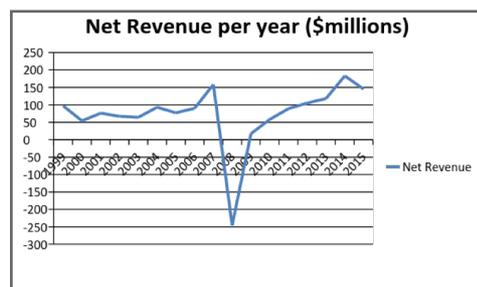
*"We found out something we have suspected all along: concerns about the impact divestment will have on research funding, donations and scholarships money from the fossil fuel industry are stopping the University from standing with its students and divesting"* (emphasis mine).

The first thing to note is that the university is far from struggling financially. Earlier this month Standard & Poor's affirmed its 'AA+' credit rating for the University of Melbourne, a credit rating two notches higher than the nation's four banking behemoths (Westpac, NAB, CBA and ANZ). This is unsurprising - over the last 15 years Melbourne has averaged a yearly surplus of \$73 million.

But if the university has so much money, then why on earth is it risking human life on earth in order to retain research funding, donations and scholarships money from the fossil fuel industry?

Shockingly, it appears that the reason is the desire to climb university rankings.

Rankings, such as the Times Higher Education rankings, measure the opinions of



\*Note that figures include "impairment of available-for-sale financial assets". The financial crisis in 2008 caused significant impairment. Figures do not, however, include increases in the value of available-for-sale financial assets.

business, of elite journals, and of international academics. The key to climbing rankings is to increase the amount of research published in top journals. As the university stated in its policy paper 'Growing Esteem 2014', "Lifting research performance and offering an outstanding learning experience brings visibility, global esteem and higher international rankings."

The University is already an excellent research institution. Nevertheless, the "ambitious goal for Melbourne" is to become a "billion dollar research enterprise by 2025" (here, p 30). The "significant additional income" necessary to achieve this goal will come from three areas: the philanthropy, partnerships with industry, and from teaching revenue. These three areas match almost perfectly the types of income cited as important streams of revenue from the fossil fuel industry.

So there we have it: money from the fossil fuel industry will deliver the significant additional income necessary to fuel Melbourne's climb... *Continued page 3*

## Risk life on earth continued

...up university rankings.

But can this really be true? What about Glyn Davis' argument that divestment will likely lower investment returns?

It turns out that this is not what the evidence shows. Financial markets have priced into fossil fuel assets the assumption that all such assets will be dug up and burned. This is not possible a) because it will destroy the planet, and b) because governments have already committed to CO2 emission abatement which necessitates that only 1/5th of fossil fuel assets currently under management can actually be taken advantage of (see here, here and here). This "regulatory risk" will mean that these assets will become "stranded", along with their value on the share market.

This is exacerbated by the fact that, as the IMF recently showed, the mining industry simply would not be economically viable without global subsidies of \$5.3 trillion a year - greater than the total health spending of all the world's governments. Such subsidies are under threat from popular movements around the world pushing for renewable energy alternatives.

It's not a surprise then, to find that ethical investment funds have outperformed mainstream funds by more than 5 percent last year, and by more than 3% in the 10 years leading up to 2012. Glyn Davis' argument simply does not stand up.

And since the university is rich as it is and already an exceptional research institution, the only decipherable reason to chase money from the fossil fuel industry is to procure some of the "significant additional income" necessary for the irrational drive to climb university rankings tables.

It should be noted that a focus on rankings is also bad for students.

Warren Bebbington of Adelaide University has pointed out that rankings scarcely measure teaching or the campus experience at all. Indeed, "university rankings would have to be the worst consumer ratings in the retail market". Phil Baty, editor of the Times Higher Education rankings, has said rankings should come with "health warnings". Bruce Guthrie, a policy adviser at Graduate Careers Australia, says that "the only people who care about university rankings are vice-chancellors and the media".

The arguments in favour of divestment are thus overwhelming. They show that when Vice-Chancellor Glyn Davis writes to you, as he did in 2014, and asks you "to share the University's excitement" at the news that the university has climbed some silly little rankings league, we should show great trepidation.

Glyn Davis' excitement is that of a madman, maniacally leading the way to the destruction of human life on earth.

*Duncan Wallace is a third-year JD student and Chief Editor of De Minimis. This article was written in his personal capacity.*

# Finding Your Legal Spirit Guide, and Other Ways to Stay Motivated

*Alice Kennedy*

The start of semester is an exciting time. We come back refreshed and ready to tackle new subjects and new law. All of us go through similar rituals: filling binders, buying textbooks and getting fired up about the seriously thrilling prospect of new stationery. To be fair, the last one is a personal quirk. Not everyone feels the way I do about Post-It Notes and temptingly blank exercise books.

Any law student also knows that this is the beginning of a challenging time. Law is a course that demands intense engagement and frequently tests our reserves of personal motivation. It is stressful. It is difficult.

Everyone has their own method for maintaining their reserves and staying excited about the law. I would like to offer a few tried and true pointers of my own. Put simply: be ready to encounter and tackle stress, find inspiration where and when you need it, and never forget what you love about the law and why.

## *Be Prepared*

Step one in staying motivated? Knowing when your motivation is likely to be challenged. Key dates that are likely to see drops in student motivation and increases in existential dread include:

- Weeks 3 and 4: when students realize they have several assessments due in the near future and should have started them two weeks ago but somehow forgot.

- Week 6: when everyone correctly intuits that there should be a mid-semester break, but it's not happening because the University of Melbourne interprets the word "middle" creatively.

- During Mid-Semester Break: when students plan to finish all the work they haven't done, but are too tired because the middle of semester was three weeks ago.

- When results for interim assignments come out and students furiously calculate the average they now need to do well in their exams.

- Week 12: when students really, really wish it could all just be over.

If this sounds like you should be experiencing minor crises every other week, well, welcome to law. Fortunately, knowing when you are likely to experience periods of stress can help you to deal with it. Admittedly, everyone deals with their own brand of worry, so take the time to get insight into what stresses you out, and offset it where you can. Most importantly, maintain an enjoyable non-law life: keep your hobbies going, have fun and for heaven's sake, treat yourself.

## *Finding Your Legal Spirit Guide*

A key means of staying motivated is to find your legal spirit guide (or guides) to help you on your way. Legal spirit guides

are most useful when approaching difficult tasks - by invoking them in your times of need, you too can draw on the wisdom of prominent legal figures to get the job done.

Are you being faced with a daunting word count? Have no fear - tap into Justice Heydon and you will find that, like his judgments, you are able to go on and on.\*

Or, would you like to incorporate human rights or international law into your essay, but are unsure how to do so and whether or not it is strictly necessary? Embrace your inner Justice Kirby and you will find a way.

More broadly, it really helps to find motivation through our personal legal heroes. All of us are likely to ask what on earth we are doing at law school at some point - and a hero helps us recall why we are here. They remind us of our goals and of the value of the law. They are incarnations of the kind of legal professional we hope to be.\*\*

## *Remembering to Love the Law*

For most of us, there are times when we have looked ahead to the next week's reading and silently screamed as we calculate that there are hundreds of pages to read. Or moments when, in the midst of another challenging lecture, our brain parachutes out of the back of our head and says: "that's it - I'm calling it quits."

At moments of peak difficulty, I try to recall what I love about the law. I remind myself it's a tectonic force like no other. From tiny rumblings to major seismic events in the High Court (think Mabo), the law is a force for change that underpins our lives. Studying the law lays the foundations for a person to become a part of this movement - that's why I keep chipping away.

Leaving my own self-indulgent moment of law geekery aside, you should embrace whatever it is that keeps you passionate, hungry and makes your studies meaningful. That way, you have something to fall back on in Week 10 when you realise you were supposed to include page and paragraph references in your Constitutional Law case notes.

So. Get ready to make the most of this semester. Scrupulously organise your One Note folders, purchase your third packet of highlighters for the year and brace yourself for the tough stuff ahead. But also remember to have fun, keep your chin up and stay excited. I wish you all the best.

*Alice Kennedy is a second-year JD student*

\* Note: it is unwise to engage Justice Heydon as your legal spirit guide when checking and responding to your student email - this has historically been shown to have adverse effects.

\*\* My hero, if you're curious, is the glorious Martha Costello QC from the BBC series Silk.

# International Perspectives

The article below is the first in a new fortnightly series created at the initiative of Federica Immanuel, the MULSS International Students Representative. International students doing the JD are invited to write on their experiences growing up in their home countries or cities, what they love about them, fun facts about their culture, or anything else. Send your articles in to [mlsdeminimis@gmail.com](mailto:mlsdeminimis@gmail.com)

## Putu, Wayan, Ketut

**Federica Immanuel**

Let's just say that this piece was inspired by 'Property Exam 2014'.

Have you ever wondered why all Balinese share these three common names? There is just one simple explanation to that – these names identify the order in which we were born. 'Putu' and 'Wayan' both mean the oldest and 'Ketut' means the fourth child. If you are the second child, you are 'Made' or if you are the third, 'Nyoman'. If there are more than four children, then we just repeat the names again.

I can go on about names but I want to move on to telling you about my hometown because, as cliché as it sounds, it has a special significance for me. First, I actually did not like my hometown until I moved here. I have always had that make-it-in-the-big-city dream and so I just could not wait to leave a

place that felt too comfortable and was filled with too many kind and friendly people. And left I did. It was July in Melbourne and I thought, gosh, the air feels so clean! It did not last very long though. After three months of cold, wet and dark winter days, I started to see why I should have appreciated my hometown more.

There are countless things that I love about my hometown. I love that we are compliment givers. Wherever you go, people call strangers 'Gus' or 'Gek' which means good looking or beautiful. Can you imagine getting a "hey good looking" almost every day without feeling weirded out? I also love how easy we use the word "family" and openly call friends, colleagues, or neighbours a part of our family. The father of my dad's colleague used to come seasonally to our house bringing vanilla pods and bananas from his farm because, as he said ... wait for it, "we are family". It may seem oddly naïve from an outside perspective but we do really embrace the sense of togetherness. This is what I miss the most. In fact, I could almost feel the warmth of our culture just by

reminiscing and writing this.

One of my favourite memories growing up in Bali is singing this song called "Putri Cening Ayu" in morning assembly every day for a year. Now you may think that this song is a piece of moral excellence that all children need to absorb like sponges. Well, the song is literally about a little girl whose mother went to the market to buy rice because they ran out of rice at home. I still remember this song word by word and sometimes sing it in the shower – it has quite a good tune to it. I also can assure you that all people from Bali know this song by heart.

Thinking back about it, that song did not make me or anyone a better adult per se, but it reminds me of how fortunate I am to have experienced a culture that I can call mine; that the person that I am now is shaped by so many people whom I can call family (and who never spelled my name correctly).

*Federica Immanuel (Rica) is a second year JD student and the LSS International Students Representative*

## Measuring Success and Coping With 'Failure'

**Mary Michele**

This is my story, the lessons I've learnt through coping with 'failure', and measuring (and re-measuring) my success. I hope some of it will be helpful for others. When I started LMR I was invincible, proud of my accomplishments and fairly arrogant about the fact that I was fluent in three languages and had tons of international experience. I thought no doubt I would breeze through the JD and continue along my well-travelled path of 'success'. Then life happened, and stresses I had previously been able to handle, like moving home, relationship break ups and family issues, all become overwhelming. I simply could not manage the rigorous schedule of the JD and life's problems.

So, what was I doing differently? Why couldn't I cope with the JD when previously I had managed a Masters in a foreign language and worked on projects in conflict zones? It's a question I am still trying to answer but the most important thing I learnt was that I was not ready and able to deal with the JD programme and manage life's problems because I had a skewed idea of how to measure success. I had to be the best and anything less than that was not good enough. The lesson I would like to share is that at some point, no matter how good you are (at everything) you will face failure, and it is so

important to be ready for it.

Last year I was open about the fact that I had failed Constitutional Law, a subject I enjoyed and knew really well. I wanted to let other people who had failed the subject know that they were not alone and that it was okay. It was a healing experience for me because I had made a conscious decision to change my mind set. I didn't have to win everything, being the best was not about getting the best grade but about being happy with who I was. There are lots of reasonable explanations as to why I failed Constitutional Law, my notes were far too dense, they were badly organised, I had over studied and was completely sleep deprived on the day of the exam (traps that lots of law students fall into) but I was also out of touch with who I was, what I wanted and what was important to me. I had put the JD above everything and everyone in my life, not recognising that I was the resilient person I am because of these relationships, and I needed them to remind me of who I was.

For anyone who is struggling with failure or everyone who at some stage will face it: never, ever lose touch of who you are and what is important to you. Quite frankly, you need to be more than someone with good grades if you want to succeed in life. Be kind to yourself and to others. Being a good

human is more important than having a 'good average'. If you can do both then hats off to you! And finally, I commend those of us who have failed at something, learnt from the experience and grown as a result. Honestly the more you fail, the better. As Samuel Beckett once said: "ever tried, ever failed, no matter, try again, fail again, fail better."

*Mary Michele is a second-year JD student and the second year rep of the Later Law Student Network*

*Henry Dow, Erich Chang and myself will hold a support session mid semester for students repeating subjects.*

*The Later Law Network is actively involved in assisting students with family commitments and external stresses, contact them for on going support.*

