

De Minimis

Tuesday, 8th of August

Volume 12, Issue 3

www.deminimis.com.au

Accessibility at Melbourne Law School

Ruby Bell

Melbourne Law School is ranked as the best law school in the Asia Pacific, and markets itself as a vibrant leader and innovator in legal scholarship. Current and prospective students are told that a Juris Doctor degree will be recognised as exceptional both in Australia and overseas, and as such be the foundation for a successful career. On social media, MLS promotes itself via campaigns such as #HumansOfMelbourneLawSchool, which attempt to highlight the diversity of the students and staff. However, it remains that MLS is not equally accessible to all. This is not due to the nature of admissions or the degree itself, but instead a failure on behalf of MLS to adequately accommodate students with disabilities.

Disability is generally understood in two ways in modern academic discourse. The medical model tells us that a person's disability is created by his or her impairment or capacity. For example, under the medical model, we might say a person is a paraplegic and is therefore disabled. This is the prominent understanding of disability in mainstream, able bodied culture. On the other hand, there is the social model of disability. This tells us that disability is not created by a person's impairment or capacity, but by society not making accommodations for that person. Under the social model, my previous example of the paraplegic would not be disabled because he or she can't walk, but because society is organised in a way that is not accessible for people in wheelchairs.

The social model of disability distinguishes between a person's impairment, i.e. the medical condition, and the disability, i.e. the disadvantages faced by that person because of his or her medical condition. This is an important distinction because under the medical model, not much can be done about disability. However, under the social model, society can be re-organised in a way to accommodate those who are currently excluded.

The law library has three floors, and yet only one is accessible by lift. To get to levels four or five, a person must get off the lift at level three and climb the stairs. Frustratingly, the Moot Court and kitchen area of level five can be accessed via the lift, but not the library. The lift to levels four and five is fully functional -- indeed, it goes all the way up to level nine -- yet for reasons unknown it is blocked off from accessing levels four and five. This means that two levels of the library are not accessible for students who use

wheelchairs or have other issues with mobility. In writing this, I have asked myself if perhaps there is lift access to these floors for wheelchair users. I do not use a wheelchair or other mobility aides, so if there is some kind of special access, I wouldn't necessarily be aware of it.

However, accessibility for people without disabilities does not need to be asked for -- it is given. Therefore, accessibility for people with a disability should be held to the same standard. If a person has to request access, a venue is not truly accessible. If someone needs assistance to access the venue, then the venue is not accessible. If we accept this, levels four and five of the law library are not accessible. There is also the issue of tiered flooring and immobile desks in many classrooms at MLS. It is evident that access for wheelchair users was not considered during the construction of these rooms. Making spaces accessible needs to be an active process, not an afterthought.

There is also the issue of distressing subject matter, such as rape, being covered in class with no prior warning for students. I have heard that in previous years, some subjects did not warn students before discussing cases involving rape. This lack of warning meant that some students were left extremely distressed and unable to participate in, or in some cases even attend, the class. In 2012, the Australian Bureau of Statistics reported that 17% of women and 4% of men had experienced sexual assault since the age of 15. A University of Queensland study indicates that 20.6% of women and 10.5% of men report experiencing sexual assault during childhood.

Given these figures, it is not unreasonable to assume that there are students at MLS who have experienced sexual assault. I don't want to reduce this to an argument about trigger warnings -- I think the topic has been done to death and attracts fools from both sides. However, I do think that we should consider both the number of people who have experienced sexual assault, and the gravity and long term effects of sexual assault in asking whether or not to warn students about such cases.

This is also not about shutting down discussions of sexual assault.

Given the nature of the degree, it is very important to be educated about the matter. By warning students before having these discussions, it allows the topic to be taught and discussed, whilst also allowing students

with a history of trauma to make appropriate decisions for themselves with regards to their learning. With these considerations in mind, I believe it is in the interests of students to make a warning before the topic is discussed. Some may say that if a student requires a warning, he or she should ask the lecturer for one. This isn't an appropriate solution -- the onus should not fall on students to disclose their personal history of sexual assault. Instead, MLS and its staff should be taking an active role to make sure that classes are accessible for all students. Students should not have to be reminded of past trauma in order to gain a legal education.

Warning students of such content is not hard. An excellent example of a warning was last semester's Administrative Law class, which sent out an email to students warning that an upcoming case discussed sexual assault and incest. Students were told that the Administrative Law teaching team were fully supportive of a decision to not come to class, or to leave during the discussion of that particular case. Students were also told which lines of the judgements contained explicit detail. I commend the Administrative Law teaching team for their excellent handling of the case.

MLS needs to be accessible to all students, not just those who are able bodied and without a history of trauma and sexual assault. Shiny Instagram campaigns highlighting the diversity of MLS are meaningless if students can't access libraries or classes. Disability is a diversity in the human experience, but it need not something that should exclude a person from attaining their full potential.

Ruby Bell is a Second Year JD Student



WHISPERS

Cameron Doig

Here

In the Level 3 Study Space

In my solitary zone

I hear someone whispering

It's not quiet

Every "S" tickles my inner ear

"Just go outside", my soul begs

But no

Silence is for everyone

But the whisperer

Whose secretive susurrating sibilance

Would make weaker men weep

I just take it

(Genuinely) Silent

Stoic

Still

Stony-faced

"Just go outside", my soul begs

"But Sarah said Sam sacked her for something super secret", the whisperer hisses

Snake-whispering

Soothsaying

A future in which I walk over

With the "Silent Study Area" sign pasted over my face

With holes cut for my mouth and eyes

And politely ask

The whisperer

And their friends

As politely as I can

To please

Just go outside

Thanks

Cameron Doig is a First Year JD Student. Feeling creative? Frustrated? Channel that creative frustration into a De Minimis submission.

ASSISTED DYING AND RIGHTS PROGRESSION

Nathan Grech

Late last month, the Victorian Premier accepted recommendations made by an independent investigation into proposed legislation legalising assisted dying. If passed, Victoria will be the first state to give severely medically unwell people a choice to determine when and how the end of their life plays out. The move is bold, but necessary, and supports the numerous claims we make as Australians about one social concept yet to be realised – progressive civil rights and pro-choice.

Australia has a long history declaring that we uphold all sorts of inclusive social mores and values. We have somewhat of a personal brand founded upon telling the rest of the world we uphold democracy, free speech and practise the following mantras:

Welcoming people from all walks of life. Encouraging diversity. Migration without much obstacle. Opening borders, albeit in waves, and encouraging 'multiculturalism'.

Idyllic? Yes. Achievable? Not yet.

Because Australia has many historical and contemporary exceptions to this branding that render some of the aforementioned wants and needs unobtainable. Lack of marriage equality. Systemic maltreatment of indigenous peoples and communities. Class divide, just to name a few.

Now, however, Victorians are on the brink of the first steps of change thanks to assisted dying. And the timing could not be better. This is one topic that thankfully hasn't been done-to-death by the media. Nor is it a buzzword or flavour of the moment that people throw around in social discourse or in essays to try and snag a decent mark. The proposal is fresh and speaks to all members of society, because death (from one cause or another) is the one certainty that we all share in common.

Assisted dying, thus, upholds the right

for someone to have a dignified end to life.

That's as fundamental as the right to life itself. It observes the right for someone to not have to suffer through months of years of physical and psychological pain when illness overruns the body and mind. It's a right that, arguably, is fundamental to having autonomy over your own course and quality of life, and that is why it needs to be passed.

If you've ever visited someone in hospital who is terminally ill, you'll know watching them deteriorate when there is nothing you can do is debilitating. And we're not just talking about people of advanced age either. Childhood cancers are a very real thing. Toddlers with brain tumours, primary school children with terminal blood conditions. Your child. Your younger sibling. Death by terminal illness isn't ageist. If there's nothing natural therapies or medical science can do to help, just how humane would it be to let these people suffer until the bitter end?

That is why this move is welcomed, seeing government acting on independent advice with haste, rather than stalling to gauge election vibes. If Victoria passes this legislation, it will have set a standard for being as progressive as popular discourse claims we are.

Indirectly, this legislation could pave the way for change in other contemporary social issues too. Because like it or not, the people of Australia are not solely operating on Catholicism and traditionally conservative values anymore. We live in a social climate where people demand autonomy over their lives, without political or religious pressure on how theirs' start, continue, or end.

Victoria's attempt to broaden social rights, whilst accounting for any ethical and malpractice issues that may arise, is laudable. Hopefully, assisted dying become a federal legislatively protected right for those who are ill and deserve it most – our loved ones.

Nathan Grech is a First Year JD Student

My life, my choice.

ON BEING INTERRUPTED

Alice Kennedy

Last year I was sitting in a lecture, having a chat during the break. "Did you know that Lecturer X interrupts female students more than male students?" My classmate had been keeping a tally for a number of weeks.

At first I thought nothing of it. And then I started paying attention – not just in that subject, but all of them. I also started speaking to other students. It seemed that sometimes the interruptions made sense in context. More on that later. But often they did not. I asked myself: why was it necessary to interrupt female students who were clearly on the right track and on the way to the end of a sentence?

THE FACTS - BRIEFLY

That women are interrupted during lectures is unsurprising. My classmate's tally and my own observations admittedly comprise a very small and unscientific sample. However, both our anecdotal perceptions correlate with a bigger picture that is being documented and reported upon. Women are simply interrupted more often than men. And, mostly, by men. See this US Study, this Australian PhD thesis and recent media coverage – these sources are available in *De Minimis'* online edition. Admittedly, one link shows Senator Penny Wong shutting down Senator Ian Macdonald, but frankly, it is gold.

It is worth pointing out that not all variables have been accounted for. I have yet to find a study on the impact of lecturers'

interruptions on women in universities. And perhaps at MLS, interruptions from lecturers actually affect all students.

So please feel free to take these studies and observations with a grain of salt. But, I would encourage you not to discount the issue of interruptions to the extent that it affects female students.

WHY DOES IT MATTER?

Chiefly because being able to contribute to discussions and overcome interruption pays dividends along the line. In a professional environment, women who can overcome interruptions can float an idea or share insights in their entirety without someone else taking credit for their contributions. Or shutting them down. As a consequence, women who are listened to are acknowledged as valuable members of the workplace, rather than being ignored. At least that's the theory, presuming it's possible to overcome the Smart but Mouthy / Likeable but Invisible dichotomy. But that's a story for another day.

At university, women need opportunities to test their ideas and to practice speaking to prepare themselves for this reality. When women are chosen to speak as frequently as their male counterparts, they are given this opportunity. When lecturers do not interrupt, women feel valued and learn to communicate with confidence. They might be wrong. Way, way wrong. They might need to clarify their thinking, aided by further questioning. But they will be heard.



ADDRESSING THE ISSUE

Undoubtedly, women at MLS have a role to play, as communication is a two way street. One way or another, we need to find the courage to put up our hands, and say: "EXCUSE ME." These words may be delivered with what resembles a desperate screech at first, but they are powerful. Despite feelings of self-doubt, (Am I a harpy? Am I being oversensitive?) we can command attention and reorient the conversation. Better yet, if in and beyond the classroom we bypass the 'excuse me' and simply continue speaking in spite of the interruption, it will become very clear we still have something to say. Now is the time to start practicing, both in class and during social interactions. The fact is, we are approaching professional environments full of big personalities and loud voices. We might as well get used to asserting ourselves in a world that is progressive, but far from perfect.

As for the lecturers? It would be appropriate at this moment to disclose that I have noticed it is mostly male lecturers who interrupt, though I have observed female lecturers do so from time to time. It is also prudent to mention that I think these interruptions are unintentional, and that respect for all students is the norm. But there is always room for improvement, to build on the high quality of education we already receive.

A part of me doesn't want lecturers to stop interrupting. Given what I have already said, students probably need the challenge. And, certainly, there are times when students are off-track, confused, or need to be rescued from a horrendously awkward pause.

Sometimes, an interruption can be empowering. My favourite memory is of a female lecturer who regularly interjected when students spoke and said: "Can you say that again? But say it louder." Once more, with feeling!

EQUITY UNCLE: *Textbook Prices*

Dear Equity Uncle,

I am a poor and lowly avocado buying member of the law school and therefore find myself unable to afford my textbooks...again. Surely there should be a moratorium on the number of editions one musty old law professor churns out?

Sincerely brokea\$\$

Dear Brokea\$\$,

Equity advises you to delve into the World Wide Web, and find that delightful ditty by one "Fergalicious". Although not an equitable maxim, 'if you ain't got no money take yo brokeass home' strikes Equity as a charming modern day answer to your query.

Remember Brokea\$\$, he who seeks equity must do equity, if Equity was in your position Equity would invest all energies in seeking out the malicious and audacious individual who told you law school would be cheap. There cannot be clean hands

there.

As for musty law professors, Equity holds a special place in the Court of Chancery for tweed jackets and unkempt moustaches. Tache's are totally Equity's bag.

Yours,

Equity Uncle



Continued Page 4

On Being Interrupted

Continued From Page 3

I am also aware that getting students to speak up at all can be difficult. Generally, experiments in (oh horror) cold calling and using the (dreaded) Socratic Method meet with resistance.

But I'm also conscious that there are students who will benefit from a more patient ear. For this reason, and the others I have outlined, it would help for lecturers to place a priority on listening more, and on actively encouraging women to speak in lectures.

Let me end by leaving female students with an anecdote, in case some of you are wondering whether anyone will have your back out there in a world full of interruptions.

Earlier this year, I was listening to a trusts case about a mosque unfold in the Supreme Court. A male and a female barrister were standing side by side. That was the problem, actually. Instead of waiting patiently for the female barrister to finish, the male barrister repeatedly popped up to interrupt her. To the female barrister's credit she was unintimidated and merely cocked her head to the side, bemused but unflustered.

I tutted mentally at the discourtesy of it all. Moments later, I was surprised to hear actual tutting coming from somewhere. Fortunately, the sound hadn't come from me. In fact, it came from the judge, accompanied by a firm statement:

"We do not generally interrupt our colleagues."

The male barrister blustered a little, but resumed his place at this reminder. I looked down, grinned, and added a mark to my own mental tally.

We've got this.

Alice Kennedy is a Third Year JD Student

PATHS TO GLORY

Seen the Latest Great War Film? Next, See the Greatest Anti-War Film

Tim Sarder

the death if found guilty.

Have you got your tickets yet? Christopher Nolan's *Dunkirk* is out now, and amidst the fanfare, I enjoyed seeing it last weekend and immersing myself in its depiction of survival. *Dunkirk*, for all intents is a war film. That's not to say it is unoriginal or frothing with oorah nationalistic militarism in the sense of something like *American Sniper* – it depicts a great deal of the fear and arbitrariness of war in its focus. However, it isn't (nor is it trying to be) an out-and-out critique of the way wars are managed – however, there are great films that do succeed at depicting this.

That's why I've been thinking a lot about a film that would make an exceptional companion piece to *Dunkirk*; Stanley Kubrick's lean (it's only 88 minutes), but incredibly effective World War 1 tale, *Paths of Glory*. As high-minded and intellectual as we law students can be, even the film buffs among us can feel a bit of reluctance or distance, from older cinema (the film was released in 1957) compared to newer films.

But I assure you; with its brief length and Kubrick's unmistakable style and exacting editing (he made films across five decades!) there is very little barrier to entry for this film. Kirk Douglas, the star of it said that it's a film that "will always be good, years from now. I don't have to wait 50 years to know that; I know it now." He was right. It is not so much that *Paths of Glory* is timeless, but that it will always be timely.

In short, the film tells the tale of a battalion of soldiers who, when ordered to complete a suicide mission which is certain to result in the death of all of, or a great majority of them, refuse to advance. They have only been ordered on the mission as a result of the ambitions of Generals who have little interaction with them, but are concerned with their appearances and appeasing political and media forces. A group of the soldiers are then put to a show-trial in a military tribunal, where they will be put to

Have you watched the TV series *The Wire*? The show's creator and showrunner, David Simon, suggested that *Paths of Glory* was the key influence on the show's narrative, particularly in its depiction of the problematic nature of 'middle-management'. It might be hard at first to see what a movie set in World War I has to do with the drug war in contemporary Baltimore. However, in comparing the two pieces of media, it becomes difficult to ignore the parallels.

Like the suicide mission in *Paths of Glory*, the drug war appeared unwinnable, but police forces were continually compelled to press onward even in the face of failure, counterproductive outcomes, and personal risk. And just like the mission, the drug war was motivated more by the interests of external ambitions and personality clashes in the face of political and media pressure. Some things never change.

Often, the greatest courtroom drama is said to be *12 Angry Men* (or is it *Legally Blonde*? I forget). While also a classic, and a compelling portrayal of its specific subject matter – the follies of those left to make a group decision – it is less interested in considering the external actors and top-down inefficiencies that can create harsh results and injustice at all levels of a hierarchy: for that, I submit that *Paths of Glory* achieves something with much more breadth in what its lessons can be applied to, that all law students may glean something from.

So what does this have to do with your ticket to *Dunkirk*? When you are shown the tale of bravery, sacrifice, and desire to survive against-all-odds in that film, remember that the alleged cowardice, inadequacy, and impudence shown by the characters of *Paths of Glory*, while perhaps less 'noble', are no less human. And if the battles we fight are fundamentally tales of the human spirit, the 'lesser' qualities we might display are just as deserving of being saved.

Tim Sarder is a Third Year JD Student

