

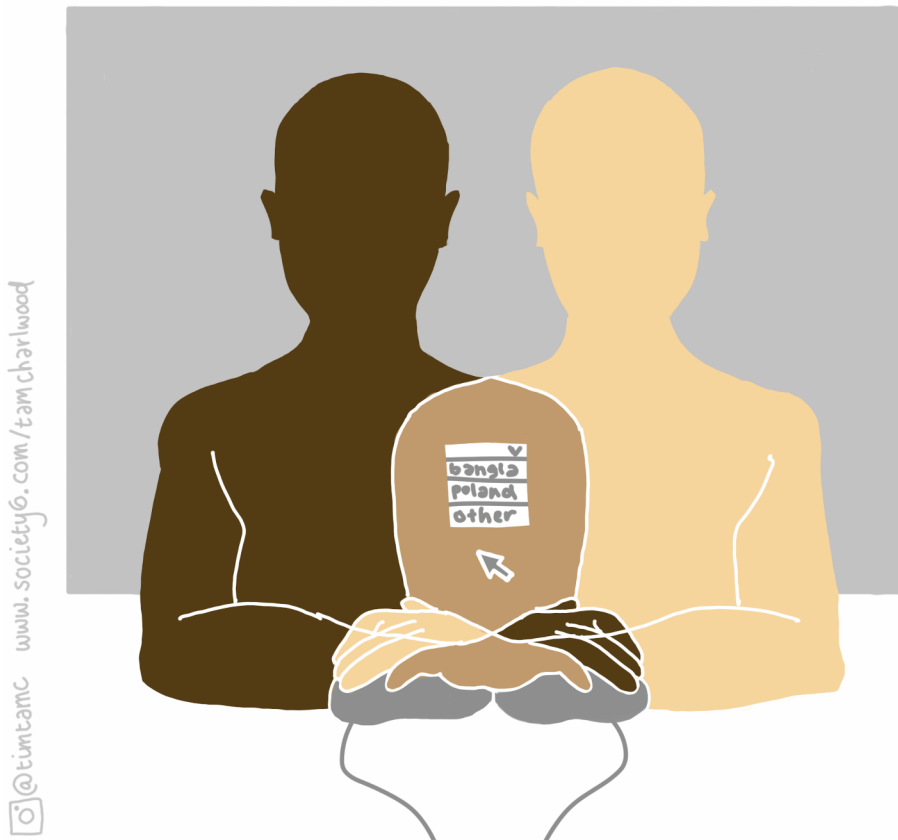
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INPUT NOT RECOGNISED



get these questions, I'm not sure how I'm supposed to answer them. Clearly, the point of questions like this on forms and surveys is not to allow people to tell their whole life story; but it doesn't seem that difficult to allow somebody to enter multiple backgrounds (or, perhaps, use the square checkboxes that allow you to pick more than one category rather than limiting you to one). This may make the data more complex if applicants pick multiple options (mine may be straightforward with only two, but what about people with even more diverse lineage?). Nonetheless, this excuse is one of laziness of implementation or lack of consideration and doesn't stand up to much intellectual scrutiny. Mixed-race people, are, after all, the fastest growing single ethnic group. In a globalised world with an increasing proportion of multiracial families there is only more and more people who will not have their background reflected in such questions. It also means the accuracy of the data that is collected will only worsen, unless a different approach is taken.

I suppose some, in particular those who are not from mixed backgrounds, may read this and think "So what's the big deal? You just pick an option and move on." And it's true. But it is a little disheartening to be faced with the same dilemma ad nauseam. I have zero interest in trying to assert to anyone that the options such questions present are some kind of 'micro-aggression'. What I do care about expressing is how much it sucks. Why? Because when I get asked the question, without the ability to enter multiple options, I'm placed with two options:

- 1) To prioritise one of my parents' ethnic backgrounds over the alternative, either selecting "Polish" or "Bangladeshi" as my singular identity, or
- 2) To doom myself to the category of "Other".

Which would you do if you were me? Or would it be better to not have to put people in such a position that they have to make a somewhat reductive or demeaning choice about their ethnic make-up?

Tim Sarder is a third-year JD student and Managing Editor of De Minimis

BIRACIAL IDENTITY

Tim Sarder

It happens time and time again. Forms, surveys, applications. Government, NGO, corporate.

"What is your ethnic background?"

In most cases, mixed-race identity is not an available option in completing forms and applications that have asked for ethnicity/nationality/race. They don't let you select multiple options. Often, there will simply be a list of options; either a specific country (Korea, Italy, etc.) or more broad (South-East Asian, European, etc.). Then there'll be the ever-so-appealing "Other" option if you haven't somehow fit into the generous options provided above. More rarely, there will be a "Mixed" option

on there; and hardly ever does that give you the opportunity to then specify what that is a mix of.

Let me be clear here; I understand that generally the intent behind such questions is completely well meaning. These organisations are collecting the data for statistical, or diversity purposes. Whether you feel on either an individual or aggregate level diversity processes are implemented well, or should exist at all, is beyond the scope of what I intend to address in this article; there are more than enough comments sections on websites that ran stories on the infamous "Google memo" for you to explore that. I'm just pointing out that I realise that there is no ill-intent behind the way these questions are being presented.

My parents are of two different races; a Polish mother and a Bangladeshi father. And whenever I

ON CLERKSHIPS & MLS

Anonymous

So, we did it. We made it to second year, we survived Contracts and PPL, we made it through Property and scraped through Admin.

We go ahead, knowing we've worked hard and believing we've done well - we'll be rewarded for this, right?

So we apply. We apply broadly, focusing on top tiers that won't even remember our names. We apply believing that surely, amongst the thousands of applicants, we will stand out. Never mind that there are a thousand applicants, at least some of whom must have similar

achievements, right?

We forego our second semester obligations, finishing up the clerkship application period in a daze. Ears ringing, we've no idea where the semester is headed, or even what week it is. We hear from our friends who are extending "oh, the Remedies assignment is due on Friday".

Mid-terms?

How?

Already?

MLS hits us with assignment after assignment as we're similarly hit with emails detailing our rejection, or, for the lucky, our opportunity to interview. You smile at the positives, clinging to hope while you mourn every new failure. You wonder if you'll ever get a break, and how MLS, after advertising wellness so heavily throughout our degree, somehow has failed to provide any cushioning against one of the most stressful experiences we will endure. How is it that MLS, knowing full well that many of its students are going through this, has managed to fail us entirely?

As you try to catch up on readings, complete assessments, study for the corps mid-sem and learn anything and everything you can about the firms that agreed to interview you, you begin to wonder if this is what drowning feels like.

Or would drowning feel better?

You pick yourself back up.

"At least I made it here" you tell yourself. "This is my dream".

You bury yourself in your books, dreaming of a better future. Your phone dings.

You see the header. Your stomach sinks as you read the words:

"Unfortunately, we are sorry to inform you that we will not be taking your application further."

Oh well. At least you get to laugh at the phrase "unfortunately, we are sorry".

Maybe clerkship rejections aren't so bad after all.

Anonymous is a JD student

THE MEN WHO KEEP US FAT



Nick Parry-Jones

Australia is not a premier nation. Melbourne is a great city, the most liveable in the world. But we don't rank in the top ten in Mathematics, we don't have many Booker prize winners, nor is our GDP gargantuan. It's not all bad, we don't rank highly in murders, kidnappings or wealth disparity, so let's take the good with the bad.

However, we can rest our national ego in the comforting knowledge that Australia has been the top of one list: the fastest growing level of obesity on Earth.

But you, dear reader and student of MLS, wouldn't know it by looking. Few and far between are the overweight students in each lecture seminar theatre, despite making up a sound majority of the population. Though this is largely due to demographics. Law students are, by and large, rich. The overweight, not so much.

This excess fat is a costly problem, with expenditure on obesity related illness estimated at \$58 billion in 2008.

A large reason for this is the proliferation of fast food and fast food advertising. Australia has some of the most lax food advertising laws in the world, with a lot of it being fast food advertising during prime time viewing, children inches from

the screen being indoctrinated in the creed of however many herbs and spices they claim is still in their fried chicken.

Smoking, thanks to an aggressive campaign led from all sides by legislators and government bodies, is on the decline.

So we look to government for guidance. It has been severely lacking in this capacity. There is scant talk of a sugar tax occasionally and a lot spent on awareness campaigns, but it seems ineffective to combat this growing (pun intended) problem.

Key to this is our understanding of diet. I spent my summer reading the works of Gary Taubes, who argues against the commonly held belief that dietary fat is bad. Numerous sources back this up. Further, he argues that a diet low in carbohydrates and high in proteins and natural fats is a good thing. Again, he is merely the messenger, floating on a raft of credible sources.

But where is this reflected in our Australian food regulation? It's largely ignored. While the Heart Foundation's (now defunct) tick oversaw a decline in trans fat consumption, it barely dented the occurrence of heart disease and stood idly by as obesity rates went through the roof. Its inception led to tinkering by fast food companies to create a "balanced" product that, despite being a McDonald's burger, was tick worthy.

This was because they stood firm in their belief that the 1961 claims of American Ancel Keys on dietary fat leading to heart disease and a swath of other health conditions were correct. Keys later denounced his own findings, but governments didn't care, they couldn't care. They'd already told people what they needed to buy, now it was time to sit down and eat it.

Therein lies the rub: for a government body to appear legitimate, its health claims can't be seen as faulty. The public interest is not served by sceptics or competing scientific models. In order to convince the public one way is right, they must ensure all other methodologies don't see the light of day.

Politicians long ago hand balled the managing of public health to bodies such as the Food Standards Australian New Zealand, because the science is moving too quickly and intensively for them to handle. But these bodies, in their stubbornness, have dropped the ball. They have not performed their duty in keeping the public up to date with health information, and they show no signs of starting now. These men, and they are largely men, dig in their heels and blame consumer choice and weak wills. Though I'm sure if you asked the overweight, none would say they made a choice.

Why is there no outcry about this? We grow heavier by the day. Why is there not one senator talking about the obesity epidemic, why no protests outside the state library? On the contrary, I rarely go past a weekend protest without seeing a rallier with a Coke in hand like some Southern Hemisphere, Kendall Jenner wannabe.

Not many governments have gone after the big boys, and with obesity killing more citizens than WA shark attacks, I would be surprised. Why don't they? I can't say for sure. The only thing that I can report with any accuracy is that McDonald's spends a lot on advertising.

Nick Parry-Jones is a third-year, overweight, JD student



CUTTING THROUGH THE FOG

WHY LAW STUDENTS SHOULD WANT GOOD JOB DATA

Jeremy Latcham

Practically every law student in the country knows that the job market for law graduates is more squeezed than it used to be. There are several thousand more law students than a decade ago, despite low growth in the number of practising lawyers. The oversupply is daunting, so it finds itself in all sorts of legal industry discussions. It's a reason why students should work harder, drop out, diversify and specialise. It sparked a public argument last year between Frank Carrigan, a senior lecturer at Macquarie University, and our very own ex-dean, Carolyn Evans. Carrigan's outlook was decidedly negative, Evans' was decidedly positive, and the two reached totally opposite conclusions about the state of Australian law students today.

Overall, the media on law graduates tends to be pessimistic. A small collection of newspaper articles outline the plight of thoroughly competent law students hitting a wall after graduation and finding themselves underemployed, unhappy and stir crazy. These articles writes about individual students to describe the situation for law students in general. But any individual case simply be attributable to bad luck, couldn't it? The number of law students experiencing job anxiety might not correspond to law graduate prospects either, because some amount of anxiety in a cohort is probably normal. I have spoken to domestic medical students who, despite having a near-100 percent employment rate after graduation, are still worried about their short-term job prospects. With that in mind, is there any public data that gives a clearer picture of what happens to law students in the job market?

Annual nationwide surveys of student outcomes, conducted by Graduate Careers Australia until 2015 and now run by the Social Research Centre, go some way to assess our chances. The surveys show that law undergraduates historically had over 90 percent full-time employment within four months of graduating well into the last decade. Then, in 2008-09, the GFC quickly shrank the legal job market – greatly adding to what seems to be a long-term reduction due to structural economic

factors. The Commonwealth Government also removed the cap on enrolments for most tertiary degrees as this was happening, which allowed a steeper increase in law students. The most recent statistics, from 2016, show that 73 percent of legal and paralegal undergraduates, and 85 percent of postgraduates, were employed full-time four months after graduating.

However, the nationwide survey figures only assess law graduate employability in a shallow way. From a JD student's perspective, problems with relying on the surveys include:

- The Social Research Centre analyses all 'legal and paralegal' degrees together, but only some of these degrees are accredited under national legal admission boards – a prerequisite to practising law in Australia.
- Postgraduate legal degrees include courses aimed at professionals who have already established their careers, and who will graduate into a different job market than the average JD student.
- Law school graduates, unlike most other degrees, have to undertake further legal training in the form of the PLT to be admitted to practice. PLT study often takes place during and after the four-month period following graduation that is the focus of the surveys, reducing employment rates due to law graduates who pay for their own PLT.
- The surveys provide a single figure for all law graduates nationwide, even though job markets are not completely identical between each state and territory. Graduates of some law schools also anecdotally tend to do better than graduates from others, but the single graduate employment figure smooths over any disparity caused by this.

In summary, the nationwide surveys describe such a broad class of students that a law student could only gain a hazy understanding of their chances at being employed full-time, let alone their chances of entering their desired area of work.

Better data, at least in my opinion, is available to MLS students through the Employment Outcomes surveys, first released late last year

and updated late last month. The survey tracks JD graduate employment outcomes at one point in the year, with the 2015 graduates being assessed 18 months after graduating and mid-year 2014 graduates being assessed closer to 24 months after graduating. In addition to a high response rate (81 percent of 2015 graduates responded, for example), the data is specific to the university and distinguishes between roles that require a law degree, other legal roles, and non-legal roles.

I have been told that the statistics featured prominently in the first-year orientation this year, and I can understand why. Perhaps I was more pessimistic than most, but the employment results are more encouraging than I expected. You can judge for yourself by viewing the report, but to summarise: over the past three years, a majority of graduates – around 60 to 70 percent – are in positions that require a law degree. Another 10 to 20 percent in non-legal graduate roles, and about 5 percent work in non-lawyer legal roles like paralegal or legal research.

The survey results have not been taken positively by everybody. I know a few students who feel that the significant minority of JD law graduates working as paralegals, especially more than a year out of law school, demonstrates that the job market is unhealthy. The proportion of practising MLS graduates broadly aligns with the proportion of law students who want to practise law, but more students may be opting out of practising than previous years to avoid the increased competition. As always, there is room for improvement in the method and amount of data. For example, taking statistics at 18 months after graduating may also obfuscate other trends, namely shifting careers or periods of unemployment. Multiple surveys for each graduate in six- or nine-month increments could remove this doubt, but more surveys might lead to a lower response rate overall.

Law students have had little data to rely on when trying to figure out if studying law is worth the risk. Without clear evidence about graduate outcomes, students, legal professionals and careers services have no option but to rely on

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Cutting Through the Fog continued

speculation and the general sentiment of the industry. The current negative sentiment among law students and journalists recognises how the situation has changed from its previously high employment rate, even if this is at the expense of reflecting the relatively high employment rate of law graduates compared to other university-leavers.

I'd argue that making a declaration about the legal job market oversimplifies the issue by addressing all law students as though our situations were identical. If law schools and law associations conduct more comprehensive surveys and analysis, then students, universities and employers may better understand how the

state of the current legal job market affects them, and what more should be done to reduce oversupply. Accurate and educational data about law graduate outcomes could reduce confusion throughout the whole legal industry.

That said, the job market can be an uncomfortable experience no matter how well informed you are. Graduate outcome surveys can never account for every academic, professional and personal quirk that is unique to each student and affects employability. That said, the MLS data shows that some of the gloomy articles around graduate outcomes have probably exaggerated how dire the market really is, at least for JD students at this university. Interpret the statistics for yourself, but I hope that students

pursue areas of work they find interesting or exciting without assuming the odds are inevitably stacked against them. One way or another, we tend to land on our feet.

Acknowledgement: Thank you to Justine Block (Graduate Services and Careers Manager) and Madeline Organero (Legal Careers Consultant) at the MLS Careers Service, and Lydia Holt (LSS Committee Member) for helping me with some of the information.

For a more detailed discussion on the oversupply, see Michael Douglas and Nicholas van Hattem, 'Australia's Law Graduate Glut' (2016) 41 *Alternative Law Journal* 118.

Jeremy Latcham is a third-year JD student

THE LAW OF punching nazis

Tom Blamey

Seventy-two years ago, the United States of America lead the free world to victory against fascism. More than 400,000 American men and women gave their lives so that Nazism could be crushed and their country—and the world—could be free.

A few weeks ago, in that very nation, a 32-year-old woman was killed and 19 others were injured for daring to protest against anti-Semitism, white supremacy and authoritarian rule.

This was an act of radical Nazi terrorism on US soil.

In spite of his strong man fixation on national security, President Trump's response to the Charlottesville attack was, in a word, limp. He refused on multiple occasions to outright condemn domestic terrorists. Instead, he laid blame on the counter-protesters who stood against violent ideology—and paid the blood price for their courage.

Is is now clear, if it was ever in doubt, that the current President of the United States is morally bankrupt. Trump's actions show that his administration cannot be relied upon to prosecute the neo-nazism that is rising in America: the so-called 'alt-right'. Therefore, in the oldest of its traditions, it falls to America's people to fight for her freedom.

Naturally, the first tactics in this fight should be civil discourse and political action. But as history shows, the only language that Nazis know is violence. This prompts a question: if and when it becomes necessary, is it legal to punch a Nazi?



The answer depends on your view of what place morality has in the law. To butcher the Hart-Fuller debate, there are two schools of thought: positivism, which believes the law is utterly divorced from morality, and natural law, which sees morality as informing law—and vice versa.

If asked, Hart would say that punching Nazis is assault; that even if it is moral, it remains illegal. Fuller's perspective is more flexible. It accepts that laws can fail if they are unjust, which could permit a punch, but also sees them as morally instructive, which seems to tend against that conclusion.

The author prefers a third approach, as espoused by Weimer-era politician and jurist, Gustav Radbruch. (If you were a student of Professor Rundle's in Legal Theory last year, as the author was, you know his famous formula well.)

Radbruch's formula unifies the competing approaches. He accepts that the law generally stands distinct from morality: that it remains binding, even when unfair. However, he argues when "the discrepancy between the positive law and justice reaches a level so unbearable" the law

must "make way for justice". He posits that positive law can become so immoral that it ceases to be law.

There are, unquestionably, epistemological issues with Radbruch's formula. Its flaws have been the obsession of generations of jurisprudence. But forget the ivory towers of academia for a moment (if that is possible in the literally elephant tusk coloured skyscraper that is 185 Pelham). Think of the real-world practicalities of this liberating hypothesis.

The problem: the enemies of freedom are marching on US soil. They rally against civil liberties and for the oppression of minorities. They have an ally in the White House. If left unchecked, their ideology threatens the peace.

The solution: Radbruch. Any law that stops America's citizens from fighting such existential enemies is unbearably divorced from justice. It is no law.

Thus, a chink is opened in the law through which justice can flow. And that justice is punching Nazis square in the fucking face.

Tom Blamey is the 'nom de guerre' of a second-year JD student.