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Posthumanist Legal Education

Chapter 12

Posthumanist Legal Education

Learning to Entangle Human Law with Its More-Than-Human World

Kate Galloway

Introduction

That we live amidst a global ecological crisis is now beyond debate.¹ Yet it is no abstract or isolated activity that is generating the crisis. Economy, society, politics, and environment exist as dynamic parts of a complex adaptive system. Law, too, plays its part both creating and reinforcing the preconditions for environmental disaster. While situated within these broader contexts, the peculiarly human endeavour of law contributes to the degradation of the biosphere including through a feedback loop comprising its text, its performance by legal actors, and its study. Beyond its self-referential logic, the human-centredness of the law—and the objectification of the more-than-human—is its biopolitical tell. Because the law is implicated in the subjugation of the more-than-human to the imperatives of capital and economy, the anthropocentrism of its mirror, legal education, is inherently political. To the extent that legal education privileges a humanist discourse in which humans are agents not only of their own fortunes, but those of the non-human world, legal education is biopolitical.

This chapter first outlines the premise of posthumanism as more-than-human and the relationship of this standpoint to biopolitics, before suggesting that the law's anthropocentrism is biopolitical. Advancing this argument, the chapter examines how legal education supports law as written and practised, and the anthroparchic imperatives of the discipline in the neoliberal university²

¹ Graham (2021a).

² Thornton (2013); Thornton (2008).

shared by the profession in private practice. Assertions that legal education is not human enough³ ignore the absence in law of the more-than-human, thus revealing a biopolitical standpoint.

The chapter turns then to the critique of law and of legal education in highlighting the law's biopolitical stand as inherently human. Law has been imbricated with critical perspectives for decades. However, both the legal education literature and the law curriculum remain anchored in the human because critical method is itself largely enmeshed within anthropocentric concerns. While offering a useful and important counterpoint to the destructive tendencies of patriarchal colonialism,⁴ critique in general is insufficient to grapple with the underlying issues facing the planet.

As one part of a framework of interlocking systemic influences, so long as legal education is situated within the academy as well as adjacent to the profession, the institution of the university and its practices might usefully inform a structural and intellectual shift in lawyers' learning. Consequently, the final part draws on the concept of the 'ecological university'⁵ to comprehend how legal education might extricate itself from the biopolitics of the human and embrace the posthuman.

Posthumanism, the More-Than-Human, and Biopolitics

The discourse of posthumanism encompasses a broad base.⁶ In general terms, '[p]osthumanism rejects the premise that humans are the only species capable of producing knowledge and instead creates openings for other forms/things/objects/beings/phenomenon to know. It also problematizes distinctions that are drawn between and among species.'⁷ This chapter argues that the human is not the sole measure of all things⁸ adopting Whatmore's analysis that 'post' refers to the greater world 'beyond' the human.⁹ It incorporates into law's curriculum the missing 'matter' of landscape.¹⁰ More than mere biological matter, it extends to the more-than-human world embracing the whole of 'nature'.

³ See, e.g., Westaby and Jones (2018); Skead et al. (2020); Field and Duffy (2012); Jones (2018); Heath et al. (2017).

⁴ Graham (2011); Watson (2014).

⁵ Barnett (2017).

⁶ Braun (2004) p 1352.

⁷ Ulmer (2017) p 834.

⁸ Badmington (2010); Lemke (2011).

⁹ Whatmore (2004) p 1361.

¹⁰ Whatmore (2006) p 603.

‘The posthuman subject is located within its environment in deep relationality to its fellow nonhuman species and entities. This relationality is exactly where the transformative potential of the posthuman subject lies’.¹¹ Adopting this framing of posthumanism engages this chapter in a biopolitical analysis of legal education and law. In the first place, the anthropocentrism of the law, echoed in legal education, is itself literally the mechanism of governmentality of humans, that is, of biopolitics. Where government of human life is the foundation of politics and of law, nature — the more-than-human—‘depends on the practices of government itself’.¹²

This construction of biopolitics has developed since environmental crises of the 1960s and 70s, resulting in a literature of ecological biopolitics.¹³ The realm of that which was considered biopolitically governable expanded from humans to humans’ natural world. Facing the existential threat posed by environmental catastrophe¹⁴ demanded a political solution to stop environmental destruction, and ecological biopolitics evolved in response. Gunst observes that ‘this political arena in its comprehensive form is comparatively new and takes into consideration the fact that questions about life and survival are increasingly relevant’.¹⁵

Despite this apparently hopeful engagement between ecological biopolitics and posthumanism, Lemke¹⁶ and Gough¹⁷ note the effect of technocentrism on the biopolitical turn. Ecological biopolitics originally saw the need for human society to adapt to uphold the integrity of the more-than-human to save human life itself. However, technological advancement in the decades since seeks to ‘modify and transform’ the environment.¹⁸ Thus technologies have ‘transformed the richness of this planet into a strategic raw material for industrial production ... Biodiversity conservation then becomes merely conservation of “raw material” rather than conservation of “means of production” of life itself’.¹⁹

¹¹ van der Zaag (2016) p 333.

¹² Lemke (2011) p 6.

¹³ Lemke (2011); Gough (2017).

¹⁴ Head (2016).

¹⁵ Gunst (1978) p 9, cited in Lemke (2011) p 23.

¹⁶ Lemke (2011).

¹⁷ Gough (2017).

¹⁸ Gough (2017) p 895.

¹⁹ Shiva (1991) p 44.

Whether adopting ecological biopolitics as originally conceived, or its technocentric overlay, neither conception extends far enough to embrace the necessary entanglements²⁰ between the human and the more-than-human world. Adapting to the environment fails to comprehend more-than-human for its own intrinsic worth. And technocentrism is an impoverished example of the very problem critiqued here. For these reasons, the posthumanist approach proposed in this chapter is directed at resolving the biopolitical orientation of the law and legal education.

Humans at the Centre of Law: Legal Education as Biopolitics

The history of the legal profession is entrenched within State governance. As proctors of the court and the pool from which the judiciary is drawn, lawyers in the common law tradition serve the interests of the State and the powerful. Where the overarching purpose of both has been the exploitation of the Earth as a resource, the law's implication in the apparatus of the State and the corporation is biopolitical.

Despite the evolution of the common law, Blackstone's *Commentaries*²¹ continues to reflect the benchmark of anthropocentrism including the Biblical invocation for man (*sic*) to dominate the natural world. Enlightenment philosophy of economics and politics interacted with law to support and promote industrialisation, capitalism, and atomistic individualism that together generated modernity, continuing the law's central concern with exploitation of the more-than-human. Thus, as Grasso points out, '[c]ontemporary Western culture ... is characterized by a spiritual orientation whose most striking characteristics are its anthropocentrism and immanentism, and whose roots are in the vast intellectual and spiritual movement known to us as the Enlightenment'.²²

The Industrial Revolution²³ brought capitalism, a new class of wealth, and new calls on the law and on lawyers. Lawyers developed classical contract law, the law of the market,²⁴ and principles of property and company law to promote the interests of the growing middle class and the national economy. The growing preoccupation with the individual and his (*sic*) rights were closely bound with

²⁰ A term used in the work of Haraway (2008).

²¹ (1765).

²² Grasso (1999) p 239.

²³ Malm (2016).

²⁴ Atiyah (1979).

his wealth. Property in particular, distinguished rights from the physical landscape²⁵ leaving little tangible connection between an interest in land and the consequences for the landscape inherent in it.²⁶ The compartmentalisation of the more-than-human into marketable commodities has implications, now widely perceived, not only for the ‘environment’ per se but also for the economy and indeed for humanity itself.²⁷

During its evolution in service to industry, the structure of the law also refined its formerly divine hierarchy. Law was the exercise of state power over the human world: human institutions exercised power over humans and provided for humans to exercise power over the more-than-human. The law, as did politics and social life, focused on ‘the relief of the human estate by way of the conquest of nature’²⁸ and it continues to do so. The more-than-human has no place as subject within the legal order, relegated instead as the object of human endeavour.

The role of the legal profession and the lawyers comprising it is therefore to uphold the legal order. To do so implicitly engages a positivist approach whereby the ethical constraints on the lawyer are themselves embedded within the structures upheld by the profession as part of the third arm of government. Despite professing the justice and ethics of legal practice²⁹ the traditional approach of the law of professional ethics is itself predisposed towards a rule-based rather than a values approach to legal practice. Consequently, ‘[t]he contemporary West’s loss of a “transcendental anchor” ... helps create the cultural soil from which the phenomenon of “the Victorious Lawyer” grows’.³⁰

Given its governmental, social, and economic focus, the law and its practitioners contribute to anthroparchy by failing to engage meaningfully with the Earth—a disposition that starts in law school. Thus, legal education, overseen by the legal profession,³¹ serving the profession as

²⁵ Graham (2011); Graham (2021b).

²⁶ Graham (2011); Galloway (2012).

²⁷ Graham (2021a).

²⁸ Grasso (1999) p 240.

²⁹ See, e.g., Pepper (1999).

³⁰ Grasso (1999) p 240.

³¹ Exemplified by the educational requirements for admission to the state Supreme Courts in Australia. See, e.g., *Admission Guidelines No 1 of 2016* issued under Rule 9AA of the *Supreme Court (Admission) Rules 2004* (Qld).

stakeholders,³² captured by the employability discourse of the contemporary university,³³ and imbued with centuries of imprinting of human concerns,³⁴ features a compulsory suite of private law subjects dealing with matters of commercial importance³⁵ to the exclusion of the more-than-human. Beholden to those who drive it, its very purpose is to reproduce the existing normative framing of the law and legal practice: one dominated by the human.

Further, the primacy of doctrine, necessarily anthropocentric,³⁶ of appellate decisions³⁷ and ‘thinking like a lawyer’,³⁸ together reinforce the anthropocentrism of the law curriculum. The humanist curriculum is then upheld, enacted, reinforced, and modelled by practitioner academics who are themselves of the mould of the traditions of the law.³⁹ Although the more-than-human shapes the human experience and is radically transformed by it, the law fails to give expression to its being and this failure is reproduced within the way that law is taught and learned.

Given the climate crisis and the threat it poses to organised society, and the absence of the more-than-human sphere from the law and legal practice, there is an imperative for a transformed legal education designed to equip lawyers with skills to practise law that embraces the more than human within its fabric—a posthuman legal education. Despite critique of the law and of legal education designed to embrace alternative ways of knowing, doing and being,⁴⁰ just as ecological biopolitics appeared to embrace the more-than-human so too has the critique of the law been constrained by the anthroparchic constraints of the legal system itself.

The Limits of Critique (More of the Same)

The relationship between the text and practice of the law, and the discipline identity of the legal profession, also reflects the relationship between humans and the more-than-human. Together, law

³² See, e.g., Peden and Riley (2005); Boon and Webb (2010).

³³ Bridgstock (2017); Rees (2021).

³⁴ Embodied in the idea of law as social science: see Berard (2009); Jones and Galloway (2015).

³⁵ Of the 11 subjects mandated for admission to practice in Australia, almost half deal in commercially oriented private law: contract, property, equity and trusts, corporations, and civil procedure.

³⁶ Given the centrality of rights vested in human actors.

³⁷ Duffy and Field (2014); Field and Duffy (2012).

³⁸ See, e.g., James (2012); Burton (2017).

³⁹ Galloway and Jones (2014); Jones and Galloway (2015).

⁴⁰ Nussbaum (2003); Rhode (2012).

and society ‘mirror the reality in which they are born and in which they grow’.⁴¹ Even so, there has been some effort to address the failure of law and legal education to engage with the more-than-human. A growing body of practice and scholarship focuses on this aspect of the law and how it is reproduced in the next generation, including critical legal education generally, socio-legal approaches to legal education, and sustainability education.⁴² However, each framework necessarily functions within the bounds of the law as it is and they are therefore limited in their capacity to usher in transformative posthuman change.

A critical legal education, for example, recognises the capitalism and even the anthropocentrism of the law and its priorities, and challenges the primacy of these assumptions. Hunt observes:

Advocates of critical legal studies may not all share the same rank ordering of dissatisfactions but are all reacting against features of the prevailing orthodoxies in legal scholarship, against the conservatism of the law schools and against many features of the role played by law and legal institutions in modern society.⁴³

Reinforcing the human-centred nature of legal education, Kennedy affirms law school as ‘ideological training for willing service in the hierarchies of the corporate welfare state’⁴⁴ even as he proposes a radical and utopian turn for its transformation. He identifies the adoption of critical perspectives according to identities of those ‘other than mainstream’⁴⁵ and observes that ‘if you are invisible on the other side, you are likely to be a humanist’.⁴⁶ For ‘resisters’, he describes the study of law as a potential ‘long-term life project that works against loss and injury and oppression’.⁴⁷

Similarly, Heath and Burdon⁴⁸ describe a mode of resistance to the neoliberal university as the ‘humanisation of law schools’.⁴⁹ In advocating for activist law academics, they identify

⁴¹ Zamboni (2008) p 63.

⁴² Jones and Galloway (2015); Galloway (2015); Kennedy (1982); Hunt (1987); Collier (2004).

⁴³ Hunt (1987) p 5.

⁴⁴ Kennedy (1982) p 591.

⁴⁵ Kennedy (2007) pp 2–3.

⁴⁶ Kennedy (2007) p 5.

⁴⁷ Kennedy (2007) p 6.

⁴⁸ Heath and Burdon (2013).

⁴⁹ Heath and Burdon (2013) p 381.

recognising the humanity of students and colleagues as resistance: a concern engaged with the human rather than the more-than-human. In observing the importance of student engagement with the law's role in 'socio-economic and political arrangements',⁵⁰ Appleby et al. offer strategies to promote independent thinking in elective and core units. Yet these appear, still, to fall within the human-centeredness of the law and its engagements.

More directly engaging with environmental threat is the sustainability education movement. The Talloires Declaration,⁵¹ for example, commits signatory universities to deliver education that promotes sustainability. While an internationally adopted, multi-disciplinary framework, sustainability education has received little attention in the law.⁵² Comprehending higher education as a means of transforming the effects of untrammelled growth on the more-than-human, nevertheless the very concept of sustainability reflects a largely human concern: sustaining human life on Earth. Subsequent critiques of sustainability generally, reflect the same pathway as ecological biopolitics: a preoccupation with the adaptation of existing anthropocentric activity to maintain the status quo.⁵³

There has, however, been some exploration of the connections between the discipline of law, with its traditional anthropocentric concerns, and issues emerging from an increasing understanding of the nature and extent of the unfolding ecological crisis. This interest manifests in attempts to discover both philosophical and theoretical alternatives to traditional legal approaches and to explore practical initiatives, in both education and in practice, through innovative litigation occurring worldwide.

However, given the urgency of the climate crisis, progress within both the profession and legal education seems slow and patchy.⁵⁴ Additionally, the integration of perspectives of the more-than-human, to the extent that this is taking place, appears to be an add-on to the core list of the law's concerns alongside conventional elective topics. If the profession is to make significant and meaningful contributions to realising a sustainable and just future, and if it is to move beyond reacting

⁵⁰ Appleby et al. (2013) p 363.

⁵¹ University Leaders for a Sustainable Future Talloires Declaration (1990), <http://ulsf.org/talloires-declaration/>.

⁵² Though see Galloway (2015); Galloway et al. (2012); Graham (2014).

⁵³ Barnett (2017) p 43.

⁵⁴ Jones and Galloway (2015).

to or ameliorating the impacts of climate change, then a more radical and transformative approach is required. One dimension of such a shift is to move from seeing the environment as the setting within which social issues and questions of justice arise, instead re-conceptualising the necessary interrelationship between humans and their world: a posthuman orientation.

More-Than-Human Legal Education and the Ecological University

Given the shortcomings of the law and legal education in terms of a posthuman turn, this part considers the possibilities for transformation within the framing of what Barnett describes as the ‘ecological university’.⁵⁵

Barnett writes not of the crisis of the university itself, ‘but rather that the university is falling woefully short of its responsibilities and its possibilities in the world’.⁵⁶ His work explains how the university’s operations and functions might be informed by an ‘ecological perspective’ and how the university’s involvement in various ecosystems, both internal and external, might be deployed. He concludes with the conceptualisation of an ‘ecological’ university. In Barnett’s analysis, ‘ecology’ is a ‘thick’ concept⁵⁷ and he draws together facets of what ecology might represent — ‘fact and values ... past, present, and future ...’ hope, and vision yet to be realised.⁵⁸

The network aspects of the science of ecology apply to the metaphor of the ecological university. Multiple ecosystems work together within the institution, as well as between the institution and external influences. Barnett describes seven ecosystems, or the more permeable-sounding ‘ecological zones’ within which the university is implicated: the knowledge society, social institutions, persons, the economy, learning, culture, and the natural environment.⁵⁹ These ecosystems mesh, generating their own machinations and effects that cannot always be predicted. The university is *ecological* in that it navigates within, through and between these zones, comprehending their necessary interrelationship in all aspects of its operation and its very existence.

⁵⁵ Barnett (2017).

⁵⁶ Barnett (2017) p 1.

⁵⁷ Barnett (2017) p 17, citing Williams (1985).

⁵⁸ Barnett (2017) p 17.

⁵⁹ Barnett (2017) p 56.

Barnett observes also, the relationships between ‘time, space, movement and geography’⁶⁰ and the need for the university to ‘be open to the whole reality of its time. It must be in the midst of real life, and saturated by it’.⁶¹ While Barnett does not prefer an orientation towards the more-than-human, ‘natural environment’ appears to equate to the more-than-human. Its inclusion within the university as an institution helps frame a future-focused and transformative legal education suited to the supercomplexity of our times.

The characterisation of the climate crisis, for example, as supercomplex, identifies that it demands solutions beyond the capability of traditional problem solving. Supercomplexity is the state of diverse and proliferating competing conceptual frames of reference for comprehending the world.⁶² Traditional methods involve a focus on the human and siloed, linear accounts of the nature of problems and their solutions. However, those methods cannot succeed in a complex adaptive system. Where time, space, movement, geography, and the more-than-human are implicated in the supercomplex, humans called upon to analyse and find solutions for the ensuing problems must themselves engage all domains—drawing on cognitive, metacognitive, emotional, and physical skills.

While the ecological university is an institutional environment that might support a legal education that meets these needs, more specifically the ecological curriculum⁶³ and ecological professionalism⁶⁴ might inform the teaching, and thus the practice, of law for the Anthropocene. The following sections interpret Barnett’s framing of professionalism and curriculum to draw out a meaning of posthuman legal education. It starts with the concept of professionalism.

Professionalism

The goal of legal education is to educate students in the discipline of the law. Regardless of graduates’ career destinations, the law is a professional discipline and graduates are generally destined to be professionals. Indeed, this critique of the anthropocentric nature of legal education is closely tied with

⁶⁰ Barnett (2017) p 20.

⁶¹ Barnett (2017), citing Ortega y Gasset (1946) p 76.

⁶² Barnett (2020).

⁶³ Barnett (2017) pp 113–24.

⁶⁴ Barnett (2017) pp 126–39.

the exclusively human orientation of the legal profession, and reorientation of both requires comprehending professionalism.

The ‘ecological professional’ engages in five ecological ‘registers’: the professional self, the client, the knowledge economy, the professional environment, and the profession’s discursive ecology.⁶⁵ Through their knowledge, dispositions, and qualities, the ecological professional evinces a ‘worldly responsibility’⁶⁶ towards these registers, and a concern for the fate of the world.⁶⁷ They ‘[voyage] across knowledges’⁶⁸ to ‘discern the world in all its complexity’⁶⁹ where through critical and creative thinking, they meet the challenges wrought by supercomplexity.⁷⁰

Barnett’s professional’s worldly responsibility is reflected also in other frames of thought. Integral theory, for example, contemplates an expanded identity within ecological thinking, beyond the self to one’s group and country, thence to all of us, all beings and ultimately to ‘all of reality’.⁷¹ Practising as an ecological professional—engaging in ecological thinking, or integral theory—demands comprehending the very notion of a lawyer’s professional identity and their praxis in a vastly enhanced way. This is an ecological consciousness⁷² that might shift the existing ‘discursive ecology of the profession’⁷³ to destabilise the law’s traditional oppositional categories of human subjects as masters of the natural object. As Grasso points out, ‘[t]he renewal of our legal culture ... presupposes the articulation of a new public philosophy embodying decisively richer conceptions of human nature and social life than those which inform today’s liberalism of the sovereign self’.⁷⁴

Similarly, the concept of inter- or multi-disciplinarity attendant on ‘voyaging across knowledges’ is encapsulated by Tynjälä and Gijbels’ observation that the future of the professions is one of collaborative and multi-disciplinary networks.⁷⁵ Their work on integrative pedagogy, related

⁶⁵ Barnett (2017) pp 129–30.

⁶⁶ Barnett (2017) p 134.

⁶⁷ Barnett (2017) p 138.

⁶⁸ Barnett (2017) p 134.

⁶⁹ Barnett (2017) p 135.

⁷⁰ Barnett (2017) p 135; Barnett 2000.

⁷¹ Esbjörn-Hargens, 2010 p 42.

⁷² Panov (2013) p 380.

⁷³ Barnett 2017 p 130.

⁷⁴ Grasso (1999) p 252.

⁷⁵ Tynjälä and Gijbels (2012).

to integral theory, envisages graduate professionals who have expertise—a broader conceptualisation of graduate competencies than simply traditional lawyerly knowledge and skills. Thus, the professional for our times requires the skills and attributes to generate multidisciplinary knowledge from seamless collaboration between professionals from multiple disciplines.⁷⁶

For the lawyer to contribute to the problem of climate change and the attendant devolution of organised human society demands a posthuman orientation—in Barnett's terms, an ecological professional, with the expertise to identify, analyse, and solve problems from a standpoint entirely altered from that of the anthropocentric lawyer. Ecological consciousness, integrative thinking, and a broader conception of expertise, situate the posthuman lawyer within multiple networks where the more-than-human is integral to the lawyer's worldly responsibility, expressed not simply by 'interest in and care towards' that ecosystem, but through a willingness to 'play their part'.⁷⁷ Educating the posthuman lawyer is the contemporary challenge for legal education.

Curriculum

Barnett writes about professional education as well as specifically about the ecological curriculum. This section draws on his framing of an ecological curriculum to outline some possibilities for a posthuman legal education.

Given the diverse registers of the ecological professional, Barnett identifies the need to stretch the student into 'zones of professional extension' into and across those ecosystems.⁷⁸ This is an education in the 'interconnectedness of the three moments of action, understanding, and sheer being' in which the student, as a future professional, is 'willed to play their part ... concerned about the fate of the world'.⁷⁹ The ecological curriculum brings the ecological professional into being. Features of such a learning environment include co-mingling and integration of heterogeneous elements⁸⁰ to

⁷⁶ Graham (2014); Matsuda (2014); Rousell (2016); Galloway and Graham (in press)

⁷⁷ Barnett (2017) p 138.

⁷⁸ Barnett (2017) p 137.

⁷⁹ Barnett (2017) p 137.

⁸⁰ Barnett (2017) pp 115, 117.

generate a ‘sense of connectedness with all things’⁸¹ including connection to ‘the wider world, to place, to Nature, to other peoples’.⁸²

This type of curriculum resonates with other approaches to educate for the Anthropocene, and grapples with the biopolitical reality of the deeply human orientation of traditional legal education. It describes a posthumanist legal education entangling with the more-than-human as the foundation for problem solving in conditions of supercomplexity.

Networks of, between, within multiple ecologies of knowledge, skills, people, environments, discourses and so on, across space and time⁸³ constitute the worldwide domain of learning in the ecological curriculum. As professional collaborators, the law student in an ecological curriculum will connect with teachers and other learners, consciously developing the skills of an expert collaborator. Collaboration grounds an integrative approach to curriculum and pedagogy, bringing together learners, teachers, disciplines, and skills for novel understanding of complex problems beyond the bounds of any single discipline⁸⁴ and as Barnett points out, beyond the constraints of learning outcomes and other bureaucratic tools⁸⁵ that narrow learners’ outlook and potential.

The ‘wide learning repertoire’ of the ecological curriculum⁸⁶ demands that legal educators themselves engage with their discipline through an ecological consciousness. Advancing Barnett’s argument and drawing on integral theory⁸⁷ and even Earth jurisprudence,⁸⁸ legal education becomes reformist in nature, engaging with the Earth’s systems beyond its current preoccupation with the solely human jurisdiction. A curriculum enmeshed with the world at large is freed from the constructed barriers of knowledge, skill and disposition that are also barriers to a sustainable future for all.

⁸¹ Barnett (2017) p 119.

⁸² Barnett (2017) p 121.

⁸³ Barnett (2017) pp 126–7.

⁸⁴ Ong (2016).

⁸⁵ Barnett (2017) p 115.

⁸⁶ Barnett (2017) p 121.

⁸⁷ Tynjälä and Gijbels (2012).

⁸⁸ Cullinan (2002); Rogers and Maloney (2017).

Given the crisis unfolding, an ecological, or a posthuman, legal education takes the form of an emancipatory pedagogy.⁸⁹ This approach to the teaching and learning of law will equip law students and graduates—the legal actors of the future—to act outside the feedback loop of law and its entrenched human-centric norms, to solve problems by including the more-than-human in their calculation.

Conclusion

The law and legal education are mutually reinforcing systems concerned almost exclusively with the human world. In failing to acknowledge and accommodate the more-than-human, they are implicated in the wider systems that are generating a global crisis for the Earth. The political orientation of this anthropocentric endeavour is inherently biopolitical, even as its functioning necessarily contributes to the problems generating the crisis.

There is no simple solution to the law's traditional orientation. However, legal education—the institutional production of lawyers for the future—is one of the levers crucial to generate the necessary posthuman turn. Importantly, to achieve the desired skillset for graduates demands more than a simply critical approach to legal education as such approaches are themselves mired within the same biopolitical framing as the position they seek to criticise.

Barnett's conceptualisation of the 'ecological university' provides a starting point for imagining a posthuman legal education. The networked knowledges, disciplines, institutions, and actors envisaged in his concept represent aspects of an educational approach that will support moving beyond the human. The ecological professional is thus the integrative thinker—a collaborator and co-creator of knowledge—who engages with the more-than-human at a global scale, following an internalised motivation to bring change. They are served by an ecological curriculum that traverses different disciplines and knowledges, to embrace a whole-of-world viewpoint. The conception of this global, whole-of-world context is, of course, a posthuman one.

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⁸⁹ Freire (1972); Dewey (2011).

References

1. Gabrielle Appleby et al (2013) 'Critical Thinking in Legal Education: Our Journey' 23 *Legal Education Review* 345.
2. PS Atiyah (1979) *The Rise & Fall of Freedom of Contract*, Clarendon Press.
3. Neil Badmington (2010) 'Posthumanism' in *Cultural Theory, Volume III: A–Z*, Wiley, <https://doi.org/10.1002/9781444337839.wbelctv3p003>.
4. Ronald Barnett (2000) *Realizing the University in an Age of Supercomplexity*, Open University Press.
5. Ronald Barnett (2017) *The Ecological University: A Feasible Utopia*, Routledge.
6. Ronald Barnett (2020) 'Supercomplexity and Education Research: Six Scholarships' in Lorraine Ling and Peter Ling (eds) *Emerging Methods and Paradigms in Scholarship and Education Research*, IGI Global.
7. Timothy J Berard (2009) 'The Relevance of the Social Sciences for Legal Education' 19(1) *Legal Education Review* 189.
8. William Blackstone (1765–1769) *Commentaries on the Laws of England*.
9. Andrew Boon and Julian Webb (2010) 'The Legal Professions as Stakeholders in the Academy in England And Wales' in Fiona Cownie (ed) *Stakeholders in the Law School*, Hart.
10. Bruce Braun (2004) 'Modalities of Posthumanism' 36 *Environment and Planning A* 1352.
11. Ruth Bridgstock (2017) 'The University and the Knowledge Network: A New Educational Model for Twenty-First Century Learning and Employability' in Michael Tomlinson and Leonard Holmes (eds) *Graduate Employability in Context*, Palgrave Macmillan.
12. Kelley Burton (2017) "'Think Like a Lawyer" Using a Legal Reasoning Grid and Criterion-Referenced Assessment Rubric on IRAC (Issue, Rule, Application, Conclusion)' 10(2) *Journal of Learning Design* 57.
13. Richard Collier (2004) "'We're All Socio-Legal Now?": Legal Education, Scholarship and the "Global Knowledge Economy": Reflections on the UK Experience' 26(4) *Sydney Law Review* 503.
14. Cormac Cullinan (2002) *Wild Law*, Siber Ink.
15. John Dewey (2011) *Democracy and Education*, Simon and Brown.
16. James Duffy and Rachael Field (2014) 'Why ADR Must be a Mandatory Subject in the Law Degree: A Cheat Sheet for the Willing and a Primer for the Non-Believer' 25(1) *Australasian Dispute Resolution Journal* 9.
17. Sean Esbjörn-Hargens (2010) 'An Overview of Integral Theory: An All-Inclusive Framework for the Twenty-First Century' in Sean Esbjörn-Hargens (ed) *Integral Theory in Action, Applied, Theoretical, and Constructive Perspectives on the AQAL Model*, SUNY Press.
18. Rachael Field and James Duffy (2012) 'Better to Light a Single Candle than to Curse the Darkness: Promoting Law Student Well-Being Through a First Year Law Subject' 12(1) *Law and Justice Journal* 133.
19. Paolo Freire (1972) *Pedagogy of the Oppressed* (Myra Bergman Ramos Trans), Penguin.
20. Kate Galloway et al (2012) 'Using Sustainability to Inform Renewal of the LLB Foundation Curriculum: Knowledge Skills and Attitudes for the Future' 12(1) *QUT Law and Justice Journal* 1.
21. Kate Galloway (2012) 'Landowners' vs Miners' Property Interests: The Unsustainability of Property as Dominion' 37(2) *Alternative Law Journal* 77.
22. Kate Galloway and Peter Jones (2014) 'Guarding Our Identities: The Dilemma of Transformation in the Legal Academy' 14(1) *QUT Law Review* 15.
23. Kate Galloway (2015) 'Sustainability in the Real Property Law Curriculum: Why and How' 8(2) *Journal of Learning Design* 31.
24. Kate Galloway and Nicole Graham (in press) 'Learning Ecological Law: Innovating Legal Curriculum and Pedagogy' in Peter Burdon and James Martel (eds) *Ecological Law and the Anthropocene*, Routledge.
25. A Gough (2017) 'Searching for a Crack to Let Environment Light in: Ecological Biopolitics and Education for Sustainable Development Discourses' 12(4) *Cultural Studies of Science Education* 889.
26. Nicole Graham (2011) *Landscape: Property, Environment, Law*, Routledge.

27. Nicole Graham (2014) 'This is not a Thing: Land, Sustainability and Legal Education' 26(3) *Journal of Environmental Law* 395.
28. Nicole Graham (2021a) 'Learning Sacrifice: Legal Education in the Anthropocene' in Kirsten Anker et al (eds) *From Environmental to Ecological Law*, Routledge.
29. Nicole Graham (2021b) 'Dephysicalised Property and Shadow Places' in Robyn Bartel and Jennifer Carter (eds) *Handbook of Space, Place and Law*, Edward Elgar.
30. KL Grasso (1999) 'The Decline of Liberalism and the Rise of the Victorious Lawyer' 40(1) *South Texas Law Review* 233.
- Dietrich Gunst (1978) *Biopolitik zwischen Macht und Recht*, Hase und Köhler Verlag.
31. Donna Haraway (2008) *When Species Meet*, University of Minnesota Press.
32. Lesley Head (2016) *Hope and Grief in the Anthropocene*, Routledge.
33. Mary Heath et al (2017) 'Learning to Feel Like a Lawyer: Law Teachers, Sessional Teaching and Emotional Labour in Legal Education' 26(3) *Griffith Law Review* 430.
34. Mary Heath and Peter Burdon (2013) 'Academic Resistance to the Neoliberal University' 23(1) *Legal Education Review* 379.
35. Alan Hunt (1987) 'The Critique of Law: What Is "Critical" about Critical Legal Theory?' 14(1) *Journal of Law and Society* 5.
36. Nick James (2012) 'Logical, Critical and Creative: Teaching "Thinking Skills" to Law Students' 12(1) *QUT Law and Justice Journal* 66.
37. Emma Jones (2018) 'Transforming Legal Education Through Emotions' 38(3) *Legal Studies* 450.
38. Peter Jones and Kate Galloway (2015) 'Academic and Discipline Identities as Obstacles to Engaging with Education for Sustainability: Lessons from Law and Social Work' 11 *International Journal of Sustainability Education* 1.
39. Duncan Kennedy (1982) 'Legal Education and the Reproduction of Hierarchy' 32(4) *Journal of Legal Education* 591.
40. Duncan Kennedy (2007) *Legal Education and the Reproduction of Hierarchy: A Polemic Against the System*, NYU Press.
41. Thomas Lemke (2011) *Biopolitics: An Advanced Introduction*, New York University Press.
42. Andreas Malm (2016) *Fossil Capital: The Rise of Steam Power and the Roots of Global Warming*, Verso Books.
43. MJ Matsuda (2014) 'Admit that the Waters Around You Have Grown: Change and Legal Education' 89(4) *Indiana Law Journal* 1381.
44. Martha C Nussbaum (2003) 'Cultivating Humanity in Legal Education' 70 *University of Chicago Law Review* 265.
45. David Ong (2016) 'Prospects for Integrating an Environmental Sustainability Perspective within the University Law Curriculum in England' 50(3) *Law Teacher* 276.
- Jose Ortega y Gasset (1946) *Mission of the University*, Kegan Paul, Trench, Trubner and Co.
46. VI Panov (2013) 'Ecological Thinking, Consciousness, Responsibility' 86 *Procedia-Social and Behavioral Sciences* 379.
47. Elisabeth Peden and Joellen Riley (2005) 'Law Graduates' skills — A Pilot Study into Employers' Perspectives' 15 *Legal Education Review* 87.
48. Stephen L Pepper (1999) 'Resisting the Current' 52 *Vanderbilt Law Review* 1015.
49. Sian Rees (2021) 'Re-imagining Employability: An Ontology of Employability Best Practice in Higher Education Institutions' 26(5) *Teaching in Higher Education* 663.
50. Deborah L Rhode (2012) 'Access to Justice: An Agenda for Legal Education and Research' 62 *Journal of Legal Education* 531.
51. Nicole Rogers and Michelle Maloney (eds) (2017) *Law as if Earth Really Mattered: The Wild Law Judgment Project*, Routledge.
52. David Rousell (2016) 'Dwelling in the Anthropocene: Reimagining University Learning Environments in Response to Social and Ecological Change' 32(2) *Australian Journal of Environmental Education* 137.

53. V Shiva (1991) 'Biodiversity, Biotechnology and Profits' in V Shiva (ed) *Biodiversity: Social and Ecological Perspectives*, Zed Books/World Rainforest Movement, <https://doi.org/10.3917/rtm.188.0825>.
54. Natalie Skead et al (2020) 'The Role of Place, People and Perception in Law Student Well-Being' 73 *International Journal of Law and Psychiatry* 101631.
55. Margaret Thornton (2008) 'The Law School, the Market and the New Knowledge Economy' 17(1&2) *Legal Education Review* 1.
56. Margaret Thornton (2013) 'Inhabiting the Neoliberal University' 38(2) *Alternative Law Journal* 2.
58. Paivi Tynjälä and David Gijbels (2012) 'Changing the World: Changing Pedagogy' in Paivi Tynjälä et al (eds) *Transitions and Transformations in Learning and Education*, Springer.
59. JB Ulmer (2017) 'Posthumanism as Research Methodology: Inquiry in the Anthropocene' 30(9) *International Journal of Qualitative Studies in Education* 832, <https://doi.org/10.1080/09518398.2017.1336806>.
60. Annette-Carina van der Zaag (2016) 'On Posthuman Subjectivity' 9(3) *Journal of Cultural Economy* 330, <https://doi.org/10.1080/17530350.2015.1040436>.
61. Irene Watson (2014) *Aboriginal Peoples, Colonialism and International Law: Raw Law*, Routledge.
62. Chalen Westaby and Emma Jones (2018) 'Empathy: An Essential Element of Legal Practice or "Never the Twain Shall Meet"?' 25(1) *International Journal of the Legal Profession* 107.
63. Sarah Whatmore (2004) 'Humanism's Excess: Some Thoughts on the "Post-human/ist" Agenda' 36 *Environment and Planning A* 1360.
64. Sarah Whatmore (2006) 'Materialist Returns: Practising Cultural Geography in and for a More-than-human World' 13 *Cultural Geographies* 600.
- Bernard Williams (1985) *Ethics and the Limits of Philosophy*, Routledge.
65. Mauro Zamboni (2008) *Law and Politics A Dilemma for Contemporary Legal Theory*, Springer.