

Law Foundation of South Australia: Fellowship Report

Jake Kriticos, recipient of the 2018 Fellowship

It is with great delight that I provide this report to the Law Foundation of South Australia detailing my experience completing a Master of Laws ('LLM'), at the London School of Economics and Political Science ('LSE'), in the 2019/20 academic year.

At the outset, I would like to take this opportunity to thank the Law Foundation for the support provided — without it, I would not have been able to undertake this phenomenal, life changing experience.

The Coursework

Prior to commencing the LLM at LSE, I was drawn to legal study and practice primarily by my desire to better serve my wider community. Indeed, I selected LSE as my LLM provider in pursuit of this desire, and to attain a deeper academic *and* practical understanding of the underpinnings and effects of criminal and constitutional law.

LSE offered, and provided, an international, comparative and interdisciplinary teaching approach to subjects in each of these two areas. Furthermore, it boasted a student population comprised mostly of international students from a wide range of different jurisdictions. The diverse perspectives that each of my colleagues brought to class discussions was without a doubt one of the highlights of the LLM programme at LSE, and added significant value to my academic development throughout the year. I am very fortunate to have had the opportunity to develop life-long friendships with, and learn from, a cohort of such talented individuals.

Throughout the LLM programme at LSE, I completed seven coursework subjects (four in the Michaelmas Term, and three in the Lent Term). They were as follows:

1. Security and Criminal Law
2. Explaining Punishment: Philosophy, Political Economy, Sociology
3. Mental Health Law: The Criminal Context
4. Theory of Constitutional Rights
5. Comparative Constitutional Rights
6. International Criminal Law: Core Crimes and Concepts
7. Terrorism and the Rule of Law

Each of these subjects provided a rich, challenging and satisfying learning experience, facilitated by fantastic professors. While I could not choose a 'favourite' course, I will elaborate upon three. Perhaps, Security and Criminal Law might prove to be the most immediately useful, as I will commence employment within the Office of the Director of Public Prosecutions (SA) ('ODPP') upon my return to Adelaide. Taught by Professor Peter Ramsay in the Michaelmas Term, the subject concerned advanced-level criminal law theory. That is, it focussed on differing philosophical and theoretical perspectives of the substantive criminal law, but also included consideration of criminal procedure, punishment and human rights. I found the content exceptionally challenging, having never been exposed to moral philosophy or political theory. For this reason, it was also the most rewarding. I consider that I have a much deeper and well-rounded understanding of the criminal law, as a result.

Moreover, Theory of Constitutional Rights and Comparative Constitutional Rights, both taught by Associate Professor Kai Möller in the Michaelmas and Lent Terms respectively, related to constitutional law. The former focussed upon theoretical issues of constitutional rights law, including the nature of constitutional rights, the global models of constitutional rights adjudication, and the compatibility of the judicial protection of those rights with democratic principles/ideals. Whereas, the latter entailed a comparative analysis of selected issues in constitutional rights case law, including abortion, same-sex marriage, the freedom of religion and the freedom of speech. Both of these subjects required me to develop the ability to engage in deep analysis of, and craft insightful, mature and well-reasoned opinions on, some of the most pressing theoretical/philosophical and practical issues currently being grappled with in the field of constitutional rights law.

The Dissertation

In addition to the abovementioned seven courses, I completed a 10,000-word dissertation. The opportunity to complete such a task was another reason I selected LSE as my LLM provider.

Entitled, 'The Offence of Maintaining an Unlawful Sexual Relationship with a Child: A *Particular* Threat to the Criminal Trial', the dissertation considered the compatibility of a new form of substantive criminal law with a normative conception of the criminal trial within liberal democracies. The central claims of the dissertation were two-fold, being that the offence of maintaining an unlawful sexual relationship with a child ('**the USR offence**'): (1) creates an

intolerable risk of unwarranted and/or unfair convictions; and (2) threatens to impoverish the normative criminal trial. The USR offence can be found in the United States, Papua New Guinea and Australia. The dissertation focussed upon the South Australian law (being the jurisdiction with the most recent iteration of, and jurisprudence on, the offence). While the offence was created with the intention of bringing alleged child sexual offenders to justice, the dissertation concluded that it was incompatible with a liberal democracy's core commitment, of fostering its citizens' freedom to go about their lives absent interference.

The Results

Each of the abovementioned seven coursework subjects was assessed via a 100% exam in the Summer Term period. I am proud to relay that my results included distinctions for the first six subjects listed above (being, the highest grade-band awarded at LSE), and a merit for the last. I also received a distinction for my dissertation, and was awarded the Laura Devine Prize for the best performance in Human Rights.

Ultimately, I consider that my improved ability to engage in critical thinking, and develop innovative ideas and solutions to an identified problem, will change my approach to legal practice. The more mature outlook that I have developed both to legal practice and life generally certainly represents one of the achievements I am most proud of from my LLM experience. I am excited to continue this development when I commence employment within the ODPP, and to contribute to the attainment of fair convictions and appropriate punishments within the South Australian criminal justice system.

I am exceptionally privileged to have had the opportunity to represent the Law Foundation and South Australia at LSE, and to develop my legal acumen over the last year. I will return to Adelaide with an increased passion for the law, and a desire to make positive and meaningful contributions to the South Australian community. For these reasons, I would like to once again offer my sincere gratitude to the Law Foundation for its generosity and the support provided through the Law Foundation Fellowship.