

---

7-15-2021

## Law and Living: Connecting the Dots: The Life of an Academic Lawyer by Harry W. Arthurs

David Sandomierski  
*Faculty of Law, Western University*

Follow this and additional works at: <https://digitalcommons.osgoode.yorku.ca/ohlj>



Part of the [Law Commons](#)

Book Review

---

### Citation Information

Sandomierski, David. "Law and Living: Connecting the Dots: The Life of an Academic Lawyer by Harry W. Arthurs." *Osgoode Hall Law Journal* 58.2 (2021) : 467-479.  
<https://digitalcommons.osgoode.yorku.ca/ohlj/vol58/iss2/7>

This Book Review is brought to you for free and open access by the Journals at Osgoode Digital Commons. It has been accepted for inclusion in Osgoode Hall Law Journal by an authorized editor of Osgoode Digital Commons.

---

## Law and Living: Connecting the Dots: The Life of an Academic Lawyer by Harry W. Arthurs

### Abstract

HOW TO REVIEW THE MEDITATION on a life's work? Harry Arthurs' 2019 memoir, *Connecting the Dots: The Life of an Academic Lawyer*, provides a detailed account of an incredible professional life, as labour arbitrator, legal scholar, law school dean, university president, and commissioner of multiple inquiries and studies.

## Book Review

## Law and Living: *Connecting the Dots: The Life of an Academic Lawyer* by Harry W. Arthurs<sup>1</sup>

DAVID SANDOMIERSKI<sup>2</sup>

HOW TO REVIEW THE MEDITATION on a life's work? Harry Arthurs' 2019 memoir, *Connecting the Dots: The Life of an Academic Lawyer*, provides a detailed account of an incredible professional life, as labour arbitrator, legal scholar, law school dean, university president, and commissioner of multiple inquiries and studies. Arthurs' aims are "to convey what I thought I was doing when I immersed myself in these fields, how I understood them and hoped to influence them, and whether and to what extent my fifty-plus years of teaching and writing, administering and recommending have somehow made a difference."<sup>3</sup> The book illuminates Arthurs' wit, wisdom, and, most interestingly for this reader, his (at times, contradictory) inclinations and intellectual identities. Scholars of labour law and globalization will discover a fascinating genealogy of their fields. Public law scholars can read Arthurs' memoir as a primer in legal pluralism in administrative law, and *Charter* skepticism. Law students and professors alike will find in it a much-needed prompt for the wide range of possibilities of how the legally educated might

- 
1. Harry W Arthurs, *Connecting the Dots: The Life of an Academic Lawyer* (McGill-Queen's University Press, 2019).
  2. Assistant Professor, Faculty of Law, Western University. I am grateful to Faisal Bhabha for a last-minute trip to the Osgoode Hall Law Library during the pandemic, when Interlibrary Loan services were suspended, to assist with following the trail of Arthurs' compendious endnotes. Thomas McMorro provided characteristically insightful and generous comments.
  3. *Supra* note 1 at 20.

contribute to society. Others can read it as an example of how self-doubt and self-assuredness, indeterminacy and determinism, and professional skepticism and pride can co-exist productively.

For those readers looking for a taste of the personal, Arthurs unapologetically refuses to deliver the goods.<sup>4</sup> Aside from a fascinating capsule-like introductory chapter, his personal relationships are largely absent, as are the influences of his family and other non-professional colleagues, as another reviewer has noted.<sup>5</sup> Still, the strategically included biographical material adds depth and colour to what is largely an intellectual autobiography. We learn, for example, that Arthurs' maternal grandfather and namesake, Harry Dworkin, would bail out striking garment workers so they could spend the Sabbath with their families, and later played important fundraising and leadership roles in the Labour Lyceum.<sup>6</sup> Arthurs' grandparents' successful business as ticket agents served, after Harry Dworkin's premature death in 1928 and under the leadership of Arthurs' grandmother, Dora, to help bring Jewish immigrants to Canada. Arthurs grew up with his grandmother, mother, and stepfather Leon, a patent agent who "ensured that...dinnertime conversation and summer jobs" would set him on "the path to a career in law."<sup>7</sup>

These sparing but lovingly articulated influences reveal themselves as formative throughout the book. Politically, Arthurs adopted the "not radical but progressive" politics of his grandparents.<sup>8</sup> Labour law became his subject and passion. Law figured prominently throughout his career, as scholar, law dean, university president, and commissioner. Arthurs' familial connection to the Labour movement likely influenced his emphasis on the importance of labour "lore" over labour "law,"<sup>9</sup> and his scholarly turn toward legal pluralism,<sup>10</sup> just as much as it probably inclined him to emphasize History with a capital "H" and

---

4. *Ibid* at 4.

5. Susan Bartie, "William Twining, Harry Arthurs, and Histories of Academic Lawyers" (2020), online: *Law & History Review* <[lawandhistoryreview.org/article/susan-bartie-william-twining-harry-arthurs-and-histories-of-academic-lawyers](http://lawandhistoryreview.org/article/susan-bartie-william-twining-harry-arthurs-and-histories-of-academic-lawyers)>.

6. Arthurs, *supra* note 1 at 8.

7. *Ibid* at 13.

8. *Ibid* at 12. Elsewhere, Arthurs affirms that he "never engaged in radical or highly partisan political activities" (*ibid* at 119), although despite this consistent motif, he never defines what he means by "radical," and uses the term somewhat unevenly in other places, referring to legal realism as a "radical" perspective (*ibid* at 15) and elsewhere claiming to have found his "inner radical" in his rejection of traditional pedagogy in his early teaching days (*ibid* at 17).

9. *Ibid* at 33-34.

10. *Ibid* at 36-39.

the inescapability of political economy.<sup>11</sup> At the same time, Arthurs clearly forged his own intellectual path. Bathed in the Holmesian realism of the University of Toronto Faculty of Law in the late 1950s, Arthurs would come to resist and, arguably, transcend the “lawyer’s mind.” His inherited commitment to structuralism, and the idea that power is at the heart of everything, lies alongside his pragmatism, his rejection of radical politics, and his commitment to liberal education’s pursuit of knowledge and understanding for their own sake.

The book proceeds somewhat chronologically, although the chapters are organized according to theme. We learn in chapter two of Arthurs’ encounters with history, fame, and celebrity, including his memorable account of watching Fidel Castro speak to a group of students at Harvard in 1959. Chapter three details his passion for labour law and his inclinations for informal processes in dispute settlement. Chapter four canvasses his legal pluralistic work on the English administrative state and details his early—and lifelong—skepticism about the *Charter*. In Chapter five, we peer behind the curtain of his seminal 1983 *Law and Learning* report on the Canadian legal academy and receive a full-throated defense of law schools as “knowledge-seeking critique-generating change-making” institutions.<sup>12</sup> Chapter six is dedicated to his scholarship on globalization, and chapter seven to his work in university administration, which Arthurs considers the “continuation of scholarship by other means” and “inextricably linked to politics...the ambition of putting things to rights in the world.”<sup>13</sup> There, we learn of his philosophy of the university as a place primarily for liberal learning and his commitment to academic freedom, intellectual merit, and the pursuit of knowledge. In chapter eight he elucidates his teaching “agenda”: to get his students to “understand that The Law was always changing, often obscure, sometimes illogical or unfair, seldom fixed and clear.”<sup>14</sup> Chapter nine details his fascinating and eclectic series of public commissions and inquiries on academic integrity, legal education, labour code reform, pensions, and workplace safety and insurance. In chapter ten, Arthurs reflects on his special ability to “connect the dots,” to “offer a plausible account of what’s connected to what, how, and why.”<sup>15</sup> Chapter eleven, a coda of sorts, reckons with the dialectic between pessimism of the intellect and optimism of the will.

---

11. See *e.g. ibid* at 21, 54.

12. *Ibid* at 68.

13. *Ibid* at 77, 85.

14. *Ibid* at 95.

15. *Ibid* at 131.

Overall, it is a fascinating read, as much for the glimpse it offers into the animating constants of Arthurs' life as for the delectable details. For this reader, particularly delightful were the discoveries connecting and complicating some intertwining narratives of the Canadian legal academy. For example, Arthurs' grandmother Dora advanced money to a client to bring his entire family to Canada, resulting in their safe arrival in August 1939, just before the outbreak of World War II. The family was the Daniels family, and the story (recounted to Arthurs by Ron Daniels, law dean at the University of Toronto from 1995-2005)<sup>16</sup> suggests that the fate of Canadian legal education might have been different were it not for the intervention. Arthurs and Martin Friedland, law school friends, hitchhiked to Mexico and impersonated reporters in Arkansas in 1957, fifteen years before each would become dean of law at the two Toronto institutions on 1 July 1972.<sup>17</sup> During his graduate studies at Harvard, Arthurs studied with both Lon Fuller—whom he portrays as a libertarian hostile to state regulation—and Albert Sacks, the Legal Process scholar and future Harvard Law School dean.<sup>18</sup> When Arthurs served, years later, as the “self-styled coordinator of the affiliation project” between Osgoode Hall Law School and York University, Sacks was commissioned to prepare a report on the move; the report ended up reflecting Arthurs' own enthusiasm.<sup>19</sup> Arthurs does not mention the report and is silent as to any role he might have played in bringing in Sacks, though the reader may draw inferences. We also learn that in the “spring of 1965” Arthurs received and rejected offers of employment from faculties of law at both the University of Toronto and McGill University.<sup>20</sup> We do not know whether Arthurs applied for these jobs (or was approached unsolicited)—if he did apply, he would likely have done so before the York move was announced in March 1965—and

---

16. *Ibid* at 140 (n7).

17. *Ibid* at 24, 141 (n1).

18. *Ibid* at 121.

19. *Ibid* at 17. The request to prepare the report came from Murray Ross, the President of York University, in 1965. See Letter from Albert Sacks to Cecil A Wright (14 January 1966), University of Toronto Archives (Accession A82-0041, Box 034). The Sacks Report resides (with restricted access) in the York University Archives in the William GC Howland fonds (PF30, 994001-1-24(2)). A public summary of the report is available in the Minutes of Convocation of the Law Society of Upper Canada. See *Minutes of Convocation of the Law Society of Upper Canada* (Law Society of Upper Canada, 1966) at cxxix-cxxxii. The report concludes, “Osgoode Hall has an exciting opportunity to carry Canadian legal education a giant step forward. Perplexities and frustrations lie ahead, but vigor and imagination in formulating and executing the School's program of development should enable Osgoode Hall and York to realize its potential” (*ibid* at cxxxii).

20. Arthurs, *supra* note 1 at 17.

whether Arthurs' consideration of the offers was affected by the announcement.<sup>21</sup> In any event, Arthurs gives us just enough material to make some interesting speculations about how the course of Canadian legal education might have turned out differently had historical events unfolded otherwise.

Likewise, Arthurs seeds us with ample material to reflect on the contingency of intellectual developments in the legal academy and profession. For example, he shares the somewhat scandalous fact that he was prevented from teaching constitutional law in his early days because "Osgoode's senior public-law scholar" had persuaded the dean that his ideas were too close to those of Bora Laskin, Arthurs' law-school mentor.<sup>22</sup> This event likely informed Arthurs' wholehearted commitment to academic freedom.<sup>23</sup> That same public-law scholar—whom Arthurs all but names as David Mundell<sup>24</sup>—also served as assistant commissioner on the Royal Commission Inquiry into Civil Rights, the report of which, by James Chalmer McRuer,<sup>25</sup> advocated for greater judicial control over administrative agencies.<sup>26</sup> Arthurs is skeptical of the legalism embodied in the *McRuer Report* and eventually produced a monograph, *Without the Law: Administrative Justice and Legal Pluralism in Nineteenth Century England*, which questioned whether common law courts actually did historically exercise inherent jurisdiction over administrative agencies.<sup>27</sup> Arthurs' preference for the specialized expertise of

---

21. Laskin was appointed to the Ontario Court of Appeal in 1965. Could this fact have been a factor in the offer extended to Arthurs in the Spring of 1965?

22. Arthurs, *supra* note 1 at 42.

23. *Ibid* at 87. For Arthurs, universities "must regard academic freedom as their most important value, but they must be prepared to live with the inevitable controversies."

24. Arthurs cites the scholar as an assistant commissioner of the McRuer Report and also the namesake of a medal for legal writing, which Arthurs received. See *ibid* at 43; "The Mundell Medal" (20 October 2020), online: *Ministry of the Attorney General* <[www.attorneygeneral.jus.gov.on.ca/english/mundell\\_medal](http://www.attorneygeneral.jus.gov.on.ca/english/mundell_medal)>.

25. JC McRuer, *Royal Commission Inquiry into Civil Rights: Report No. 1* (Queen's Printer, 1968) [*McRuer Report*].

26. Arthurs, *supra* note 1 at 45. Arthurs writes: "Lawyers – and especially judges – ...tend to accept that legal analysis produces optimal social outcomes and...to view other forms of analysis, other bodies of expert knowledge, with suspicion or condescension."

27. Harry W Arthurs, *Without the Law: Administrative Justice and Legal Pluralism in Nineteenth Century England* (University of Toronto Press, 1985). See also Arthurs, *supra* note 1 at 47. Arthurs writes:

The evidence suggests that if judges always had 'inherent' power to review the administration, they used it very sparingly until well on in the nineteenth century; and far from being indispensable for the 'rule of law,' judicial review when it was invoked seemed often to allow private power and privilege to trump the interests of ordinary people.

administrative agencies and his skepticism about superior courts' superiority recalls closely the attitude of John Willis, whose own blistering critique of the *McRuer Report* suggests the affinity that Arthurs and Willis might have shared.<sup>28</sup> Alas, Willis was not teaching at Toronto during the years that Arthurs studied there, and one can only surmise what formative influence Willis might have had on the young Arthurs had Willis returned to teach at Toronto three years earlier than he did.<sup>29</sup> Willis makes no appearance in the memoir, a striking fact given Arthurs' views on the administrative state.<sup>30</sup>

Arthurs' work will also interest former students of Rod Macdonald, who might be surprised to learn that Arthurs identifies with critical legal pluralism.<sup>31</sup> Macdonald's and Arthurs' diverging definitions of "critical" are emblematic of their longstanding philosophical differences. Whereas Macdonald emphasizes the "law-inventing" and "law-making" character of "legal agents,"<sup>32</sup> for Arthurs the moniker "critical" emphasizes that "power relations are a major determinant of all legal regimes of employment whether originating in the state, the workplace or elsewhere."<sup>33</sup> *Connecting the Dots* provides additional fodder for characterizing the Arthurs-Macdonald divide as embodying competing commitments to structure and agency, as Arthurs repeatedly emphasizes the importance of political economy in structuring the possibilities for human action.<sup>34</sup> However, Arthurs shies away from elucidating the contrast. He describes Macdonald as his "friendly critic,"<sup>35</sup> but does not expand on what terms the criticism lays. Similarly, he cites his own

---

28. John Willis, "The McRuer Report: Lawyers' Values and Civil Servants' Values" (1968) 18 UTLJ 351.

29. Willis taught at the University of Toronto from 1949 to 1952 and again from 1959 until the end of his career. Arthurs graduated in 1958.

30. Arthurs is no stranger to Willis' work. Arthurs participated in a special issue on Willis in the *University of Toronto Law Journal* in 2005, citing Willis' article "Lawyers' Values and Civil Servants' Values" multiple times and engaging in "imagined conversations" with Willis about neoliberalism and globalization. Willis, *supra* note 28. See HW Arthurs, "The Administrative State Goes to Market (And Cries 'Wee Wee Wee All the Way Home')" (2005) 55 UTLJ 797.

31. Arthurs, *supra* note 1 at 39, 129.

32. See Martha-Marie Kleinhans & Roderick A Macdonald, "What is a *Critical* Legal Pluralism?" (1997) 12 CJLS 25; Roderick A Macdonald & David Sandomierski, "Against Nomopolies" (2006) 57 NILQ 610.

33. Arthurs, *supra* note 1 at 39.

34. *Ibid* at 54. Arthurs writes: "The 'real constitution,' I maintained – the constitution that determines the actual relationship between citizens and governments and among the branches of government – is inscribed not in the document that bears that name but rather in the deep structures of political economy." Arthurs was particularly impacted by a piece of London street art that read, "The economy is the secret police of our desires" (*ibid* at 84).

35. *Ibid* at 28.

opening remarks at a symposium in honour of Macdonald, without telling the reader that it was, in fact, a rather pointed critique of Macdonald's "magical realis[t]" disregard for power imbalances.<sup>36</sup> Arthurs' failure to acknowledge their different uses of the nomenclature "critical legal pluralism" is a noteworthy retreat from what is, by his own account, a significant academic disagreement between the two spanning many years.<sup>37</sup>

While one might understand Arthurs' reticence to relive old debates with a cherished colleague who has now passed from this earth, the failure to more precisely reckon with the tension between structure and agency points to another underdeveloped theme of the book: the dialectic between pessimism and optimism. The final chapter brings this to the fore. Arthurs opens it with a sobering verdict on his life's work: "The agenda of liberal legal education and interdisciplinary scholarship... probably never did achieve the transformation of legal thought, culture, practice, and institutions that we all hoped for."<sup>38</sup> Even more pessimistically, he writes, "[M]uch of my hard work has gone for naught."<sup>39</sup> And yet, almost immediately after writing these words, he provides something of a counterpoint, describing his career as a "lifelong project of reform."<sup>40</sup> It is this final note that one wishes could have been developed further.

Despite Arthurs' disappointment concerning the *outcome* of his life's work, the more powerful message—to the reader who has been avidly following the electrifying trail of Arthurs' career—is his embrace of Gramsci's optimism of the will. Arthurs emphasizes the point by giving the final hopeful word to Samuel

---

36. Harry Arthurs, "Opening Remarks: My 'Very Idea' of Rod – and Yours" in Richard Janda, Rosalie Jukier & Daniel Jutras, eds, *The Unbounded Level of the Mind: Rod Macdonald's Legal Imagination* (McGill-Queen's University Press, 2015) 9 at 13-15.

37. *Ibid* at 13. Arthurs writes:

[The] missing element [in Macdonald's work] is power – power that permeates many sites of law, that warps human imaginations, that stunts freedom of expression, that prevents people from adhering to certain legal norms or forces them to do so against their will. All too often, indeed, power trumps phronesis and determines whether human beings become passive legal subjects or active legal agents or neither – but simply disenfranchised, debilitated, or even dead. I've made this point to Rod over the years: 'I have the sense [I wrote to him once] that you continue to overestimate the power of the individual, to underestimate the power of the state, class, culture, and corporation... I sense that a more tragic view of life, a recognition of its large and little brutalities has to be introduced into your picture of identity-negotiating citizens.' Rod responded by calling me a 'tragic realist.'

38. Arthurs, *supra* note 1 at 136.

39. *Ibid* at 137.

40. *Ibid* at 138.

Beckett: “Ever tried. Ever failed. No matter. Try again. Fail again. Fail better.”<sup>41</sup> It is almost as if Arthurs is subliminally or subconsciously inviting the reader to challenge his narrative that his work has been for naught. Rather than being judged against the standard of *outcome*, Arthurs’ embrace of the verb *struggle* can be seen as an exhortation for lawyers and educators to continuously contend for justice.<sup>42</sup> The act of struggling resembles Rod Macdonald’s emphasis on the *pursuit* of virtue.<sup>43</sup> This reader was left wondering whether agency and the pursuit of virtue might not play a larger role in the Arthurs imaginary than he is yet ready to recognize or acknowledge.<sup>44</sup>

One concrete instance where Arthurs’ pessimism may mislead is his diagnosis of contemporary legal education. This is not to disentitle Arthurs of his own verdict on his life’s work: readers and legal educators should take seriously his concern about a creeping “legal fundamentalism” that puts the knowledge-based mission of the law school or university at risk,<sup>45</sup> and ponder his skepticism of law’s emancipatory potential.<sup>46</sup> But while it may be true, for example, that his arguments for an intensive intellectual stream within law faculties have not been embraced widely in a formal sense, Arthurs’ underlying goal—that law schools ought to cultivate critical distance from doctrine, and from the profession<sup>47</sup>—is arguably in ascendance, not decline. A doctoral degree is increasingly becoming

---

41. *Ibid.*

42. *Ibid* at 73. Arthurs writes: “Struggle, I maintain, is what will make the world a better place, not law.”

43. *Ibid.* See Arthurs, “Opening Remarks”, *supra* note 36 at 11. Arthurs writes: “And yet, the destination is important as well. Rod was always searching for virtue.”

44. Arthurs introduces his “Gramscian” version of optimism in his Opening Remarks to the symposium on Rod Macdonald. He writes, “I believe – like Gramsci and unlike Rod – that ‘man is...a product of history, not of nature’” (*ibid* at 14).

45. Arthurs, *supra* note 1 at 65, 106.

46. *Ibid* at 126. Arthurs writes:

[Critical Legal Studies]...persuaded me that law could not accomplish the emancipatory tasks assigned to it, that power relations were determined not by law but by the deep structures of political economy, and that far from ridding society of its ills, law could be, and often was, used to justify, ‘normalize,’ or obfuscate them.

47. *Ibid* at 98.

a standard requirement for newly hired law professors;<sup>48</sup> the norms and culture of many, if not most, Canadian law schools prioritize research.<sup>49</sup> Increasingly, developments such as experiential education, and even integrated practice programs, are being led and framed by scholars committed to academic values of critique, knowledge-generation, and a holistic cultivation of students as citizens.<sup>50</sup> *Law and Learning* was successful in its goal of strengthening the academic culture of Canadian law schools—something Arthurs does not, perhaps, credit enough. On the other hand, while one feature of legal fundamentalism—the belief that there is a “basic” legal knowledge—likely does persist in the Canadian legal academy, it may be too simplistic to impute the popularity of the idea to the influence of the legal profession.<sup>51</sup> It is a complex mix of intellectual influences and inheritances that leads to the persisting commitment to the idea that there is a “core” legal knowledge.<sup>52</sup> Arthurs’ refutation, that “there is no such thing as

---

48. Craig Forcese, “The Law Professor as Public Citizen: Measuring Public Engagement in Canadian Common Law Schools” (2015) 36 Windsor Rev Legal & Soc Issues 66 at 76. Forcese writes:

In terms of education, 49.9 percent of Canadian common law professors have doctorates. Another 42.7 percent have LLMs as their highest degree, while 5.5 percent have JDs, LLBs, or BCLs as their highest degree. The remaining 1.9 percent had other master’s degrees (for example, MA, MBA, MLitt, MSL) as their highest degrees.

See also Edward Veitch & Roderick Macdonald, “Law Teachers and Their Jurisdiction” (1978) 56 Can Bar Rev 710; Adrien Habermacher, *Institutional Cultures and Legal Education at Select Canadian Law Faculties* (DCL Dissertation, McGill University Faculty of Law, 2019) [unpublished] at 243; Shauna Van Praagh & Elizabeth Bateman, “Becoming a University Educator: Teaching Tomorrow’s Law Teachers” J Leg Educ [forthcoming in 2021].

49. See e.g. David Sandomierski, *Aspiration and Reality in Legal Education* (University of Toronto Press, 2020), ch 6.

50. See e.g. Lorne Sossin, “Experience the Future of Legal Education” (2014) 51 Alta L Rev 849; Jason MacLean & Frances E Chapman, “The Lost Law School: Toward a Truly Transformative Reform of Legal Education” (Paper presented at the ACCLE/CALT Annual Conference entitled “The Whole Lawyer and the Legal Education Continuum,” University of Victoria Faculty of Law, 9 June 2017) [unpublished]; Sari Graben, “Law and Technology in Legal Education: A Systemic Approach at Ryerson” (2021) 58 Osgoode Hall LJ 139.

51. Arthurs, *supra* note 1 at 65. Arthurs writes:

Many leaders of the bar, some student groups, and a few law school deans have responded to this troubled situation by embracing legal fundamentalism – a belief system with three related tenets. The first is that recent graduates are facing poor employment prospects because they are not properly educated. This deficiency can be remedied (fundamentalists believe) if law schools place renewed emphasis on teaching ‘the basics.’

52. See Sandomierski, *supra* note 49, ch 6.

the ‘basics’ of legal knowledge,<sup>53</sup> is a lesson that should be widely reflected upon and internalized by all members of the legal profession and academy. The depth of Arthurs’ insight risks being overlooked if a focus on the “enemy at the gates” prevents a more careful introspection about our own simultaneous beliefs in both fixity and indeterminacy in law.

Reflective of this ambiguity, Arthurs reveals *himself* as somewhat emblematic of a complicated legal identity. Throughout the book, Arthurs repeatedly places himself at a distance from the conventional lawyer. As a law student, he “couldn’t see the point of common law reasoning”;<sup>54</sup> as a young professor, he felt that to make his mark, he “would have to stop ‘thinking like a lawyer’ and adopt broader perspectives on...social and political issues.”<sup>55</sup> He critiques the lawyer’s tendency “to accept that legal analysis produces optimal social outcomes and...to view other forms of analysis, other bodies of expert knowledge, with suspicion or condescension.”<sup>56</sup> He writes that that lawyers’ committees often proceed “on the basis of anecdotal evidence and intuited conclusions,”<sup>57</sup> and decries lawyers’ *déformation professionnelle*—“the tendency of intense professional training or experience to narrow or skew one’s perspectives.”<sup>58</sup> He considers his scholarly role as being to cultivate “measured disrespect” for judges, and in teaching eschewed the case method, which “simply did not allow [him] to pursue the broad agenda of issues with which [he] hoped to engage [his] students.”<sup>59</sup> Law students and professors, he writes, need to “take a critical distance from the legal system and legal practice as we know them today,” and law schools should “not assume that legal practice is the destiny of each and every graduate.”<sup>60</sup>

And yet, Arthurs writes: “I never intended to be a legal academic...and I certainly never imagined that my choice of career would place me at arm’s length from the legal profession itself, which I had hoped to enter for as long as [I] can remember.”<sup>61</sup> Law school was “preordained” from his early days of dinner conversations about law.<sup>62</sup> One senses a certain pride in fulfilling the role of the

53. Arthurs, *supra* note 1 at 66.

54. *Ibid* at 15.

55. *Ibid* at 28.

56. *Ibid* at 45.

57. *Ibid* at 61.

58. *Ibid* at 62.

59. *Ibid* at 93, 95. Arthurs sought to “free [students] from the tyranny of rules” and to help them “live at ease with multiple truths, irresolvable conflicts, abundant ambiguities and ironies galore.”

60. *Ibid* at 98.

61. *Ibid* at 56.

62. *Ibid* at 14.

lawyer—or at least drawing on legal expertise (notwithstanding his denigration of overly legalistic processes and attitudes)—in his work as a labour neutral and university president.<sup>63</sup> But most revealing of a possible ambivalence about his “lawyerly” identity is the subtitle of the book itself: *Life as an Academic Lawyer*. Arthurs considers his titles carefully,<sup>64</sup> and he has chosen here to refer to himself as an academic *lawyer*, not a legal *academic*. By nominalizing the legal referent in the subtitle, he linguistically conveys what might be a subconscious desire to reclaim the identity of *lawyer*, despite a memoir that systematically distances himself from it. Why may this be?

Perhaps his use of the term “academic lawyer” is primarily a signal to his era. Arthurs acknowledges that the place and date of his birth played an important role in his professional success,<sup>65</sup> and it may be meaningful for him to use a term that was *au courant* during the formative years of his career. Law professors in the 1960s and early 1970s were more likely to refer to themselves as “lawyers” than law professors are today.<sup>66</sup> Arthurs’ use of the term might be a holdover from this

63. *Ibid* at 33-37.

64. One cannot read the book without marveling at his pithy titles. Some notable ones include HW Arthurs, “Globalization of the Mind: Canadian Elites and the Restructuring of Legal Fields” (1998) 12 CJLS 219; Harry Arthurs & Brent Arnold, “Does the Charter Matter?” (2005) 11 Rev Const Stud 11; Independent Committee of Inquiry into Academic and Scientific Integrity, *Integrity in Scholarship: A Report to Concordia University* (Concordia University, 1994); Consultative Group on Research and Education in Law, *Law and Learning* (Report to the Social Sciences and Humanities Research Council of Canada, Chairman Harry Arthurs) (Social Sciences and Humanities Research Council of Canada, 1983).

65. Arthurs, *supra* note 1 at 29-30. Arthurs writes:

I owe my distinction primarily to being in the right place at the right time. As I often claim, deciding where and when to be born is the most important decision one can make. I wisely decided on Toronto in 1935 – a member of the small generation sometimes known as the ‘lucky few.’

66. Dick Risk, who graduated from the University of Toronto Faculty of Law in 1959, a year after Arthurs, describes the progression of the role of the law professor over his career:

If you had awakened me in the middle of the 1960s...in the middle of the night...and said, ‘what do you do for a living?’ perhaps I might have said, ‘I am a lawyer, but I teach at a university.’ My primary idea was that I was a lawyer, and that I was teaching. If you had awakened me in the late 1980s, I might have said, ‘I teach at a university,’ and I think there [is] a deep difference in those two waking moments.

(Interview of Dick Risk by Cynthia Smith (11 November 2013), Osgoode Society for Canadian Legal History Oral History Program at 30). Another example can be found in the 1972 collection in which Arthurs’ essay “Towards a Humane Professionalism: Lawyering and the Convivial Society” appears. See David N Weisstub, “Introduction” in David N Weisstub, ed, *Law, Growth & Technology* (Centro Internacional de Documentacion, 1972) at 3. The editor describes the scholarly collection as “reflecting the thought of a number of lawyers.”

period, either as a nostalgic attachment to the term or to remind the reader of his provenance.

Or perhaps Arthurs is conveying an aspirational definition of the term “lawyer.” Such an interpretation would be consistent with his attempt, in *Law and Learning*, to articulate the practical benefits—for *lawyers*—of critical distance from conventional wisdom. Lawyers, he writes, require the “humane” elements of a university education in order to better “adapt to changes when they occur, to assist in bringing about such changes through law reform and other public activities, and to accomplish change themselves in the limited context of serving individual clients whose interests do not coincide with accepted solutions.”<sup>67</sup> In many ways, Arthurs’ polymathic career can be characterized as one that sought to adapt to, bring about, and accomplish change in the diverse fields in which he was engaged. Arthurs’ title suggests that his own career may serve as a model for what the *lawyer* may accomplish if the academic—the humane—is embraced. Humane professionalism is a term that not only reverberated in the legal academy for years after *Law and Learning*,<sup>68</sup> but in fact—as one can learn from following the trail in the endnotes—figured in Arthurs’ thinking over a decade *prior to* the report’s publication.<sup>69</sup> The academic lawyer—the humane professional—may be the most important metonym that Arthurs intends to leave us with. After all, he tells us near the very end of the book, “I look for a metaphoric or allusive title

---

67. *Law and Learning*, *supra* note 64 at 49-50.

68. See *e.g.* Julian Webb, “The Ambitious Modesty of Harry Arthurs’ Humane Professionalism” (2006) 44 *Osgoode Hall LJ* 119; *Special Issue on Law and Learning* (2003) 18 *CJLS* 1.

69. See Arthurs, “Towards a Humane Professionalism: Lawyering and the Convivial Society” in Weisstub, *supra* note 66, 5/3. Arthurs writes:

Increasingly important is the attempt by lawyers to place their knowledge in the context of other disciplines: history and philosophy and political theory of course, but as well economics and psychology and sociology. Without the perspectives of these other disciplines, law becomes a closed system, impervious to external stimuli, incapable of response to social needs (*ibid* at 5/6).

He also writes: “In society generally, and in the professions particularly, universities represent a significant change agent...learning based on critical exploration of systemic theory tends to promote the critical faculties” (*ibid* at 5/13). Later, he writes:

In order...to bring an informed judgment to bear upon the authenticity of a profession’s claim to expertness, it is necessary to identify professionals with a substantial social consciousness, objectivity, and immunity from professional sanctions, and to assign to them the task of making judgments. These individuals may be judges or administrators or legislators, or, indeed, members of the practicing profession. What matters is that their task is assigned to them explicitly, and that they are given the necessary institutional supports to enable them to discharge it effectively (*ibid* at 5/15).

that serves to link the diverse phenomena which seem to me to be related in some way that other people haven't noticed."<sup>70</sup>

It remains plausible, therefore, that the “academic lawyer” is not only an apt self-description, but a carefully chosen means of exhorting the reader to contemplate the diverse ways in which the legally educated—including those in the practicing profession—might contribute to society. Arthurs models the optimism and will necessary to continually redefine society's needs and to re-imagine how law might help meet them. He leaves it to us, the next generation, to be the agents of change and the interpreters of the many lessons—including our own possibly contradictory commitments—to be drawn from his remarkable life.

---

70. Arthurs, *supra* note 1 at 132.

