

HIGHLIGHTS OF AUTC'S LEARNING OUTCOMES AND CURRICULUM DEVELOPMENT IN LAW REPORT



The 500-page *Learning Outcomes and Curriculum Development in Law* report painted an excellent picture of the Australian legal education landscape as it existed at the beginning of 2003. It mapped the significant changes that had taken place in legal education since the seminal *Pearce Report* of 1987. However, the dissemination methods used by the AUTC were not sufficient to allow this information to reach Australian legal academics in a meaningful way. Although things have developed in the last six years, much of the information, especially as it discloses trends, remains useful and relevant, and the work of the current ALTC/CALD Law project builds from it.

This resource is designed to provide Australian legal academics with an accessible introduction to the report. The full report can be accessed from the website of the Council of Australian Law Deans http://cald.asn.au/legal_educ.html

The views expressed in this document do not necessarily reflect the views of the Australian Learning and Teaching Council.

The challenges posed by the Report include:

- to promote incremental and coordinated approaches to curriculum development
- better evaluation of effectiveness of teaching strategies
- sharing of effective teaching strategies, policies and practices; and most of all
- uniform promotion of scholarly approaches to teaching and curriculum development.

The latter part of this resource provides case studies of 2009 innovative directions and there are some references at various places in this report summary text.

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Resources:

1. Gilling, J. (2009). Globalising the Law Degree. *Campus Review*. Vol 19(2). February.
2. Easteal, P. (2008). Teaching about the Nexus Between Law and Society: from Pedagogy to Andragogy. 18, *Legal Education Review*
3. Heath, M. (2005). Encounters with the Volcano: Strategies for Emotional Management in Teaching the Law of Rape. 39 (2) *Law Teacher: The International Journal of Legal Education* 129

Project Objectives Focus

The focus of the AUTC law project was as follows:

- identifying responses to changing circumstances through curriculum development and review processes
- mapping of revised teaching and assessment methods for changing circumstances
- gauging student awareness of expected learning outcomes, intended graduate attributes, links to curriculum, teaching methods
- understanding the impact of globalisation and new ICT on teaching and learning
- gaining insight into the role of professional experiences and management within curriculum
- seeking information regarding graduate employability and employer/industry satisfaction
- finding out about the impact of growth in double/combined degrees and the balance of undergraduate/postgraduate programs
- highlighting of 'best practice' in law teaching and learning.

Research Methodologies used

Various research approaches:

- 27 Law school Heads/Deans/others: interviews & focus groups
Topics: Curriculum Teaching and Learning
- law school program documentation
- examining numeric enrolment data
- law student written survey (21 law schools)
Topics - Social Profile
 - Law Study Reasons
 - Career Destinations
 - Expectations of Law Degree
 - Evaluation of Skills/Competencies
 - Perception of Quality
- law student focus group/telephone interviews: 67 volunteer participants
- employer structured telephone interviews.

Topics: quality, skills, knowledge, competencies, perceptions of education outcomes transfer into recruitment practices

53 volunteer participants

BIG PICTURE ASPECTS

Law schools proliferation

There has been a proliferation of law schools since the late 1980s:

- 1855 – 1960 (1st wave). 6 law schools in State capital cities
- 1960 – 1987 (2nd wave). 6 additional law schools
- 1987 – 2003 (3rd wave). 17 new law schools.

** (Update information: since 2003, an additional three law schools have started)

Law school changes

Since the 1990s there have been many changes in law schools:

1st & 2nd wave law schools changes

- Graduate programs
- Postgraduate programs
- Combined degrees
- Higher degree research.

3rd wave law schools distinctiveness

- Local area focus
- Interdisciplinary studies
- Practical legal skills
- Legal theory
- Developing critical attitude
- Clinical programs
- Small group learning
- Focus on ethics.

Overall Change Trends

The AUTC research highlighted various trends in law school education:

- increased student numbers
- wider student backgrounds
- wider career directions
- wider range of pedagogy eg active student learning
- more discussion-focused teaching and small classes
- more combined degrees
- varied assessment processes
- Priestley 11 content areas + legal ethics, theory, skills,
- more course evaluation for management purposes
- some distinctiveness of law schools emphasis
- little systematic internationalisation emphasis.

Given increased staff workload and decreased funding for legal education, there was continuing dominance of the traditional teacher-centred, content-focused, case law model.

** (Update for 2009: see Case Studies for innovative approaches) .

Uniformity & Diversity: Curriculum Design & Review Processes

Law schools vary in structural approaches, with some core compulsory subjects and various electives. This helps in catering for diverse student needs in terms of preparation for legal practice and law for intellectual or other purposes.

The Priestley 11 content provides uniformity to most law programs, generally accounting for 2/3rds of LLB programs. The Priestley 11 is variously organised. A given Priestley area might be taught in one stand-alone subject, or divided among several subjects, or two Priestley areas might be taught in one subject.

Elective programs have an important role in identifying the uniqueness of law schools, in catering for student interest and areas of intended specialisation and broadening students at a personal level.

Diversity found in:

- combined degree offerings
- over 130 different ones, primarily of the 'add on' rather than integrated type
- stand-alone LLB primarily for school leavers
- graduate entry programs
- Juris Doctor niche market programs
- programs for full fee paying.*

* (now abolished for Domestic students where law is their first degree).

Review & Development Processes

- Development of a 'culture of continuous improvement' ethos was noted.
- Most law schools had internal committees to monitor and oversee curriculum development.
- Law schools had shown greater willingness to obtain feedback from and consult with students, employers and professional bodies.
- Consultation often took place outside formal review processes, eg via regular meetings with student representatives and the establishment of external advisory bodies.
- Many law schools are subject to broader university review and accountability mechanisms and processes.
- Many law schools lacked autonomy in their capacity to institute curriculum change and sometimes had change foisted upon them by exercise of greater university controls influenced by resources or broader policy requirements.

BEYOND RULES OF LAW

Infusion of Skills & Training

A divide in views was exposed between an education focus for law teaching and a training focus. But the report noted the significant trend to an increased focus on formal teaching of practical legal and/or generic skills, in addition to traditional exposition and analysis of legal rules and principles.

- Conventional legal skills, eg legal research; legal reasoning; critical evaluation of legal rules & policy; presentation of arguments.
- Some schools went further to include skills such as drafting, negotiation, interviewing, team work; oral/written communication.**
- Professional / Practical Legal Training (PLT) beginning to be embraced by a small number of law schools.
- Clinical legal education programs (in the broad sense of encompassing community legal centres, simulations and placements) were developing on a small scale.

Curriculum developments in the skills area were often accomplished in piecemeal instead of systematic fashion, primarily due to resource constraints of implementing labour intensive skills programs and the challenge of reconciling competing demands from universities, students, employers, law societies and admitting authorities.

Most law schools do not have skills teaching mapped and embedded within the curriculum so students are exposed to skills teaching incrementally and can develop their skills over time in increasingly complex situations.*

*(Graduate Attributes-based approaches are now leading to greater use of mapping).

Legal Theory

- Part of compulsory or elective programs in most law schools
- Stand-alone subject or integrated
- Various year levels and broad/ specific foci
- Little integration to build student understanding of different areas of legal theory
- Relevance and resistance issues.

Legal Ethics

- Ethics: standalone subject, component of stand-alone subject, mostly compulsory but sometimes elective.
- Ethics sometimes revisited but generally no formal approach towards coordination
- Need for a coherent philosophical basis for legal ethics and for more than practical ethical problem solving emphasised.**

** (See Case Study 5 for innovative ethics approaches).

There is an increasing focus away from content and what lawyers need to know and towards what lawyers need to be able to do.

Legal ethics/professional responsibility, legal theory and generic and specific legal skills are increasingly important although usually taught as stand-alone rather than integrated subjects.

** (see Case Study 4 and other 2009 innovative Directions).

TEACHING AND LEARNING

A key finding in the law school research is that fewer law teachers accept that their role is merely to transmit subject content.

Rather, teaching is conceived of as non-hierarchical facilitation of active student learning, anchored by thoughtful teaching strategies:

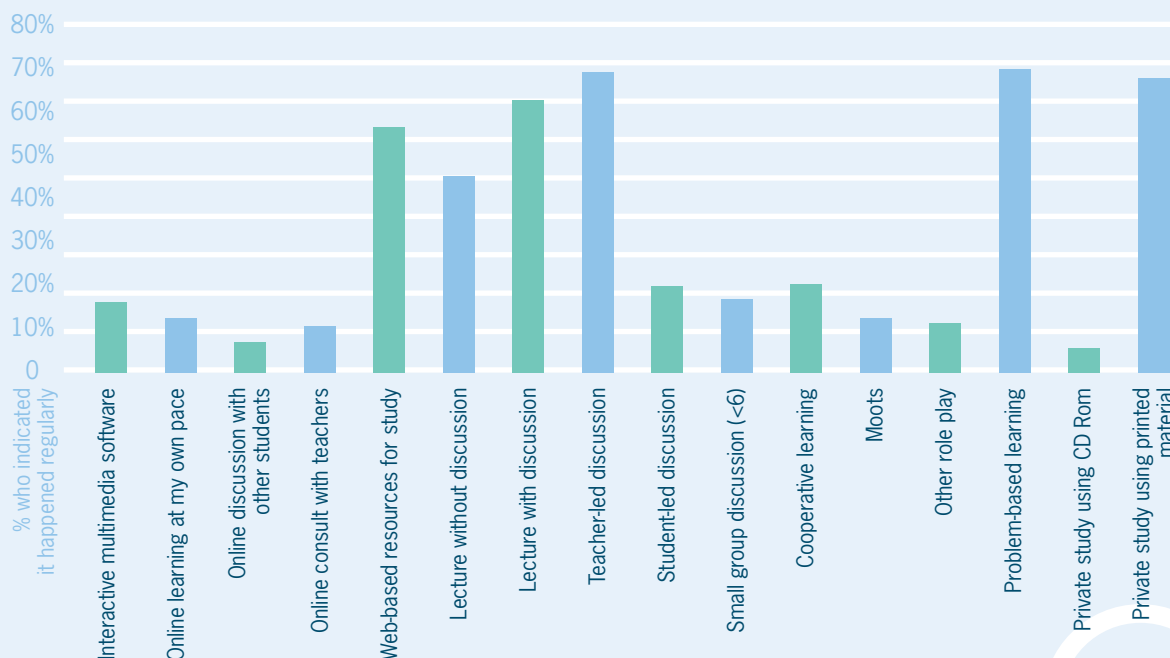
- more active learning pedagogy and discussion groups used**
- student-focused teaching
- smaller class sizes
- more pastoral care for law students
- more policies and guidelines for preparing teaching materials eg web templates
- clearer learning objectives, learning tasks aligned with assessment tasks and more feedback are generally evident
- some group assessment tasks are used although rare**
- greater variety of assessment tasks and clear criteria but examinations are predominant**
- changing style of teaching materials: key cases, introductory text, topic summaries, questions to guide reading, class discussion, hypothetical problems, simulations.

** (see Case Studies of 2009 Innovations).

'It would not be accurate, however, to claim that the scholarship of teaching is given importance by all law schools or by most teachers within some law schools. ... there is a very strong traditionalist streak.'
(p. 460)

'While some teachers are using the problem method and genuine problem-based learning methods, this is an area in which law teaching is lagging behind disciplines such as medicine.'
(p. 463)

% Student views on regularity of specified teaching methodologies



Influences on Teaching and Learning

- Increasing semesterisation of undergraduate subjects
- More use of information technology in teaching**
- More intensive teaching due to student flexibility demands including accelerated programs
- Greater administrative burden for teachers through ICT.

** (Update: see Case Studies 1, 2, 3: Second Life, E-portfolios, Virtual Placement).

Inhibitors

There is a range of teaching inhibitors outlined in the research:

- lack of adequate resources
- student paid work & poor class attendance and preparation
- large class sizes due to increased enrolment
- academic staff doing administrative work
- negative consequences of casualisation
- teaching facilities
- lack of educational training
- primitive use of student evaluation process
- demands for content coverage at the expense of other important factors
- non-law school demands on students such as paid employment.

Management & Support for Teaching

- Continual assessment, evaluation, appraisal of law teaching.
- Student evaluation of law teaching by universities.
- More support for law teaching conference attendance and post-graduate teaching qualifications. But still a view that teaching achievements and desire to improve teaching were institutionally undervalued.

'Very few law schools reported that they had in place systematised support for a scholarly approach to teaching which would include measures to ensure that teachers individually, and schools as a whole, evaluate the effectiveness of teaching in terms of its impact upon student learning. Furthermore, law teachers are not all encouraged by their schools to immerse themselves in the literature on teaching and learning, and some law teachers are encouraged to introduce changes to their classroom teaching methods without being given the basis and framework for those changes. (p. 464)

GLOBALISATION AND INFORMATION TECHNOLOGY

Globalisation

Many law schools are not well advanced in catering for the impact of globalisation on legal education and the needs of the legal profession:

- The focus is on student exchanges, using overseas teachers, staff teaching in overseas programs, using national rather than state based curriculum.
- Some elective subjects available in international law.
- Priestley content requirements focus law schools on local rather than international issues and there is little additional time for issues posed by globalisation.
- Mostly law schools do not see globalisation as a priority.

'Australian law schools...have not developed coherent and systematic strategies to address the demand that globalisation could impose on lawyers in the near future' (p. 464). **

**Update: Since 2003, laws and legal issues are increasingly shaped by international developments and over 66% of law schools have international law courses and pathways.

Commercial law links to free trade agreements, family law and child abduction may involve overseas aspects, and an Australian bill of rights and environmental law have international contexts.

Information Technology (IT)

IT is given little emphasis in many law schools. This is despite information retrieval being among the major skills that students need to master in legal scholarship and practice.

Some law teachers are not convinced that student learning is improved by greater use of IT.**

Some aspects raised in relation to IT:

- Some schools have training in web based information retrieval methods.
- Technology is frequently used for student notices or for students to download study notes.
- Some law schools have developed courses about legal issues and IT.

Little systematic approach to overall issues raised by IT throughout Australian law schools.

** (Update: see Case Studies for innovative teaching & learning approaches using technology).

As Gillian Triggs, Dean of Law at Sydney University indicates:

'So many legal problems are global or transnational in character. These include climate change, the integration of trade, taxation, terrorism, war crimes and criminal matters generally'.¹

Case Studies

This section shows that changes in the areas reported upon in 2003 are taking place.

Second Life

Second Life, the three dimensional virtual world in which individuals create an avatar which represents themselves in a range of places such as laboratories, shopping malls and natural environments, is increasingly being used for learning.

The University of Southern Queensland is piloting Second Life software, especially for external students enrolled in Criminal Law. Virtual law courts, Judge Chambers and coffee shops have been built on USQ Island.

There are various key contexts:

- Mock Court Appeals/Summing Up before a Judge as part of Criminal Law B, with courtrooms and judge.
- Chambers established within Second Life and volunteer students involved through setting up avatars, using Second Life for assessment.
- Using Second Life venues on USQ Island such as coffee shop and judge's chambers for students to conduct weekly consultations.
- Using Second Life in which to film educational videos and vignettes for quizzes using avatar actors to engage students.

While still in the early stages of usage, some of the benefits of using Second Life in education include:

- greater equity for distance education students
- providing more engaging materials for external students
- production of quality education materials at a relatively small cost.

E-Portfolios Case Studies

The E-portfolio is a digitised collection of materials which is owned and maintained by the students themselves. It can capture learning experiences and is a depository of student achievement in terms of knowledge, skills and professional attributes.

The University of South Australia is in the early stages of embedding e-portfolios and career development skills across the law program using Web2 technology, specifically utilising Pebblepad. E-portfolios are being used to aid the development of graduate qualities and as a means of collecting and storing assessment and for reflective learning.

Specifically, the law e-portfolio includes:

- Reflective writing – for students to re-examine their learning experiences such as mock trials and for considering future directions
- Evidence – providing opportunities for students to upload work samples in a multimedia format such as videoclips of negotiations and mock advocacy and interviews, research papers, assignments and legal documents such as draft pleadings and affidavits
- Resources & References – allowing students to store work-related information.

While students are encouraged to use their e-portfolio widely for building a long term tool for career management purposes, e-portfolio assessment is currently limited to Contracts A and Contracts B. E-portfolio assessment tasks have included activities such as:

- reflective journal regarding a role play negotiation exercise including in relation to achieving improved work-life balance in a law firm
- team problem-based learning exercise related to a commercial contact, witness statement, correspondence & commercial documentation, with guidance occurring regarding legal analysis of issues.

Assessment comprised:

- group analysis of legal issues
- individual reflection on the negotiation exercise, which involved outlining the negotiation process, appraising the process and addressing skills development.

Virtual Placement Project

Queensland University of Technology is piloting virtual placements for undergraduate law students, with 20 students in the pilot and with potential accommodation for over 500. The Virtual Placement project provides opportunities for both employers and students, with students being able to apply legal knowledge and skills to complete a real world workplace project in a team while using technology. Students use online communication technologies to be virtually rather than physically present at the workplace and to engage with other workplace participants including the virtual placement workplace supervisor.

Blackboard and Sharepoint technology is used, with student to student and student to supervisor communication being conducted virtually using online formats such as video, skype, discussion forum, online chat and email. In the initial phase, a major international law firm, a law reform body with a focus on protecting individual citizen rights in business/government contestations, and an international charitable social justice organisation in South East Asia are involved.

Specific processes for undertaking the Virtual Placement Project are:

- Students apply for an advertised position, with virtual interviews also possible.
- Students are allocated to a virtual workplace and may be given access to the employer's technical infrastructure in some cases.
- Various online material is accessed for learning support including audio visual material, Frequently Asked Questions, articles, fact sheets, resume writing guides, worksheets regarding curriculum vitae and social justice information.
- Workplace mentors provide feedback on the project outlines to student teams, highlighting practical considerations, as well as the ethical/political/social context of tasks.

Some workplace tasks undertaken to date have included researching an intellectual property web domain dispute and creating educational materials to inform South East Asia prisoners about their rights.

Assessment includes:

- job applications
- online discussion forum entries
- executive summaries
- project outlines
- completed team project & individual assignments
- student e-portfolio entries.

Currently undergoing evaluation, some outcomes to date are:

- learning of new technology skills such as e-portfolio and e-tutorials
- students accessing a wider range of real world opportunities through virtual experiences rather than being physically present
- identification of authentic sustainable projects.

Reflective Learning Chronicles and 'Buzz' Groups

Active and learner-centred approaches to law education involving reflective chronicles and 'buzz' groups are a significant aspect of the University of Canberra law program.²

Scaffolding and supported learning occurs through:

- formal instruction using visual aids, interspersed with small group discussions
- 'buzzes' based on reflection and answering a series of questions in groups
- follow-up emails to students acknowledging their insights
- using international student perspectives and backgrounds in relation to legal discussions.

'Buzzes' in *Gender and the Australian Legal System*, *Employment Discrimination and the Law* and *Family Law* subjects, may involve student pairs. They may create skills and role plays generating various questions for client interviews regarding a parenting order in a suspect domestic violence situation.

Action Research:
Reflecting
Changing Buzz Questions,
'Lengthy' Pieces,
Reading Materials,
Topics

LEARNING CHRONICLES

Aims:
Life-long and
'Deep' Learning
Eureka Moments
(Threshold idea there
is profound interplay
between law
and society)

Sharing
interspersed
with Buzz Groups:
Learner Centred
Andragogy
Collaborative
Learning

Using Role for Learning Case

Scripted plays involving ethical dilemma are used as a learning approach in the *Lawyering: Procedures and Ethics*, and *Law and Medicine* subjects at Flinders University.

The tutorials in *Lawyering: Procedures and Ethics* focus, first, on such practical legal skills as interviewing, listening, providing feedback, negotiating, oral advocacy, and drafting and, second, on analysis of ethical problems. Tutorials in *Law and Medicine* also focus on analysis of ethical problems.

Both courses include a play by Andrew Alston called *Ethical Dilemmas* which features in several tutorial sessions. The play has been written and is being used as a teaching exercise on ethical problems facing lawyers, companies, executives, researchers and doctors. It concerns the dilemmas faced by professional people who have become aware that a widely- available drug is harmful to people who have been taking it.

The play is used in the following manner:

- Students read and evaluate the play and discuss questions that are contained in footnotes.
- They also discuss broader questions that arise relating to the ethical duties of lawyers, doctors and researchers.
- Students are expected to answer these questions with reference to the Law Society's Rules of Professional Conduct and Practice, the AMA Code of Ethics, the National Statement on Ethical Conduct in Human Research and also core concepts of ethics.

The use of the play in this way purports to enhance interest in ethics as something that relates to people and to encourage students to actively participate in the solving of ethical problems.

Engaging Emotions and Promoting Learning and Student Wellbeing

Using an emotionally disengaged approach to the subject matter of law is often considered to be at the heart of legal work and study. However, for law students, particularly those who have personal or other close experiences of sensitive aspects such as rape, and alternative approach of acknowledging the presence of emotion, providing resources and encouraging self-management and other constructive approaches is being advocated by some academics.

Some lecturers in rape law at Flinders University advocate 'an ethic of caring' approach which engages the emotions and provides for students' learning and well-being.³

Appropriate pedagogical approaches which promote safety and trust and acknowledge the centrality of emotion in the classroom and teachers as a human resource include the following:

- De-emphasise individuals as much as possible and provide relevant general information and strategies for the class.
 - Establish class norms with the class by establishing boundaries about appropriate and inappropriate interactions which support sensitive interactions but still facilitate robust and engaged conversations about rape law.
 - Discuss emotional issues explicitly, focusing less on expressing emotions in class than on assisting students to self-manage through raising the possibility of emotions being involved in advance and encouraging those requiring support to organise this so they can make the most of classes.
 - Set up the intended approach in advance, with students given prior detailed information and tutors, co-lecturers and others involved also discussing their approaches and fears about teaching the material.
- Addressing students' existing knowledge and experience including in relation to myths about rape, using a range of perspectives to deal with the diversity of student backgrounds, also confronting beliefs about rape as inevitable.
 - Focusing on evidence rather than using confrontational theoretical perspectives and creating space for optimism.
 - Welcoming individual contact to ensure the classroom learning environment is as constructive for everyone including listening when student disclosures are made, being non-judgmental, keeping student confidence and referring them to appropriate services.
 - Ensuring self-care as a lecturer, acknowledging the potential for impact when dealing with sensitive topics and considering strategies for emotional management.