

Developments in Australian curriculum and teaching across the various law degrees¹

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Abstract –

For the last twenty years, Australian law degrees (LLB) have been reasonably stable in their curriculum due to the academic admission requirements, known as the “Priestley 11”. The last three years have seen major changes in both delivery of law degrees and importance of electives and streams beyond the core Priestley subjects. In particular, the Federal Governments requirements to classify all academics qualifications from levels 1 to 10 (bachelor’s degree level 7, to a doctorate level 10) has with international influences created new law degrees (juris doctor/JD), which compete for the graduate LLB market. Additionally, the growth in general masters of laws (LLM) by course and thesis, with a variety of specialisations, has produced areas of distinction across most law schools. The developments of online technology, with major learning management systems, such as Blackboard, have led to fully online law degrees, the use of blended learning and the flipped classroom. This presentation will provide an insight to the variety of law degrees available and the wide use of different teaching techniques used across the 37 Australian law schools.

Introduction

This paper provides an overview of what is taught in an Australian law degree and how it is generally taught. Clearly, there is not a “one size fits all” format to an Australian Law School. Each will have its own flavour and distinctive history and background. In the late 1800s there were only four law schools, being University of Sydney (1855), University of Melbourne (1857), University of Adelaide (1883) and the University of Tasmania (1893).² By 2014 there are current 37 law schools in Australia, with two in ACT, 10 in NSW, one in Northern Territory, eight in Queensland, three in South Australia, one in Tasmania, seven in Victoria and five in Western Australia.³ In 2001 there were 27,500 students enrolled in a law degree and by 2012 the number had grown by 32% to 36,500.⁴ Individual law schools have between 1,500 to 3,250 students enrolled in the various law programs. A lot has happened in the last 20 years, which is worth discussing in terms of legal education.

¹ 28th September 2014 Forum 1 – What do we teach and how do we teach it? 4th Sino-Australian Law Deans Meeting, hosted by Zhejiang University Guanghua Law School, Hangzhou, RPC.

² Nickolas James “A brief history of critique in Australian legal education” (2000) 24 MULR 965, 966.

³ CALD website – <http://www.cald.asn.au/slia/lawschools.php> (accessed 11/09/2014)

⁴ Australian Financial Review 4th April 2014.

This paper will look at the structure of the various law programs (degrees) and the law curriculum. It also has a focus on the teaching delivery methodology and the impact of technology in teaching law.

It is worth noting that research conducted by the Centre for Legal Education, led by Adjunct Professor Chris Roper in the 1990s determined that approximately half of all undergraduate law students (LLB) intend to be admitted to practice law. Thus, 50% do not have the intention to actually be lawyers (whether solicitors or barristers), but pursue other careers in politics, business and commerce, industry, the not-for-profit sector or government. In 2013 there are 66,931 practising solicitors in Australia (as stated by the various State and Territory Law Societies) and approximately 20,000 barristers. Specifically in NSW, there are 26,408 solicitors' holding NSW practising certificates and 52.2% are male and 47.8% are female. The NSW Law Society profile of solicitors in NSW published in December 2013⁵ states that 69.8% work in private practice, 10.9% in government (local, state and federal) and 19.3% in corporations. Geographically, 50.5% work in the Sydney CBD, 32.5% in the greater Sydney region (the suburbs) and 12.6% in country areas of NSW. The average age is 42.2 in NSW and approximately half of all NSW solicitors are under 40 years old. Since 1994 the growth in the profession has been 11% from 12,283 to 26,408 in 2013. Finally, 72.3% of NSW solicitors were born in Australia (60.4% born in NSW) and of those born overseas, the Asian countries made up 37.2% and UK/Ireland 17.3%. Similar percentages could be applied to the other States/Territories in Australia.

The last 20 years, Australian law schools have gone through enormous changes, including doubling the number of law schools and quadrupling the number of law students. Additionally, there has been an increase in the adoption of new learning and teaching techniques and greater use of technologies. The internet and legal databases now provide a range of information sources which would have been nearly impossible (or extremely expensive) for any single library to maintain. Less than ten years ago one would have been hard pressed to set a research assignment in Australian law to be compared and contrasted with a Civil Code jurisdiction, such as China. Now it is relatively straight forward with most law libraries having access to international materials online.

⁵ Law Society of NSW "2013 Profile of the solicitors of NSW: Final Report – <https://www.lawsociety.com.au/cs/groups/public/documents/internetcontent/823347.pdf> (accessed 11/9/2014)

Legal system - background

Australia is a common law jurisdiction based primarily on the laws of the United Kingdom. In fact, the *Australian Courts Act 1828* adopted all the laws of England into New South Wales (a colony) and slowly developed its own jurisprudence. The six States and two Territories of the Commonwealth of Australia were formed in 1901. Although Australia had a State and Federal Court system and Parliaments to match, the final appeals still went to the Judicial Committee of the Privy Council (UK House of Lords). This finally came to an end under the *Australia Act 1986*, when the High Court of Australia became the final court of appeal.

Australia with a land mass similar to the United States, but a tiny population of only 23 million, is fortunate to have 44 universities⁶ (most are government funded, with a few private universities, such as Bond University and religious based universities, such as Notre Dame Australia and Australian Catholic University) and as stated 37 law schools. Most universities are established by State/Territory acts of parliament, but are primarily funded by the Federal Government for teaching and research.

There are four main non-government bodies that take an active interest in legal education and these are the Law Council of Australia (with the State & Territorial Law Admitting Authorities); the Council of Australian Law Deans (CALD); the Australasian Law Teachers Association (ALTA) and the Australian Law Students Association (ALSA).

In the publication (and website) *Studying Law in Australia*,⁷ Australian universities are described as having a long tradition of teaching international students and an impressive record of achieving excellence on the world stage. Australian universities have been active in the internationalisation of Australian education. There is now greater flexibility and diversity in course offerings, teaching methods and research orientation. Many Australian universities concentrate on traditional areas of learning and inquiry, while others are more vocational and applied in focus. All, to some extent, follow the Western European tradition of combining

⁶ <http://www.studyinaustralia.gov.au/global/australian-education/universities-and-higher-education/list-of-australian-universities> (accessed 11/09/2014)

⁷ http://www.cald.asn.au/slia/legal_education.php (accessed 11/09/2014)

tuition with research. Some undertake research across all disciplines, while others concentrate their research on areas of particular strength.

In Australia's diverse system of public and private higher education institutions there is a large number of international students from over 80 countries. Australia is actively involved in globalising university education through overseas branch campuses, twinning arrangements and exchange programs for students and staff worldwide. A high proportion of international students in Australian universities are enrolled at the postgraduate level, attracted by Australia's reputation as an innovative and research-intensive culture. There are numerous special centres based at Australian universities undertaking high-level research and providing a diverse range of undergraduate, postgraduate and specialised professional education courses in a variety of fields. University study in Australia is exciting and challenging, advanced and innovative, traditional yet high-tech.

Practising lawyers (those admitted to practice are at a State level including solicitors, barristers, legal practitioners, or solicitors and barristers, depending upon the admitting jurisdiction) are subject to a national curriculum known as the "Priestley 11". This is discussed in more detail later in the paper. The Priestley 11 simply refers to the 11 subject content areas that are required by the 1992 Uniform Admissions Committee, which was chaired by Mr Justice Priestley.

There has been a lot of academic debate about the subjects and their prescribed content, but all law schools adopt the subjects as a core to their bachelor of laws (LLB) programmes. There has been a growth in combined law degrees with business/commerce, arts, technology, journalism, science and many other combinations being common at most universities. In the last ten years, there has been a growth in the graduate law degrees either called a Juris Doctor (JD) or a MLLP (Master of Laws and Legal Practice); these also comply with the Priestley 11 requirements for admission purposes.

In January 2000 the Federal Minister for tertiary education established a national body to improve Australian university teaching and learning, called the Australian University Teaching Committee (AUTC). Since its establishment, the AUTC has led a number of initiatives to enhance university teaching, including funding research into educational matters, especially with a technology focus, specific discipline based research (law being

covered in 2003) and advancing outstanding teaching awards. The AUTC was a separate authority, but now is part of a Commonwealth Government department.

Recipients of the National Teaching Award for Law and Legal Studies received a A\$40,000 grant and an opportunity to share their knowledge and experiences in a variety of ways. In 2003, the award was presented to Sally Kift (Queensland University of Technology); in 2002 no award was made; in 2001 the Kingsford Legal Centre Team (University of New South Wales); in 2000 Michael Adams (University of Technology Sydney); in 1999 Jeff Giddings (Griffith University) and Gabriel Moens (University of Queensland); in 1998 John Wade (Bond University) and in 1997 Nadja Spiegel (University of Queensland). As well as team and individual awards, the AUTC funded a research report entitled *Learning Outcomes and Curriculum Developments in Law* by Professor Richard Johnstone and Dr Sumitra Vignaendra, which was released in January 2003 as a “stock take of legal education rather than a review or comparison of law schools”.

Australian legal education

This was to avoid the criticisms that had arisen from the 1987 Pearce Report on Legal Education. The recent 500 page report is available online and provides the best contemporary review of Australian legal education. It can be accessed at <http://www.autc.gov.au/pr/law/split_law.htm>. At that time of the 28 Australian law schools in existence, 27 cooperated with this project. The authors therefore communicated with many of the stakeholders in the legal education environment. The report builds on the work of Professor Eugene Clark in “Australian Legal Education a Decade after the Pearce Report” (1997) 8 *Legal Education Review* 121 and Craig McInnis & Simon Marginson *Australian Law Schools After the 1987 Pearce Report*, (1994, Australian Government Publishing Service).

At page 460 of the AUTC 2003 report, under the heading of *Teaching and Learning* it states: “Probably the two most significant changes to teaching and learning in Australian law schools since the late 1980s have been a greater concern with “student-focused” teaching and a strong trend towards “small class sizes”. It went on to state that “in keeping with other trends across the university system, law schools are also subject to increased casualisation of teaching staff, the semesterisation of undergraduate subjects and a greater emphasis on the use of information technology (IT) in teaching.

Later in this paper there is a discussion of the Johnstone and Vignaendra 2003 Report comments that although law schools are using more IT, it is not always being used in a sophisticated way for teaching purposes. The use of IT in teaching, in particular, was seen as one way of promoting communication with students about the subject matter and thereby enhancing learning. There are clear resource issues in Australian law schools, which are inhibiting more radical developments in teaching methods and technologies. The whole of chapter 7 of the report is dedicated to “Globalisation and Information Technology”.

It is noted that comparative law and international law are generally not given much emphasis by many Australian law schools, due to the primary focus on admission into an Australian jurisdiction and the Priestley 11 requirements. There are attempts not to be parochial and to focus on national law, problem solving and general principles rather than detailed local laws. There are international based subjects, such as international litigation, international trade law, human rights and the like. As well, a number of international student exchange programs have been established, where credit is given for the overseas law studied at approved universities. There are no developed coherent and systematic strategies to address the demands that globalisation could impose on lawyers in the near future. It is a surprise that the Priestley 11 does not require any study of Public or Private International Law or even a comparative law subject.

Traditional structures

The Chief Justice of the High Court of Australia, the Honourable Robert French AC, speaking at the ALTA Conference in 2011 said:

“The objectives and content of legal education and how it should be undertaken have been much discussed in Australia and in other countries with which we share our legal heritage. A lot of that discussion in recent times has focussed upon the relative emphasis to be given to such elements as the contents of the positive law, its social and historical context, the dynamics of its change, the skills and ethical sensitivities needed for legal practice, the role of the lawyer in society as agent of the rule of law and social justice.”⁸

⁸ Robert French, ‘Legal education in Australia – a never ending story’ (2011) 4th July, ALTA national conference, Brisbane, QLD 1.

The traditional structure of the law degree in Australia is the bachelor of laws (LLB), which follows the English model of legal education. This can be commenced directly from high school and may be a standalone four year degree. It is more common to combine the LLB with another degree, such as arts or business or many other variations, such as ICT or criminology and complete both degrees in five years. The alternative is a graduate entry law degree, where a full undergraduate degree in any discipline is completed before commencing a law degree. These may be designated as a graduate LLB or in the last five years, a JD, based on the USA graduate school model.

The general aims of legal education in Australia are expressed in the *Studying Law in Australia* publication very succinctly as:⁹

“Each law school will have its own particular focus as represented by the skills and interest of its teaching staff. In general, though, it is possible to say that at an undergraduate level, most law degrees aim to:

- teach fundamental principles of Australian law and the ability to apply these principles to client problems
- equip the student with a knowledge of fundamental legal procedures — such as court procedures
- give some introduction to intellectual skills such as legal research, legal writing and advocacy
- appreciate the role of law in society
- understand and respect the ethical standards of the profession
- learn fundamental practice skills.”

For many law students, the study of law prepares them for work as a practising lawyer. Generally speaking, a person must have a law degree to practise as a lawyer in Australia. Most jurisdictions also prescribe a period of additional study, after the law degree, at a practical training institution or a period of traineeship, in some States called articles, in a practising solicitor’s office. A solicitor advises clients of rights and obligations under the law and draws any necessary documentation. Barristers, on the other hand, practise alone and not in partnership. They usually cannot deal directly with clients; they are generally instructed or

⁹ http://www.cald.asn.au/slia/legal_education.php (accessed 11/09/2014)

'briefed' by solicitors on behalf of their clients. They appear in civil and criminal trials on behalf of their clients and give opinions upon legal questions, including drafting documents, referred to them by solicitors. Most lawyers practise as either solicitors or as barristers. Solicitors can practise alone, in partnership with another solicitor or be employed in private practice or in government.

There are substantial numbers of solicitors employed by the Commonwealth and State Governments. Large corporations often also have their own legal departments and employ lawyers who act almost as a solicitor in private practice, but with only one client. Lawyers also work in public interest organisations, such as legal aid, welfare, tenancy advice services and the like. But there are a large number of law students that will treat the study as a general education. In Australia more than a third of graduates with law degrees do not practise law. Law is seen as a good general education for working in business, banking, technology, the property market, construction, public administration, journalism, and many other occupations. Almost all law graduates have a second degree in another discipline, which they undertook at the same time as they studied law or prior to their law studies.

“Priestley 11” legal content requirements

The “Priestley 11” are a dedicated eleven law subjects, which are required to be successfully completed for what are known as ‘candidate status’ for admission into practice as a legal practitioner in Australia. They are named after the Law Admissions Consultative Committee (usually abbreviated as “LACC”, but commonly known as the Priestley Committee as it was chaired by Justice Lancelot John Priestley) which in 1992 determined the minimum academic study requirements for legal practice. The Priestley 11 list is set out in LACC, Uniform Admission Rules 2008, Schedule 1. It is also repeated in the Schedules of the various State/Territory admitting authorities, such as the NSW Legal Profession Admission Board.¹⁰

A law degree or diploma will be recognised as a qualification for admission to practice only if every student has to study all of these subjects. However, the subjects do not have to be taught separately: it is sufficient if they are covered within the syllabus. The Priestley 11 subjects or more formally known as the "Prescribed Areas of Knowledge" include:¹¹

¹⁰ Note that the author is a Member of the NSW LPAB representing NSW Law Schools.

¹¹ In Appendix “A” to this paper a fuller description of the Priestley 11 subjects is included.

- Administrative Law
- Civil Procedure
- Company Law
- Contracts
- Criminal Law and Procedure
- Equity (including Trusts)
- Ethics and Professional Responsibility
- Evidence
- Federal and State Constitutional Law
- Property
- Torts

In addition, most law schools offer a range of additional subjects from which the student may select to complete the required number of subjects in the four/five years. Jurisprudence, international law, comparative law, comparative trade law, elder law, copyright, human rights, patents and advanced subjects in all areas of the law, are examples of subjects which are available but generally not compulsory.

Each law school has developed different focus of specialisations, often linked the research focus or mission of the law school.

Developments at postgraduate level (JD)

Approximately half of the Australian law schools have introduced a Juris Doctor or JD program to have a graduate entry program to the study of law. Many law schools have had a graduate LLB program, which has been part of the undergraduate offering. However, the University of Melbourne made a strategic move to discontinue its LLB undergraduate program and only have a JD law degree. This has become known as the “Melbourne Model” and has been adopted by a few other law schools, in a similar way as to USA Law Schools. The majority of Australian law schools still retain the undergraduate LLB law degree, particularly for current school leavers, with a number offering the alternative JD once a first degree has been completed. The JD is classified as at a masters level and thus has additional electives and the classes are not combined with undergraduate law classes. The Hon Justice

Michael Kirby AC CMG, former High Court of Australia justice, remarked in the *Australian Bar Review* in 2011 that the JD and the online law degrees (offered by CQ University) were two of the major innovations and distinctive features in the last few years.¹²

Australian Qualifications Framework

The Commonwealth Government introduced five years ago the Australian Qualification Framework.¹³ This has attempted to make sure all universities and other education providers (public and private) all have a similar meaning to qualifications such as “degree”, “masters” “honours”, “graduate diploma” and “doctorate”. The lowest level is an AQF level one for a certificate and the highest level is AQF level 10 for a doctorate.¹⁴ Thus a description in terms of volume of learning and time duration and attributes are granted for a university to call a qualification an undergraduate degree. This is known as a AQF level 7 and described as:

Summary	Graduates at this level will have broad and coherent knowledge and skills for professional work and/or further learning
Knowledge	Graduates at this level will have broad and coherent theoretical and technical knowledge with depth in one or more disciplines or areas of practice
Skills	Graduates at this level will have well-developed cognitive, technical and communication skills to select and apply methods and technologies to: <ul style="list-style-type: none">• analyse and evaluate information to complete a range of activities• analyse, generate and transmit solutions to unpredictable and sometimes complex problems• transmit knowledge, skills and ideas to others
Application of knowledge and skills	Graduates at this level will apply knowledge and skills to demonstrate autonomy, well-developed judgement and responsibility: <ul style="list-style-type: none">• in contexts that require self-directed work and learning• within broad parameters to provide specialist advice and functions

¹² Michael Kirby, ‘Online legal education in Australia: The new CQU Law degree’ (2011) 34 Aus Bar Review 237. <http://www.michaelkirby.com.au/images/stories/speeches/2000s/2011/2548-ARTICLE-AUST-BAR-REVIEW-ONLINE-LEGAL-EDUCATION.pdf>

¹³ For more information, see <http://www.aqf.edu.au/> (accessed 10/09/2014)

¹⁴ <http://www.aqf.edu.au/aqf/in-detail/aqf-levels/> (accessed 11/09/2014)

An honours degree in law is classified as a level 8 AQF and a JD law degree as a level 9 AQF (the same as masters by coursework degree). Level 9 AQF is described as:

Summary	Graduates at this level will have specialised knowledge and skills for research, and/or professional practice and/or further learning
Knowledge	Graduates at this level will have advanced and integrated understanding of a complex body of knowledge in one or more disciplines or areas of practice
Skills	Graduates at this level will have expert, specialised cognitive and technical skills in a body of knowledge or practice to independently: <ul style="list-style-type: none">• analyse critically, reflect on and synthesise complex information, problems, concepts and theories• research and apply established theories to a body of knowledge or practice• interpret and transmit knowledge, skills and ideas to specialist and non-specialist audiences
Application of knowledge and skills	Graduates at this level will apply knowledge and skills to demonstrate autonomy, expert judgement, adaptability and responsibility as a practitioner or learner

Developments in curriculum design

Although it has been explained that all law qualifications for admission (whether an LLB or a JD) must satisfy the Priestley 11 content, they may be structured with a great deal of variety. Most law degrees will have a number of core subjects, which generally cover the Priestley content requirements. Then there will be a series of electives which enable a more specialisation of law topic areas. Each program will have a distinctive flavour depending upon the history and mission of the law school. The Australian Learning and Teaching Council developed a series of “Good Practice Guides” and one produced by Professor Alex Steel is outstanding. Its title is “Law in broader contexts”¹⁵ and deals with one of the six

¹⁵ <http://www.lawteachnetwork.org/resources/gpg-broadercontexts.pdf> (accessed 15/09/2014)

Threshold Learning Outcomes (TLO) which are required to be included in a law degree. Professor Steel's paper deals with TLO 1 knowledge. The 2010 Learning and Teaching Academic Standards project, by Professors Sally Kift and Mark Israel¹⁶ list six TLOs including:

- Knowledge (TLO 1)
- Ethics and professional responsibility (TLO 2)
- Thinking skills (TLO 3)
- Research skills (TLO 4)
- Communication and collaboration (TLO 5)
- Self-management (TLO 6)

This still provides a lot of flexibility to include unique curriculum within a particular law degree. Some law degrees focus on practical skills (mooting, advocacy, drafting etc), while others focus on internationalisation or globalisation (comparative law) and others on commercial law or human rights. Professor Michael Coper, former long-time Dean of Law at ANU has written extensively on the breath of curriculum. In his key-note address at the 2012 ALTA Law conference he stated:

“I see the role of law schools as embracing legal education, obviously, but more considerably wider than that. We are also engines of legal research, and we interact and share our expertise with the wider community in a multitude of ways.”¹⁷

Professor Coper, with others, have been advocating for greater internationalisation of the curriculum and notes that on the whole the discipline of law in Australia has been parochial. In his forward to Margaret Thornton's 2012 book *Privatising the Public University: The Case of Law*¹⁸ he states two alternative views of a typical law school:

“...vibrant community of scholars and teachers, working excitedly on cutting-edge research to address big questions of the day, inspiring a committed cohort of engaged and intelligent students with compelling relevant curriculum and innovative pedagogy, and controlling its own destiny through collegial decision-making processes and democratic self-government. Or a second typical law school as world-weary rag-bag of underpaid

¹⁶ <http://www.cald.asn.au/assets/lists/Resources/Threshold%20Learning%20Outcomes%20LLB.pdf>

¹⁷ Michael Coper “Law School and legal Education: What is really important? (2012) SSRN http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2132209

¹⁸ Margaret Thornton, *Privatising the Public University: The Case of Law* (Routledge, 2012)

journeymen and women, under pressure to produce quantifiable measures of their performance, but struggling to find time for research amidst the challenge of teaching large numbers of disengaged students with the mindset and demands of consumer, academic demoralised by their lack of autonomy and powerless to resist top-down decision-making or counteract society's inhospitable economic, social and political forces."¹⁹

Legal research also plays a significant role in the law degree. Doctrinal legal research is not always fully understood by other disciplines and this can cause confusion and disappointment. Dr Terry Hutchinson and Professor Nigel Duncan have addressed many of the key questions of defining and describing what we do in legal research.²⁰ They state:

“the need to distinguish ‘law’ as a practical discipline exercised within a professional setting, ‘law’ as a body of normative rules and principles (the ‘law’) and the ‘law’ as an academic discipline. Jurisprudence and law have been a social and political force since the days of the pre-Socratics, but law as an academic discipline did not truly exist in the common law world prior to the late 1800s”.²¹ The need for quality research skills in a law degree is paramount for honours, future post-graduate studies and for the quality practice of law.

One of the main issues that arises in all law schools and is a challenge for all law students, is the ability to read at a high level. Motivating law students to read has been a key additional challenge for many law academics. Naomi White in an article noted students' lack of pre-reading across many universities.²² Further, Liesel Spencer and Elen Seymour in 2014 stated “students or at least most students, do not come to classes having read the set passages of textbook and other reading material allocated as preparatory reading for that class.”²³ If students choose not to complete assigned readings should the university teachers take on the responsibility of trying to alter that choice or step back and allow students to learn the

¹⁹ Michael Coper, ‘Foreword’ in Margaret Thornton, *Privatising the Public University: The Case of Law* (Routledge, 2012) 1.

²⁰ Terry Hutchinson and Nigel Duncan, ‘Defining and describing what we do: doctrinal legal research’ (2012) 17(1) *Deakin Law Review* 83.

²¹ David Weisbrot, *Australian Lawyers* (Longman Cheshire, 1990) Ch 5.

²² Naomi White, ‘Tertiary education in the Noughties: The student perspective’ (2006) 25(3) *Higher Education Research and Development* 231, 239.

²³ Liesel Spencer and Elen Seymour, ‘Reading Law: Motivating digital natives to ‘do the reading’’ (2013) 23(1) *Legal Education Review* 177.

importance of reading via the experience of failure?²⁴ Spencer and Seymour go on to provide useful guidance as a toolbox of suggested strategies to motivate students to read, including:²⁵

- Social interaction as a motivator;
- The reading load: content and format;
- Making connections between preparatory reading, teaching and assessment;
- Vocational relevance as a motivational tool;
- Consistency and follow-through to sustain motivation;
- Lecturer as translator or mediator of text: a healthier paradigm

Delivery models of teaching law

There is no one standard of how law is delivered in any degree in Australia. Some law schools provide lectures of one hour or two, followed by tutorials with small groups. Other courses rely upon a seminar of students with a three-hour block of time to cover a mini-lecture and a questions/answers based session. Even within a single law program, each subject or unit might be taught applying a different delivery system. Although it is common for teaching to occur at a regular time slot for 12-14 weeks in a semester (normally Autumn from late February until June and Spring from August until late November). The growth in Summer School (December and January) and even Winter School (July) are becoming more common. A few universities have adopted trimesters and the year is divided into three teaching periods. There is also intensive teaching, which a whole subject may be taught in one week and classes maybe offered all day on a Saturday throughout a semester.

The advent of technology has enabled a few universities, such as UNE, Edith Cowan University, Charles Darwin University and CQ University to offer a fully online LLB degree. Other universities have more traditional distance education, with residential on campus experiences as part of the tuition. Virtually all law schools apply either flexible delivery or blended learning, whereby technology is used to transit information (podcasts, learning management system etc).

²⁴ Susan Armstrong and Michelle Sanson, 'From confusion to confidence: Transitioning to Law School' (2012) 12(1) *QUT Law and Justice Journal* 21.

²⁵ Liesel Spencer and Elen Seymour, 'Reading Law: Motivating digital natives to 'do the reading'' (2013) 23(1) *Legal Education Review* 177, 192-199.

There is a spectrum from subjects that are taught entirely online with no face-to-face component through to 100% classroom face-to-face requirements. However, it is interesting to observe that even though technology today is making it easy for students to enrol in distance learning, such a mode of teaching was established as early as the eighteenth century. On 20 March 1728, the Boston Gazette contained an advertisement from Caleb Phillips that was entitled 'Teacher of the New Method of Short Hand.' This was the start of teaching short hand through the use of mail. The material was sent weekly to the people enrolled in those classes.²⁶ In the beginning of the twentieth century, the development of radio and television allowed new methods to be used to improve distance learning. For example, the University of Iowa was the first university that used Educational Television in its teaching. This was followed in 1953 by the University of Houston who offered the first televised credit classes via KUHT.²⁷ However, one of technology tools that revolutionised teaching was the World Wide Web (WWW) which was invented in 1989 by Professor Tim Berners-Lee.²⁸

Universities have also integrated e-learning with face-to-face classes. Such a method of teaching is referred to, in this article, as 'blended learning'.²⁹ In such classes, the level of inclusion of e-learning varies from a minimal to a major presence online. Some academics may use IT to load information onto a website accessible to students. Others may go further by using IT as a mode of delivery of material and a mode of communication with students. This is discussed in more detail in the next part of the paper.

²⁶ Distance Education and Training Council, The History of the Distance Education and Training Council, 2, < <http://www.detc.org/downloads/DETC%20History%20Book.pdf> > (accessed 13/09/2014).

²⁷ KUHT is the first public television station in the United States. Seana L Wallin, "Televised Interactive Education: Creative Technology for Alternative Learning" (1990) 14(3) *Community College Journal of Research and Practice* 259, 260.

²⁸ Tim Berners-Lee and Mark Fischetti, *Weaving the Web: The Original Design and Ultimate Destiny of the World Wide Web by Its Inventor* (1999, Harper Collins).

²⁹ Blended learning has been defined as the integrated combination between traditional learning and IT. Denise Whitelock and Anne Jelfs, "Editorial: Journal of Educational Media Special Issue on Blended Learning" (2003), 28 *Journal of Educational Media*, 99-100. However the use of such a terminology has been criticised by Oliver and Keith who considered that 'there is little merit in keeping the term blended learning as it is currently understood. It is either inconsistent...or redundant'. Martin Oliver and Keith Trigwell, "Can Blended Learning be Redeemed" (2005) 2(1) *E-Learning* 17, 19-20.

Role of technology in teaching law³⁰

Legal scholarship and teaching naturally places a heavy reliance on specific legal resources, including legislation (both state and federal) and case law, as well as secondary materials, such as government reports and academic discussions. Information retrieval is a major skill that law students must master at the beginning of their studies. Australian law schools have been major players in the development of easy internet access to legal information, such as the Australasian Legal Information Institute “AustLII” <<http://www.austlii.edu.au>> and the international resources of the World Legal Information Institute “WorldLII” <<http://www.worldlii.org>>. These databases have developed side-by-side with the commercial publishers, such as WestLaw and LexisNexis, which for a subscription, provide phenomenal legal resources from around the globe to your desktop computer. Many government agencies, parliaments, courts of all jurisdictions, have been willing to establish websites to publish draft bills, new acts or delegated legislation and judgments.

The time delay in a library receiving a hardcopy of a book from another jurisdiction, with its currency issues (both the timing of a latest edition to the cost fluctuation as the US dollar or Euro or Pound Sterling goes up or down in respect of the local Australian dollar currency), has been eased by electronic developments. Assessment tasks have started to include more international comparisons as a component. Postgraduate scholarship tends to range across a large number of jurisdictions.

The impact of individuals’ interest in flexible learning (ie the use a variety of different delivery methods) with the greater use of technology, has changed the way many law schools operate. Faculties and Schools have been developing policies over the last ten years, to take into account changing communication methods including the evolving student population use of email (specifically the ubiquitous “hotmail account”), the growth in quality and stability of university-wide webmail systems, which is on top of the traditional academic “pop-mail account”. At a university level, it has been observed that the development of policies, resources and support for centralised web-based conferencing tool, which are scalable. This means there is a system to transmit additional information in a closed environment. Rather than placing lecture notes on the web for all to access, the university system closes the

³⁰ Some of these comments are derived from a paper the author presented: Michael Adams ‘Special methods and tools for educating transnational lawyers’ (2004) 29th May, AALS Conference: Educating Lawyers for Transnational challenges, Hawaii, USA.

information to only those enrolled into the specific subject, which provides greater control over materials. Other standard features include discussion boards (ideal for large class sizes with FAQs) and real-time chat rooms for distance (external) students and even innovations, such as anonymous role-plays.³¹

Dr Marina Nehme and Professor Michael Adams examined the role of e-learning in corporate law and the value of online resources in 2008 at the ALTA national conference.³² E-learning has had a deep impact on the mode of teaching. This development is normal in view of the historical impact that technology had on teaching practices. For example, in the 1920s, Sidney Pressey, an educational psychology professor at Ohio State University created the first teaching machine. This device offered practice questions and multiple choice questions to students to improve their learning.³³ In 1991, the use of computers was incorporated in learning. In 1994, with the improvement of computers, interactive multimedia computer based learning was introduced and this was followed in 1995 by online computer managed quizzes and video conference lectures. By 1996, the WWW was developed enough to permit internet assisted learning and online assessments.³⁴ From there on, the amazing development of the online technology has allowed more creative ways of teaching to emerge. Nowadays, more online tools, such Second Life,³⁵ are at the disposal of academics to enhance the quality of teaching.

With the availability of the WWW, a number of resources are at the disposal of academics and learners. One of them is virtual controlled environments.³⁶ The law schools and law faculties, in Australia, have been encouraging their staff to incorporate such teaching environments into their teaching. A variety of learning management systems are used at Australian universities, including bespoke versions tailor-made for the university to WebCT, BlackBoard and Moodle. Incorporation of online tools in teaching has been made easier due

³¹ see: <<http://www.learningdesigns.uow.edu.au/exemplars/info/LD7/>> and the paper by Mark Freeman and John Capper on role plays demonstrating their educational value in disciplines <<http://www.ascilite.org.au/ajet/ajet15/freeman.html>>.

³² Marina Nehme and Michael Adams 'E-learning in corporate law: the value of online resources' (2008) 1 Journal of ALTA 21. <http://www.austlii.edu.au/au/journals/JIALawTA/2008/4.html>

³³ "A Hypertext History of Instructional Design: 1920s Concept of Objectives" <<http://www.coe.uh.edu/courses/cuin6373/idhistory/1920.html>> at 26 June 2008.

³⁴ Mark Freeman, "The Role of the Internet in Teaching Large Undergraduate Classes" Innovations in Teaching and Learning (UTS, Discussion Paper n 2, November 1996), 5.

³⁵ Second Life, <<http://secondlife.com/>> at 8 August 2008.

³⁶ Examples of virtual environments are WebCT, Blackboard and Vista. WebCT is now owned by Blackboard. A look at the advantages and disadvantages of studying through a control online environment is beyond the scope of this paper.

to the adoption of IT in our day to day lives. For instance, a survey conducted in 2006-2007 found that 64% of Australian households had home internet access, and 73% had access to a home computer.³⁷

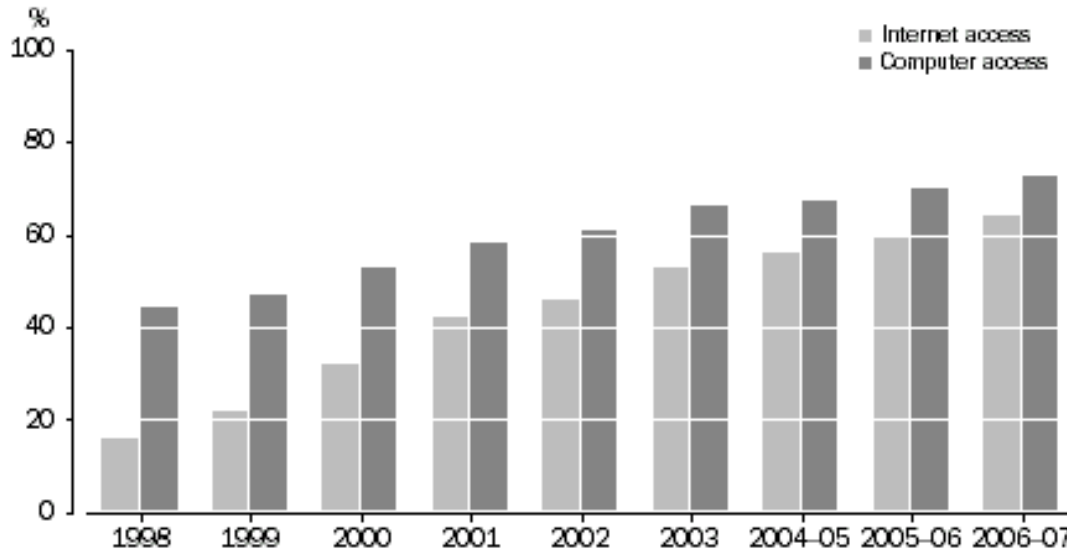


Diagram 1: Household home computer or internet access - 1998 to 2006-07³⁸

As illustrated in Diagram 1, the household’s computer and internet access has evolved over the years. For example in 1998, less than 20% of households had internet access while this figure has drastically changed in 2006-2007 with 60% of the households having internet access. Similarly, households’ computer access has continued to skyrocket over the years.

The message that seems to be sent is that e-learning improves the teaching experience of students.³⁹ However, it is important to remember that IT is just one of the tools at the disposal of academics. The incorporation of IT may solve certain problems, but, like any tool, it may be misused and thereby create other problems. ‘Student Course Experience Questionnaires’ completed by students at the University of Sydney’s Faculty of Law show that the incorporation of e-learning in particular law subjects can receive a mixed reaction from

³⁷ Australian Bureau of Statistics, “Household Use of Information Technology” (Australia 2006-2007), <<http://www.abs.gov.au/Ausstats/abs@.nsf/0/acc2d18cc958bc7bca2568a9001393ae?OpenDocument>> at 14 April 2008.

³⁸ Ibid.

³⁹ John Biggs, *Teaching for Quality Learning at University* (2nd ed, 2006), 213.

learners. Some students noted that the use of 'WebCT is especially good'.⁴⁰ Others stated that 'law lecturers were not able to integrate the use of technology or online learning at all with their programs'.⁴¹ The latter comment was especially true in cases where academics had simply posted 'chunks' of content onto the website for students to access. One way that may help avoid such a problem is for academics to set up their subjects to target a particular audience. At ECU the experience has been that online delivery requires a different 'mindset' and having an in-house e-learning advisor (at least in the initial set up phase) can be a great help in assisting staff to identify and use teaching techniques that are more appropriate to the online environment.

Conclusion

This paper is designed merely to provide a background to the more detailed discussions at the 4th Sino-Australian Law Deans Meeting. It hopefully illustrates the wide diversity of what we teach and how we teach law in the Australian context. With questions and Panel discussions, more information and insight should follow.

⁴⁰ Faculty of Law, "Student Course Experience Questionnaire, Undergraduate Students: Analysis of Open Response Comments", (2005)

< http://www.usyd.edu.au/learning/evaluating/docs/law_sceq_or_ug_2005.pdf > at 9 April 2008.

⁴¹ The University of Sydney, 'E-Learning at USYD' (2005) <

http://www.usyd.edu.au/learning/evaluating/docs/2005_elearning.pdf > at 9 April 2008.

Appendix “A”: ‘Priestley 11’ Subject Descriptions

1. Criminal Law and Procedure

1. The definition of crime.
2. Elements of crime.
3. Aims of the criminal law.
4. Homicide and defences.
5. Non-fatal offences against the person and defences.
6. Offences against property.
7. General doctrines.
8. Selected topics chosen from:
 - attempts;
 - participation in crime;
 - drunkenness;
 - mistake; and
 - strict responsibility.
9. Elements of criminal procedure. Selected topics chosen from:
 - classification of offences;
 - process to compel appearance;
 - bail;
 - preliminary examination; and
 - trial of indictable offences.

OR topics of such breadth and depth as to satisfy the following guidelines:

... the topics should provide knowledge of the general doctrines of the criminal law and particular examination of both offences against the person and against property. Selective treatment should also be given to various defences and to elements of criminal procedure.

2. Torts

1. Negligence including defences.
2. A representative range of torts (other than negligence) and their defences.
3. Damages.
4. Concurrent liability.
5. Compensation schemes.

OR topics of such breadth and depth as to satisfy the following guidelines:

... the potential compass of this area is so large that considerable variation might be anticipated. At the very least, there should be a study of negligence and of a representative range of torts, with some consideration of defences and damages, and of alternative methods of providing compensation for accidental injury. Examples of these topics are: concurrent liability, defamation, economic torts, nuisance, breach of statutory duty and compensation schemes.

3. Contracts

1. Formation, including capacity, formalities, privity and consideration.
2. Content and construction of contracts.
3. Vitiating factors.
4. Discharge.
5. Remedies.
6. Assignment.

OR topics of such breadth and depth as to satisfy the following guidelines:

... some variation may be expected in the breadth and detail of the topics. In general, however, knowledge of the formal requirements for concluding contracts, capacity, the content and interpretation of contracts, their performance and discharge, available remedies together with an understanding of the broad theoretical basis of contract would be expected.

4. Property⁴²

1. Meaning and purposes of the concept of property.
2. Possession, seisin and title.
3. Nature and type (*ie* fragmentation) of proprietary interests.
4. Creation and enforceability of proprietary interests.
5. Legal and equitable remedies.
6. Statutory schemes of registration.
7. Acquisition and disposal of proprietary interests.
8. Concurrent ownership.
9. Proprietary interests in land owned by another.
10. Mortgages.

⁴². This topic area covers both real property and personal property.

OR topics of such breadth and depth as to satisfy the following guidelines:

... the topics should include knowledge of the nature and type of various proprietary interests in chattels and land, and their creation and relative enforceability at law and in equity.

Statutory schemes of registration for both general law land and Torrens land should be included. A variety of other topics might be included, eg fixtures, concurrent interests and more detailed treatment of such matters as sale of land, leases, mortgages, easements, restrictive covenants, etc.

5. Equity

1.
 - (a) The nature of equity;
 - (b) Equitable rights, titles and interests;
 - (c) Equitable assignments;
 - (d) Estoppel in Equity;
 - (e) Fiduciary obligations;
 - (f) Unconscionable transactions;
 - (g) Equitable remedies.
2. Trusts, with particular reference to the various types of trusts and the manner and form of their creation and variation. The duties, rights and powers of trustees should be included as should the consequences of breach of trust and the remedies available to, and respective rights of, beneficiaries. (It is expected that about half the course will be devoted to trusts).

OR topics of such breadth and depth as to satisfy the following guidelines:

... the topics should cover the elements of trust law, equitable doctrines apart from those relating to trusts, and equitable remedies. The following aspects of trusts law should be dealt with: various kinds of trusts, the rights, duties, powers of trustees; the consequences of breach of trust, apart from trusts, the following equitable doctrines might be covered, for example, fiduciary obligations, equitable assignments, unconscionability and the confidential information. The remedies of specific performance, injunction, declaration and damages in equity should be included. (It is expected that about half the course will be devoted to trusts).

6. Company Law

1. Corporate personality.
2. The incorporation process.
3. The corporate constitution.

4. Company contracts.
5. Administration of companies and management of the business of companies.
6. Duties and liabilities of directors and officers.
7. Share capital and membership.
8. Members' remedies.
9. Company credit and security arrangements.
10. Winding up of companies.

OR topics of such breadth and depth as to satisfy the following guidelines:

... the topics should include an analysis of incorporation and its effects, management and control of a company, the various methods of financing—by the issue of shares and by debt, and the processes of winding up a company.

7. Administrative Law

1. Organisation and structure of the administration.
2. Administrative law theory.
3. Common law and statutory avenues of judicial review at Commonwealth and State level.
4. Grounds of judicial review.
5. Remedies.
6. Crown Immunity.
7. Administrative Appeals Tribunal.
8. Statutory review.
9. Freedom of information.

OR topics of such breadth and depth as to satisfy the following guidelines:

... the topics should not only embrace traditional common law remedies concerning judicial review of administrative action, but should also cover the range of Commonwealth and State statutory regimes.

8. Federal and State Constitutional Law

1. State constitutions and constitutional systems.
2. The Commonwealth constitution and constitutional system.
3. The constitution and operation of the legislature, executive and judiciary.
4. The relationship between the different institutions of government and the separation of powers.
5. The relationship between the different levels of government.

OR topics of such breadth and depth as to satisfy the following guidelines:

... the topics should include knowledge of the major principles of both the relevant State or Territory Constitution and the Commonwealth Constitution, including the relations between the different Commonwealth and State or Territory laws. A general knowledge of the scope of both State or Territory and Commonwealth Constitutions is required, although the topics will differ in the depth of treatment of specific heads of power, particularly in the Commonwealth sphere.

9. Civil Procedure

1. Court adjudication under an adversary system.
2. The cost of litigation and the use of costs to control litigation.
3. Service of originating process—as foundation of jurisdiction, including service out of the relevant State or Territory and choice of forum.
4. Joinder of claims and parties—including group proceedings and the defence of prior adjudication as instances of the public interest in avoiding a multiplicity of proceedings and inconsistent verdicts.
5. Defining the questions for trial—pleadings, notices to admit and other devices.
6. Obtaining evidence—discovery of documents, interrogatories, subpoena and other devices.
7. Disposition without trial, including the compromise of litigation.
8. Extra judicial determination of issues arising in the course of litigation.
9. Judgment.
10. Appeal.
11. Enforcement.

OR topics of such breadth and depth as to satisfy the following guidelines:

... the topics should embrace the general study of rules of civil procedure relevant in the State or Territory. Rules concerning jurisdiction, the initiation and service of process, the definition of issues through pleadings and judgment and enforcement should all be included.

10. Evidence

1. Introduction.
2. Competence and compellability.
3. Privilege.
4. The examination of witnesses.

5. Disposition and character.
6. Similar fact evidence.
7. The accused as a witness.
8. Burden and standard of proof.
9. Documentary evidence.
10. Opinion evidence and prior determination.
11. Hearsay:
 - the exclusionary rule
 - the common law and statutory exceptions.
12. Admissions and confessions in criminal cases.
13. Illegally obtained evidence and confirmation by subsequent fact.
14. Res gestae.
15. Corroboration.

OR topics of such breadth and depth as to satisfy the following guidelines:

... the topics should include examination of both the sources and acceptability of evidence, including rules concerning the burden and standard of proof and technical rules concerning such matters as hearsay, admissions and confessions, illegally obtained evidence and res gestae.

11. Professional Conduct (including basic Trust Accounting)

Professional and personal conduct in respect of practitioners' duty:

- (a) to the law;
- (b) to the Courts;
- (c) to clients, including a basic knowledge of the principles of trust accounting; &
- (d) to fellow practitioners.

OR topics of such breadth and depth as to satisfy the following guidelines:

... the topics should include knowledge of the various pertinent rules concerning a practitioner's duty to the law, the Courts, clients and fellow practitioners and a basic knowledge of the principles of trust accounting.

The aims of the trust account segment of Professional Conduct are:

- to impart an understanding of the legal requirements on solicitors for dealing with trust property;
- to help students obtain a level of competence in, and understanding of, the recording requirements for trust accounts and other trust dealings.

Areas covered should include:

- Provisions of the relevant State or Territory legislation governing the legal profession which relate to the handling of trust money and other trust property;
- Legislative provisions which enable the proper identification of trust moneys;
- The ramifications of breach of trust;
- An overview of trust accounting systems;
- Methods of maintaining trust account records. This includes class exercises in recording of receipts, payments and direct payments of trust moneys and of investments (including mortgage investments) by solicitors on behalf of their clients;
- A detailed study of any relevant legislation, regulations or rules relating to trust accounting.