

INTENSIVE TEACHING OF GRADUATE LAW SUBJECTS: M^CEDUCATION¹ OR GOOD PREPARATION FOR THE DEMANDS OF LEGAL PRACTICE?

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I. INTRODUCTION

This article examines the use of intensive teaching in law units, particularly as part of a graduate entry law program in the form of a Juris Doctor (JD). As a graduate-entry program, the JD attracts mature age students who are generally already in the workforce. Their circumstances are such that they generally need to continue to work, often full-time, at the same time as undertaking their studies. Many experience the competing claims of family, mortgage and careers. They may be undertaking law studies to go further in their current career, as opposed to looking for a career change, and thus want to keep developing that existing career.²

These factors impact greatly on the demand for delivery of subjects. After-hours scheduling is an attraction, as is the ability to minimise the number of times the student has to attend university during the week. The ability to complete a course in minimum time is also a priority for some students.³

The University of Canberra (UC) replaced its graduate-entry LLB with a JD degree in 2005. In order to cater better for the graduate student market, the classes were scheduled after hours, using Wednesday and Friday nights and Saturdays. The classes were scheduled intensively so that the students following the typical course structure were only undertaking one subject at a time.⁴ The Faculty of Law recently sought feedback from its JD students on certain aspects of its course, including what motivated the student to choose that particular course (the Review).

While the sample size was too small to reach any firm conclusions,⁵ this article will draw on feedback received in the Review to examine the demand and priorities of graduate law students in choosing a course and completing it. It will examine various ways of meeting those demands and whether or not it is possible to reconcile them with the need to maintain the integrity of the academic process. The focus of this article will be on the decision to teach intensively to meet the demands of the graduate student. However, other aspects of the teaching process will also be considered. The view is reached that market demands and educational values are not opposing forces, but can be reconciled to provide a quality educational program that takes into account the requirements of the student population.

1 James Traub, 'Drive-thru U: Higher Education for People Who Mean Business', *The New Yorker* (New York), 20 October 1997, 114.

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2 See, eg, Erica Cervini, 'What the Juris Doctor Ordered', *Australian Financial Review* (Sydney), Monday 18 August 2008.

3 Online learning is also another way of meeting these needs; however, it is beyond the scope of this article to address the effectiveness of that mode of teaching.

4 The course can be completed with three years of full-time study. It is one year less in duration than the LLB, as there is no requirement that the student complete one year of open electives. The subjects required are the same as the law subject in the LLB but are all taught at graduate or postgraduate level, and students need to complete a minimum of eight postgraduate subjects. The intensive schedule offers three subjects per semester, including a summer semester. See *Juris Doctor*, University of Canberra, Faculty of Law <<http://www.canberra.edu.au/faculties/law/courses/masters-doctoral/jd>> at 3 December 2008.

5 We received approximately 20 completed questionnaires.

II. TEACHING OF GRADUATE LAW: THE GROWTH OF THE JURIS DOCTOR IN AUSTRALIAN UNIVERSITIES AND THE CHANGING NATURE OF THE STUDENT POPULATION

A. What is a Juris Doctor?

The Juris Doctor is a Masters-level graduate-entry law program recognised for the purposes of admission to legal practice.⁶ The name was originally used in the United States in the 1960s as a label for a higher and professional degree in law.⁷ In Australian universities, the Juris Doctor is not a doctorate but either a Masters-level or graduate-entry program. The Juris Doctor degree is growing in popularity among Australian law schools as the way to teach graduate-entry law.⁸ In 2003 it was reported that four law schools had introduced a JD program, with another two introducing the program in all but name.⁹ As of April 2008, 12 Australian law schools offered a Juris Doctor degree.¹⁰

B. The Impact of Changes in the Tertiary Education Environment

The growth in the Juris Doctor degree comes at a time when the tertiary education sector itself is undergoing many changes. It is well documented that the financial constraints on universities have increased dramatically.¹¹ Government funding has declined over the last 20 years¹² forcing universities to look at cost cutting and becoming more entrepreneurial.¹³ Ironically, at the same time as cutting funding, government regulation has become more demanding, with more reporting requirements for universities.¹⁴

There are also changes in Australian society which impact on the tertiary sector. Australian society is ageing.¹⁵ The potential undergraduate student population is shrinking. At the same time, unemployment is low and many job opportunities exist.¹⁶ Even undergraduate students are choosing, or are forced, to study part-time.¹⁷ A change in the nature of student demands has seen students more focused on achieving an end result, and wanting to accelerate the progression of their degrees.¹⁸

The above factors combine to make the graduate law student an attractive and growing market.¹⁹ The next section considers the demands and needs of that student demographic and how a law school might cater for them.

⁶ *Court Procedures Rules 2006* (ACT) reg 3605

⁷ See Wikipedia, *Juris Doctor* <http://en.wikipedia.org/wiki/Juris_Doctor> at 3 December 2008.

⁸ Susannah Moran, 'Juris Doctor Degree Grows in Popularity', *The Australian* (Sydney), 17 August 2007.

⁹ Richard Johnstone and Sumitra Vignaendra, *Learning Outcomes and Curriculum Development in Law: A Report Commissioned by the Australian Universities Teaching Committee (AUTC)* (2003) 87.

¹⁰ Namely University of Melbourne, Monash University, the University of New England, Bond University, RMIT, the University of Notre Dame, University of Technology, Sydney, University of Southern Queensland, University of Canberra, Australian National University, Charles Darwin University, the University of Queensland and Murdoch University. The University of Queensland, however, had no intake for 2008. The University of Notre Dame is also no longer offering the course, pending a review.

¹¹ See W Martin Davies, 'Intensive teaching formats: A review' (2006) 16(1) *Issues in Educational Research*.

¹² See Australian Vice-Chancellors' Committee, 'Budget 2005: Ensuring the quality of Australia's universities' in *Achieving the Vision for Australia's Universities* (2004) 7-9 <<http://www.universitiesaustralia.edu.au/documents/publications/Achieving-the-Vision.pdf>> at 3 December 2008.

¹³ Davies, above n 11.

¹⁴ *Ibid*.

¹⁵ See Australian Bureau of Statistics, *Scenarios for Australia's Aging Population* (2004) <<http://www.abs.gov.au/Ausstats/abs@.nsf/0/95560B5D7449B135CA256E9E001FD879?opendocument>> at 3 December 2008.

¹⁶ See Adrian Thirsk, *Unemployment drops to 33-year Low* (13 March 2008) ABC News <<http://www.abc.net.au/news/stories/2008/03/13/2188443.htm>> at 3 December 2008.

¹⁷ The *AUTC Report* noted many significant changes in student demands and expectations — in particular, the fact that students increasingly spent significant periods of time in paid work and that universities had taken steps to accommodate this by scheduling after-hours classes and recording lectures in some form. See Johnstone and Vignaendra, above n9, 315.

¹⁸ *Ibid* 317-319.

¹⁹ For example, at the University of Canberra in 2007, graduate law entry rates grew at a higher percentage than undergraduate entry.

C. THE GRADUATE LAW STUDENT

One of the selling points of the Juris Doctor degree is its ability to provide a Masters-level qualification while at the same time providing part of the academic qualifications necessary for admission to legal practice. However, it is also more attractive to the mature age student if it allows for the fact that this student has many demands on his or her time and is generally also holding down paid employment.

While the reasons a holder of a degree may want to return to study law will be many and varied, there are a few common categories. First, the student may be seeking a career change. Secondly, they may see a law degree as a means to further advancement in their current career. Thirdly, there is the category of 'lifelong learners' — individuals who are continually looking to improve themselves and keep stimulated through further study.

A graduate law student will have certain characteristics and requirements in terms of legal education. These may include:

- financial commitments, hence the need to hold down paid employment;
- family commitments;
- the above two factors combined to create time constraints;
- possession of an undergraduate degree or graduate equivalence. It can therefore be assumed that they possess graduate-level skills, although will need to adapt these to a new discipline.

The Review found that after-hours classes and an intensive mode of teaching were important in a student's choice of course. These factors were more important to the student than the offering of small-group teaching, the status of the Juris Doctor as a Masters course and the reputation of the university.

Therefore, the market demand seems to support after-hours and intensive teaching. This raises the question of whether intensive mode teaching is the most effective way to teach law to graduate students. Of course, idealistic educational values alone cannot sustain a tertiary education course and cannot realistically dictate how law schools deliver their programs.²⁰ There are a number of competing claims in designing a JD program. First, the student demographic, as outlined above, must be taken into account and a program designed which is attractive to that demographic. Secondly, there are professional requirements — in order to be admitted to legal practice, the student needs to obtain qualifications that are recognised by the relevant admitting authority. This generally means the possession of a degree recognised by that authority and the completion of the Priestley Eleven subjects.²¹ Thirdly, the program and its delivery need to be educationally sound. Teaching needs to be effective. It needs to impart the graduate skills required for a law graduate, such as knowledge of the discipline, an ethical attitude, communication skills, problem-solving and reasoning, information literacy and an interpersonal focus.²²

The answer to effective course design therefore lies in finding a way of catering to the students' requirements and attracting a viable market without compromising on educational values. The next section considers in more detail the issues involved in designing a JD degree which meets the educational and other needs of a graduate law student.

20 Vivienne Brand, 'Decline in the Reform of Law Teaching? The impact of policy reforms in tertiary education' (1999) 10 *Legal Education Review* 109.

21 For example, the *Court Procedures Rules* 2006 (ACT) reg 3605.

22 Sharon Christensen and Sally Kift (2000) cited in Johnstone and Vignaendra, above n 9, 152. See further, Johnstone and Vignaendra, above n 9, 152-4.

III. THE CHARACTERISTICS OF EFFECTIVE TEACHING

The Australian Universities Teaching Committee report on *Learning Outcomes and Curriculum Development in Law*²³ (the *AUTC Report*) identified some elements of good teaching, as follows:

- Effective teaching is teaching which facilitates student learning;²⁴
- It occurs where the lecturer is enthusiastic about the subject matter and able to motivate students to feel the need to learn the material;²⁵
- The material should be made genuinely interesting so that students find it a pleasure to learn;²⁶
- The teacher should be concerned for and respect students and recognise diversity in the student body;²⁷
- The teacher should be available to the students and make clear what is expected of them;
- Any teaching method should incorporate clear explanations which use a variety of techniques, such as anecdotes and role plays, to illustrate key points to students. It should focus on key concepts and common misunderstandings rather than trying to cover a lot of ground;²⁸
- Assessment methods should be varied and focus on key areas, encouraging students to think deeply about the task rather than forcing rote learning or the reproduction of detail. It should also avoid unnecessary anxiety;²⁹
- It should involve collaborative work and a ‘dialogue between teacher and learner’ in which the teacher seeks evidence of student understanding and misunderstanding;³⁰
- There should be timely and high quality feedback on student work so that students know how they are doing while they are still able to do something about it;³¹
- Students should be engaged at their level of understanding, ensuring an appropriate workload while encouraging student independence; and
- Effective teaching requires a constant process of monitoring what students are experiencing.³² The *AUTC Report* noted a shift to more student-focused teaching in law schools over the last 15 years.³³

A. Intensive Teaching as Effective Teaching

Can intensive teaching be effective teaching? Studies conducted on intensive teaching do not reach any definitive view as to how it compares to traditional teaching methods. On balance, most studies find that intensive teaching is at least as effective as its non-intensive counterpart. Some studies show an improvement in learning outcomes.³⁴

However, problems with assessing the effectiveness of intensive teaching should be noted. For example, the intensive teaching method may attract students that are suited to it — often it is an option for the student and one which will predominantly be taken up by students who suit that learning style. Secondly, the surveys are generally based on data received immediately after the period of intensive teaching ends and may not reflect the long-term outcomes which are more important but also a lot harder to evaluate. Thirdly,

²³ Ibid.

²⁴ Ibid 277-8.

²⁵ Ibid 278.

²⁶ Ibid.

²⁷ Paula Lustbader (1999) cited in Johnstone and Vignaendra, above n 9, 279.

²⁸ Nira Hativa (2000) cited in Johnstone and Vignaendra, above n 9, 279.

²⁹ Johnstone and Vignaendra, above n 9, 279-80.

³⁰ David Dominguez (1999) and Diana Laurillard (1993) cited in Johnstone and Vignaendra, above n 9, 280.

³¹ Dieudonné Leclercq (1999a) cited in Johnstone and Vignaendra, above n 9, 281.

³² Michael Prosser and Keith Trigwell (1999), cited in Johnstone and Vignaendra, above n 9, 281.

³³ Johnstone and Vignaendra, above n 9, 291-306.

³⁴ See Davies, above n 11. Davies cites the studies of Zelinna Pablo (2005), George W Boddy (1985), Maryellen Gleason (1986) and Eileen Kuhns (1974).

most of the research is done at undergraduate level or below and may not be applicable where the student already possesses generic graduate attributes.³⁵

Negative views of intensive teaching see it as a response to convenience rather than an approach that promotes substance and rigour.³⁶ James Traub calls it the ‘McEducation’ of university learning.³⁷ These concerns reflect the reality, as reflected in the Review, that the scheduling of classes that are convenient for students to attend is an overwhelming factor in student choice. However, the counter-argument is that a response to convenience can still promote substance and rigour.

Other critics of intensive teaching have noted that intensive delivery may be more suited to skills acquisition rather than discursive, conceptual learning.³⁸ If this were true, it would be a problem in legal education, which has come to view the universities’ initial role in legal education as providing academic training with subsequent practical training offered as part of a graduate course in legal studies.³⁹ The *AUTC Report* notes that ‘[a]rguably the most significant of all the developments in Australian legal education in the last decade is the focus on teaching legal skills within the undergraduate curriculum’.⁴⁰ Skills education is increasingly included in a law degree. However, legal education must do more than impart skills to law graduates. Students need to attain knowledge of the substantive law and an ability to think critically about it. Critics would argue that intensive teaching is not the most appropriate way of achieving this end, due to the fact that it does not allow time for student reflection or an in-depth analysis of subject content.⁴¹ Related negative comments on intensive teaching are that it promotes poor student learning practices such as cramming instead of long-term developmental learning.⁴²

Once again, there are counter-arguments. Intensive teaching does not have to entail a reduction in teaching hours and, thus, need not have any impact on the depth of analysis. There is also no evidence that student reflection requires an extended time frame. It may be more important to engage the student effectively with the subject matter. Further, others argue that the time spent teaching a course is not a reliable indicator of positive outcomes — more useful is the course content, competency of the lecturer and teaching style.⁴³ It may be that longer duration is only perceived as superior as it has, in the past, been seen as the norm.⁴⁴

From a practical point of view, intensive teaching is arguably harder on the student and the lecturer. This is particularly so when it is offered outside of work hours and the student is working full-time as well as studying at night and on the weekends. It is more problematic if a student falls behind, as it is difficult, if not impossible, to catch up.⁴⁵

However, depending on the method of intensive teaching adopted, there may also be considerable advantages, both educational and practical, to the format. At UC, each unit is taught in 10 four-hour blocks over two and a half weeks.⁴⁶ Teaching in standard mode would use one two-hour lecture, possibly another one-hour lecture, and a one-hour tutorial. The use of larger blocks of time allows flexibility for a diversity of instructional activities.⁴⁷ For example, the one session can incorporate lecturing time, discussion questions and other group activities such as mooted or class presentations. The Review found that lecturers in the JD program saw this as an advantage. This flexibility needs to be

35 Ibid.

36 Traub, above n 1, 114-123.

37 Ibid.

38 Davies, above n 11.

39 Johnstone and Vignaendra, above n 9, 2.

40 Johnstone and Vignaendra, above n 9, 133.

41 See, for example, Traub, above n 1.

42 Traub, above n 1. See also Alan Wolfe (1998) cited in Davies, above n 11.

43 See Raymond Wlodowski, ‘Accelerated Learning in Colleges and Universities’ (2003) 97 *New Directions for Adult and Continuing Education*, 5-15.

44 Ibid.

45 Johnstone and Vignaendra, above n 9, 318.

46 From 2009, this is likely to be extended to four weeks, in response to staff and student feedback in the Review.

47 Gordon Cawelti, *High School Restructuring: A National Study*, Educational Research Service (1994).

utilised appropriately by the lecturer — this was recognised by both students and lecturers in the Review. The use of time needs to be coherently planned and flexible enough to respond to student needs and encourage concentration and engagement with the material.

Intensive teaching promotes greater group cohesion which is conducive to group activities. This was emphasised in the Review, where one of the strengths of the JD was noted by both students and staff to be the relationship that developed between fellow students and with the lecturer. This provided an enhanced working environment and promoted greater discussion.

Similarly, intensive teaching methods can provide for greater student and lecturer motivation and stimulation.⁴⁸ In order to succeed, the student needs to be motivated, committed and enthusiastic. Similarly, the lecturer needs to be motivated, prepared and enthusiastic to successfully deliver teaching material and conduct teaching activities in this form. Intensive teaching has some advantages over its traditional counterpart in that the student is able to focus and absorb the one subject matter — they are able to focus on one thing at a time and do not need to ‘read themselves in’ or get themselves up to speed after a week’s break between classes. For students that are already multitasking outside of the university environment, this is an added advantage.

Intensive teaching and the skills required to master it may actually contribute to imparting skills for legal practice, in particular the ability to manage work flow and meet deadlines. This should lead students to develop the skill to digest and assemble legal issues in a short time frame. It also contributes to teamwork, not only in specific group activities but due to the need for the class to work cooperatively to get through the teaching material and activities in the allocated time frame.⁴⁹

The practical and customer service aspects of intensive teaching should also not be discounted. The timetabling (after-hours, intensive delivery) provides customer service in response to a change in student population from direct school entry to a more diverse population including mature age and lifelong learners. It is responding to a growth in the postgraduate student population, a population which has existing demands from the workplace and family. It takes into account the significant expansion of the casual and part-time employment sector by offering classes outside of business hours. In recognising these factors, it makes tertiary education more accessible to this sector of the market.

The aim, therefore, in course design, should be to develop a program which recognises the drawbacks of intensive teaching and attempts, as far as possible, to minimise them. The advantages of intensive teaching should also be recognised and enhanced. The next section considers some practical steps to assist in that process.

B. Minimising the Challenges and Working With the Advantages in the Context of a Juris Doctor

1. Teaching Process

Small group teaching and the use of extended teaching blocks provide an ideal environment for interactive teaching. Lecturers should be encouraged to consider how best to use the teaching blocks in a flexible way that engages and stimulates both the student and the lecturer. For example, this could be achieved by breaking up lecture time with group work and interactive exercises, and running interactive discussion-based lectures.

The outcome of generic skills/graduate attributes should be a focus. Davies talks of ‘outcomes-based’ education where the things the learner can do with what they know are more important than the input or content.⁵⁰ Where there is not the opportunity to provide as

48 Eileen L Daniel, ‘A Review of Time-shortened Courses Across Disciplines’ (2000) 34 *College Student Journal*, 298-308, cited in Davies, above n 111.

49 In the author’s own experience, the management of time can be a factor even where the number of teaching hours is the same as for traditional delivery. The small-group, interactive nature of the teaching promotes a lot more class discussion, which needs to be managed by both the lecturer and the student.

50 Davies, above n 11.

much content as in other forms of learning, this can be compensated by encouraging more engagement and a 'deeper learning' of what is taught.

Over-assessment should be avoided. However, it is important that students receive some feedback on how they are going, particularly where the whole course is taught intensively. This could be done by having a short assessment item that can be quickly marked, such as an in-class test, halfway through the subject, or providing continuous feedback on class participation tasks. The student's result on completion of one intensive unit should also be released before they commence the next, if that is possible.

2. Administration and General

Any student-focused view of learning should see administration of the course from a student's point of view. Where time frames are short, it is important that students have ready access to reading lists and timetable information well in advance. Effective administration is often one of the first things to suffer, being hard to maintain in an under-resourced tertiary environment.

Managing the expectations of graduate law students studying in this mode is also an important consideration. While students that possess an undergraduate degree can be assumed to possess many generic graduate attributes, a lot will have been applying and further developing these skills in a different context. The adjustment to using their existing skills in a law context, and developing relevant new skills, can be a difficult one. In the author's experience, this can be difficult to manage. Skills such as legal writing and problem-solving can be taught early in the course, but need to be refined through application. It is important to manage the students' expectations in this respect.⁵¹

Finally, it is important to seek regular feedback from the students on their course experience. One source of evaluation on the effectiveness of intensive teaching is feedback from the students to indicate whether they have found it effective or not.

IV. CONCLUSIONS

Flexible delivery of law units is an attractive option for the growing demographic of students that are juggling many competing demands. One form of flexible delivery is intensive teaching. Intensive teaching is even more attractive to the market when scheduled after hours and on weekends.

While current literature evaluating the effectiveness of intensive teaching is limited, it can be concluded that there is nothing to suggest it is less effective than teaching over a longer period of time. Further, an overview of some of the characteristics of effective teaching shows that a lot of them will be as easy, if not easier, to achieve in an intensive format. However, working with the benefits of intensive teaching will require planning on the part of the lecturer and preparation on the part of the student.

Perhaps the one drawback of intensive teaching that is difficult to counter is the demanding nature of the schedule, both for the staff and students, particularly where combined with other family and work commitments. However, where properly utilised, intensive teaching offers the opportunity to work with different learning activities and promotes a sense of motivation and commitment on the part of staff and students.

⁵¹ For example, by emphasising to students, in assessment criteria and in class, that they are likely to require new skills, and advising about their progress in feedback given on assessment items.

