

# AN INTERNATIONAL EXPERIENCE FOR LAW STUDENTS: PREPARING, PLANNING AND PASTORAL CARE

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## I INTRODUCTION: SOCIAL-JUSTICE FOCUSED INTERNATIONALISATION

In January 2017, the Fremantle School of Law at the University of Notre Dame Australia (the Law School) ran their first international experiential elective Unit.<sup>1</sup> This Unit involved 16 law student ('student') participants and two academic supervisors, and was created as an initiative to improve the internationalisation of the curriculum in a manner compatible with the Law School's mission of providing legal education which emphasises 'commitment to social justice, professional ethics and community service as the very foundation of the practice of law'.<sup>2</sup> The Unit focused on giving law students the opportunity to engage with individuals and organisations in Phnom Penh, Cambodia, which are directly involved in law and justice. Over a two-week period, the students and academic supervisors visited Cambodian courts and Non-Governmental Organisations ('NGOs') with the second week involving an externship<sup>3</sup> with a Cambodian legal-service provider.

The benefits of internationalising the curricula of Australian law degrees have been well documented.<sup>4</sup> It is becoming increasingly agreed that 'Law schools cannot stand still holding on to academic tradition and mindsets while being outpaced by global events that have significant implications for the development of law and legal services.'<sup>5</sup> Although 'internationalisation' remains an imprecise concept,<sup>6</sup> a law-centred and student-centred approach to internationalisation must include adapting a law school's curricula so that students engage with legal issues beyond Australia.<sup>7</sup> There is no single way to achieve this. Australian Law Schools have created

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1 The Law School has previously participated in international moot competitions for which students could gain academic credit. This Unit was run as "Law in Context" and, in future will be "Law in Context (International)".

2 School of Law, *University of Notre Dame Australia*. <<http://www.nd.edu.au/fremantle/schools/law/objects.shtml>>

3 The term 'externship' is preferred to 'internship' as the experience is wholly supervised by Law School staff and is offered as a formalised (albeit elective) part of the study program.

4 See eg, Vai Io Lo, 'Before Competition and Beyond Complacency - the Internationalisation of Legal Education in Australia' (2012) 22(1-2) *Legal Education Review* 3; John A. Barrett Jr., 'International Legal Education in U.S. Law Schools: Plenty of Offerings, But Too Few Students' (1997) 31(3) *The International Lawyer* 845.

5 Duncan Bentley and Joan Squelch, 'Internationalising the Australian law curriculum for enhanced global legal practice' (Final Report, Office of Learning and Teaching, Curtin University, 2012), 21-45.

6 Ibid.

7 Michael Coper, 'Law Schools and Legal Education: What is Really Important? (Legal Education for a Global Community, Australasian Law Teachers Association Conference 2012, University of Sydney Law School; ANU College of Law Research Paper No. 12-34), 4.

opportunities to engage with the global legal community directly<sup>8</sup> – including: short term ‘classroom’ experiences in foreign jurisdictions,<sup>9</sup> individual students gaining academic credit for interning with an international NGO combined with University support and assessment,<sup>10</sup> and long term study abroad experiences where students spend one to two semesters participating in ordinary University life overseas.<sup>11</sup> However, a 2012 Report approved by the Council of Australia Law Deans does provide some guidance for law degree curriculum reform.<sup>12</sup> The Law School’s creation of a short-term experiential Unit was intended to combine elements of the *Aggregation Approach* (‘separate “internationalised” or “transnational” subjects/units’)<sup>13</sup> with the *Immersion Approach* (‘studying in different jurisdictions’).<sup>14</sup>

A two week<sup>15</sup> experience can only meet the goals of the Immersion Approach to a limited degree. The Immersion Approach aims to give students a ‘high level of international competence, expertise and experience, which may allow law graduates to practise in multiple jurisdictions.’<sup>16</sup> The Cambodia immersion experience seeks to gain the benefits of international immersion, while deferring to the practical realities of students’ actual circumstances; committing to a full semester overseas is financially burdensome and can require the deferment of other degree requirements, thus potentially delaying completion of the degree. However, exposing students to law in a foreign culture that is regarded economically as a ‘developing country’ in which the tragedy of genocide is a feature of its not-so-distant past, and where marginalised groups

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8 For a summary of Australian University’s various international options as at 2012, see for example, Vai Io Lo, ‘Before Competition and Beyond Complacency - the Internationalisation of Legal Education in Australia’ (2012) 22(1) *Legal Education Review* 3, 8-12; for a broader comment regarding US Law Schools see for example, Janes R Maxeiner, ‘Learning from others: sustaining the internationalization and globalization of U.S. law school curriculums’ (2008) 35(1) *Fordham International Law Journal* 32, 34; John A. Barrett Jr., ‘International Legal Education in U.S. Law Schools: Plenty of Offerings, But Too Few Students’ (1997) 31(3) *The International Lawyer* 845.

9 International classroom experiences tend to include traditional face-to-face teaching combined with visits to sites and organisations of relevance to the area of law being studied. See, eg, Murdoch University’s ‘International Human Rights Program’ <<http://www.murdoch.edu.au/School-of-Law/International-Programs/International-Human-Rights-Law-Program/>>; Curtin University’s ‘Ghent European Summer Law Program’ <<http://business.curtin.edu.au/schools-and-departments/law/current-students/ghent-summer-program/>>; Flinders University recently ran ‘Indonesia’s Law and Legal System: an Introduction’ <<https://www.flinders.edu.au/webapps/stusys/index.cfm/topic/main?topic=LLAW3274&year=2018>> .

10 See, eg, Macquarie University’s PACE program <<http://www.handbook.mq.edu.au/2017/Units/UGUnit/LAWS452>>; Adelaide University allows students to undertake international internships for credit as part of their ‘Human Rights Internship Programme’ <<https://www.adelaide.edu.au/course-outlines/105081/1/summer/>>.

11 Many Australian Universities offer these types of experiences. The Law School at the University of Notre Dame Australia, for example, has partnerships with the Catholic University of Lyon (France) and Maynooth University (See eg. <<https://nd.edu.au/future-students/study-abroad-students/outbound/destinations-europe>>

12 Bentley and Squelch, above n 5, which is summarised and disseminated by the Council of Australian Law Deans (CALD) <<http://curriculum.cald.asn.au/internationalising-the-australian-law-curriculum/>>.

13 Bentley and Squelch above n 5, 71.

14 Ibid.

15 The 2018 Immersion will run for two and half weeks.

16 Bentley and Squelch above n 5, 73.

face significant hurdles to accessing basic legal services,<sup>17</sup> or where there remain significant institutional barriers to genuinely achieving justice,<sup>18</sup> - opens the door to students becoming 'global citizens'.<sup>19</sup>

Visiting Cambodia also supports the view that it is important for Australian education to engage with our neighbours in the Asia-Pacific region.<sup>20</sup> Australia is developing increasingly close ties with our Asian neighbours; the Australia - ASEAN relationship for example, demonstrates the perceived importance of Australian maintaining trade and foreign aid ties, with Asia. The Department of Foreign Affairs and Trade ('DFAT') identifies institutional and individual human relationships within Asia, as a key aim of its New Colombo Plan ('NCP'). This paper acknowledges the Law School's immense gratitude to DFAT for giving 16 NCP Short Term Mobility financial grants to support our students' trip to Cambodia.<sup>21</sup>

Accordingly, this paper sets out three key areas which were given attention when planning the Cambodia Unit. Part I explains how the Unit was designed and the preparatory materials given to students. Part II explains the process that was used to select students to participate in the Unit, and the selection criteria that was and was not, prioritised in the selection process. Part III explains the steps taken to ensure pastoral care for students: to support interpersonal relationships and to prepare them to face potentially emotionally confronting experiences in Phnom Penh Cambodia. The conclusion Part IV explains lessons learned overall about creating an international immersion of this kind.

## II EXPERIENTIAL LAW UNIT DESIGN: ACCOMMODATING THE UNEXPECTED

This Experiential Unit's creation posed particular challenges for teaching law in a non-traditional law school classroom setting where an Australian law teacher usually has a high degree of control over a Unit's content and learning activities. Furthermore, whilst the legal rules and problems covered in a traditional Australian law degree Unit tend to focus on presenting a particular body of law in a coherent and structured way, the Law School's Experiential Unit *did not lend itself to this type of learning experience*.

As Mitchell et al explain, by replacing a traditional law classroom setting with an experiential unit, students can '[see] what lawyers do on a day-to-day basis, and experiencing first-hand some of the challenges and decisions that are an inevitable part of a professional role, students

17 Challenges that marginalised groups have in accessing justice in Cambodia have been extensively researched See, eg, Siena Anstis, 'Access to Justice in Cambodia: The Experience of Grassroots Networks in Land Rights Issues' (Legal Working Paper Series on Legal Empowerment for Sustainable Development, Centre for International Sustainable Development Law, 2012) <<http://cisdl.org/public/docs/Antis.pdf>>; Velibor Popovic and Claudia Melim-McLeod, 'Access to Justice in Cambodia' (Project Assessment Report, UNDP, May 2009) <[https://info.undp.org/docs/pdc/Documents/KHM/00042256\\_Final%20Evaluation%20Report%202009.pdf](https://info.undp.org/docs/pdc/Documents/KHM/00042256_Final%20Evaluation%20Report%202009.pdf)>

18 See, eg, Katherine Bricknell, 'Clouding the Judgment of Domestic Violence Law: Victim Blaming by Institutional Stakeholders in Cambodia' (2017) 32(9) *Journal of Interpersonal Violence*

19 Jan M. Smits, 'European legal education, or: how to prepare students for global citizenship?' (2011) *Legal Education Digest* 19; William I. Brustein, 'The Global Campus: Challenges and Opportunities for Higher Education in North America' (2007) 11(3/4) *Journal of Studies in International Education* 382, 382.

20 David T Hill, 'An Asian Century Education: Why students need equal access to overseas study', *The Conversation* (17 June 2013) <<https://theconversation.com/an-asian-century-education-why-students-need-equal-access-to-overseas-study-15145>>; Simon Marginson, 'Asian Century White Paper sets tricky targets for Universities' *The Conversation* (29 October 2012) <<https://theconversation.com/asian-century-white-paper-sets-tricky-targets-for-universities-10365>>.

21 New Colombo Plan, *Department of Foreign Affairs and Trade* <<http://dfat.gov.au/people/new-colombo-plan/mobility-program/pages/mobility-program.aspx>>

gain a rich insight into the skills required to perform such roles and also the responsibilities they entail.<sup>22</sup> Work Integrated Learning (WIL) is widely accepted as benefiting students by allowing them to link theory (in the classroom), with the legal practice (in the real world) of law.<sup>23</sup> The particular legal issues explored during a WIL placement, are determined by the needs of the workplace.<sup>24</sup> Students' experiences 'can vary from brief participant observation in a court, law office, administrative agency or government office, to actual client representation at trial or appellate level, for a full semester or longer, working full time or part time'.<sup>25</sup> These types of work-based legal practice experiences have the potential to enrich student experiences, but inevitably pose pedagogical challenges for legal academics assessing students' actual achievement in units where external parties (the host legal workplace) controls the content and activities presented to students.<sup>26</sup>

During the Unit's first week, students did not engage in hands-on legal practice work experience, and instead visited several NGOs to observe their work, and have the opportunity to ask questions and learn directly from those who are advocating for justice in Cambodia. The Unit's second week allowed students to engage in more substantive legal tasks for NGOs, including undertaking legal research and interviewing clients. However before arriving in Cambodia, little information was given to students as to exactly what experiences they were likely to have. Unpredictability is a necessary feature of experiential units, and Unit planning is further complicated when legal topics that students may be asked to address, range from domestic tax law to the procedure of hybrid tribunals prosecuting international crimes.

To best foster a diversity of legal practice experience, the Unit's learning outcomes ('ULOs') were necessarily broad, focusing on students: developing more sophisticated understanding of the challenges of 'law in practice' rather than 'law in the classroom'; improving their decision-making and judgment skills; improving their 'lawyering skills'; gaining a practical understanding of ethical challenges facing practitioners and reflecting on the nature of law and legal practice. The next section considers the assessment structure (participation and reflection) and preparatory readings for the Unit, where the specific content and activities were unpredictable.

### A Assessment

The assessment's first part was participation. Ideally, NGO supervisors would be involved in students' assessment. However, this was not practical as requesting a formal assessment from the NGOs would impose an unwarranted burden on these already overworked non-profit agencies. Instead, the two academic supervisors who accompanied the students to Cambodia, graded participation. Students were marked based on: the way in which they engaged in the various NGO workshops, the questions they posed (and answers they offered) to the Court officials

22 Andrew Mitchell, Bruce Oswald, Tania Voon and Wendy Larcombe, 'Education in the Field: A Case Study of Experiential Learning in International Law' (2011) (1-2)21 *Legal Education Review* 69, 72.

23 For a review of the literature in this area see, eg, Judith McNamara, 'A Collaborative Model for Learning and Assessment of Legal Placements' (Paper presented at the Conference on Collaborative Education and Work Integrated Learning, Vancouver, Canada, 23–26 June 2009) <<http://www.waceinc.org/papers/vancouver/Australia/McNamara.pdf>>.

24 See, eg, Kelley Burton, 'A Criterion-referenced Assessment Rubric on Reflective Practice Designed with Clinical Legal Education in Mind' (2015) 8 *Journal of the Australasian Law Teachers Association* 3, 4-5.

25 Kathy Mack, 'Bringing Clinical Learning into a Conventional Classroom' (1993) 4(1) *Legal Education Review* 89 <<http://www.austlii.edu.au/au/journals/LegEdRev/1993/4.html>>

26 Wendy Larcombe, 'Can Assessment Policies Play a Role in Promoting Student Engagement in Law?' (2009) 2 *Journal of the Australasian Law Teachers Association* 197, 201.

after viewing court proceedings, their professionalism and quality of work when participating in client meetings, and the quality of the research they undertook as directed by the NGOs. For the latter, research topics included: the incoming NGO law in Cambodia, and the treatment of women in Cambodian labour law as well as funding opportunities for legal service providers.<sup>27</sup>

Students tended to already have experience with class participation assessments in the traditional classroom setting. As students were selected based on their perceived enthusiasm for social justice and international legal issues, this component, unsurprisingly, did not require significant explanation to students.<sup>28</sup> Although the academic staff had pre-prepared some questions to facilitate discussion,<sup>29</sup> the robust discussion and debate naturally occurred without the need for prompting.

The more challenging component of the assessment involved the reflective journal. Students were required to complete five or six journal entries of 500 words each, based on a rate of an entry every two to three days, while they were in Cambodia. ‘Reflection’ is perceived by some, to be fundamental to successful ‘work integrated learning’.<sup>30</sup> At a basic level, students need to report their thoughts on their Unit experiences.<sup>31</sup> However, to perform well, students’ journals needed to outline the legal skills they considered they had learned and discuss their personal development.<sup>32</sup> The students were advised that their journal should ultimately address what their experience in Cambodia taught them about the core law and justice challenges facing the Cambodian people.<sup>33</sup> Students were also given suggested questions to address for particular activities such as: what ethical issues arose in the placement, and whether there were barriers to the realisation of justice for marginalised groups. However, the questions posed were merely indicative, and students were told clearly that they did not need to try to fit their experiences into answering the questions in order to succeed in the task. Rather, the suggested questions were aimed at prompting students to expressly identify whether, and if so how, they had met the ULOs (such as identifying the particular tasks they undertook and/or considering how the ethical rules governing the Cambodian practitioners compared to the ethical rules for Australian lawyers).

The journal’s ultimate purpose was to ask students to ‘reflect’ on whether, and if so how, participating in this Unit did or did not help them to gain a better understanding of ‘law’. Reflection as a form of assessment in this context is particularly relevant where students are placed in unexpected or uncomfortable situations,<sup>34</sup> and are given value-laden questions about the content and effect of applying particular legal rules. Students must then consider their ‘role’ in the legal process, and be open to acknowledging that they may not always have the ‘right’ answer about how to approach any particular problem. Rogers suggests that the ‘[ultimate intent] of reflection is to integrate the understanding gained into one’s experience in order to enable better choices or actions in the future as well to enhance one’s overall effectiveness.’<sup>35</sup>

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27 These were topics that students at one NGO were asked to research as part of their externship.

28 Alex Steel, Julian Laurens, Anna Huggins, ‘Class Participation as a Learning and Assessment Strategy in Law: Facilitating Students’ Engagement, Skills Development and Deep Learning’ (2013) 36(1) *University of New South Wales Law Journal* 30.

29 *Ibid*, 53.

30 McNamara, above n 23.

31 The first level of Ryan’s 4 levels of reflection. See Mary Ryan, ‘The pedagogical balancing act: teaching reflection in higher education’ (2013) 18(2) *Teaching in Higher Education* 144, 147.

32 Tied to the second level of Ryan’s 4 levels of reflection. *Ibid*.

33 Tied to the third level of Ryan’s 4 levels of reflection. *Ibid*.

34 Russell R. Rogers, ‘Reflection in Higher Education: A Concept Analysis’ (2001) 26(1) *Innovative Higher Education* 37, 50.

35 *Ibid*, 41.

Ideally, a reflective assessment would involve some post-Cambodia component once students have returned to Australia when they have had time to process their overseas experience without the pressure of next day activities and travel stress.<sup>36</sup> Administrative deadlines meant that students could be given limited time only to revisit their initial impressions in hindsight as part of their formal assessment. Despite the pass/fail grading of the Unit, the students were given extensive assessment feedback on their journals, and all were encouraged (although not required) to participate in an informal, non-assessed de-brief session, approximately one month after returning to Australia to share their Cambodia experience with the Law School staff. Most students drew on their reflective journals when they contributed to a written overview of their Cambodia experience for the Law School's website.<sup>37</sup>

### B *Preparatory Materials*

The literature consistently suggests that encouraging student-directed choice is an effective way to encourage them to take ownership of their studies.<sup>38</sup> The two main reasons that students resist engagement with their studies can be summarised as: students being time-poor, and perceiving tasks as not adding value to the unit experience.<sup>39</sup> The Law School's Cambodia Unit risked emphasising both of these reasons for students to disengage with their studies due to the unpredictable nature of the NGO tasks, and the Unit's two-week period (with activities scheduled for 12 hours from 7:30am to 7:30pm on some days). This meant that imposing a mandatory reading burden on students would be counter-productive to the Unit's purpose by emphasising reading/theory over experience/practice. The readings risked being irrelevant to the specific legal issues that the NGOs presented to students. Simultaneously, students were required to complete assessment tasks, and the two academic supervisors wanted to prepare students as much as possible, both for the experiences that they were likely to face, and so that they could succeed meeting the criteria of their assessments.

Drawing on the NGOs' known expertise and the set assessment criteria, the reading list was distributed to students approximately two months before departure. The readings were divided into three categories: History and Culture, Legal Issues and Reflective Practice. Students could choose from several options within each category and were given a brief indication of the purpose or context of each reading, as well as guidance about the complexity and length of each reading. This was intended to help students to make informed choices about where best to devote their attention.

The History and Culture category listed readings on Cambodian history and politics. Cambodia's legal system was decimated by the Pol Pot led Khmer Rouge, followed by the Vietnamese-led regime in the 1980s which re-introduced some legal institutions. However, Cambodia's current legal system has largely developed since the 1991 Paris Peace Accords.<sup>40</sup> Many of the justice issues that the academic staff anticipated the students would face in

36 Kelley Burton and Judith McNamara, 'Assessing Reflection Skills in Law Using Criterion' (2009) 19(1) *Legal Education Review* 171 <<http://www.austlii.edu.au/au/journals/LegEdRev/2009/8.html>>; Ryan, above n 31.

37 Fremantle Law School's Inaugural International Immersion – Phnom Penh 2017, University of Notre Dame Australia <<http://www.nd.edu.au/fremantle/schools/law/events/cambodia-2017>>

38 John Biggs & Catherine Tang, *Teaching for Quality Learning at University* (McGraw, 2011), 138-150; 174-178.

39 Liesel Spencer, 'Reading Law: Motivating Digital Natives to 'Do the Readings'' (2013) 21(1) *Legal Education Review* 177, 186; see also Anne MacDuff & Lynn Du Moulin, 'New Challenges in Legal Education: Developing an Appropriate Response to the issue of Student Workload' 18 *Legal Education* 179.

40 Catherine Morris, 'Justice Inverted' in Katherine Bricknell & Simon Springer (eds), *The Handbook of Contemporary Cambodia* (Routledge, 2016).

Cambodia, were directly or indirectly linked to the legacy left by the war and genocide of the Pol Pot era. Therefore, while students might find the hardships faced by Cambodians emotionally confronting, or may be frustrated by the barriers that the NGOs faced in achieving justice for their clients, the readings were intended to put the law and legal system in a historic and political context.<sup>41</sup> Students were asked to choose from a selection of memoirs by survivors of the Khmer Rouge regime<sup>42</sup> and researched commentaries.<sup>43</sup>

This reading category attracted the greatest discussion among the students. The students independently sought and shared complementary materials, including fictional accounts<sup>44</sup> and podcasts on Cambodian culture.<sup>45</sup> Students visited the Tuol Sleng Genocide Museum (former S-21 Prison) and the Cheung Ek Killing Fields on their first day in Cambodia, and also met survivors of the Khmer Rouge atrocities. Written copies of survivor testimonies<sup>46</sup> were purchased by some students and shared with the group and academic supervisors; they will likely be included on future reading lists.

Creating the second readings category was more problematic because only some areas of law were certain to be covered during the trip, but many of these topics were guaranteed only inasmuch as students would be undertaking a brief visit to a particular NGO or court. Consequently, providing content-based materials in advance of the trip risked being unhelpful, or helpful only for one part-day activity.

The lack of predictable content is a recognised problem in experiential units,<sup>47</sup> which was exacerbated by the potentially diverse topics to be addressed. Rather than leave students with no direction, students were asked to engage with one or two readings on *particular* topics they were likely to encounter, such as: the Khmer Rouge Tribunal<sup>48</sup>, access to justice,<sup>49</sup> land rights,<sup>50</sup> and child protection.<sup>51</sup> These issues focused on social justice and the ethical issues tied to the legal issues. Although this approach meant that not all students had completed a specific topic-based reading for each visit to an NGO or Court, it appeared to have a ‘democratising effect’ because students were in a better position to ask questions of NGO and Court staff, and lead

41 Relating to Ryan’s 4 levels of reflection. See Ryan, above n 31.

42 Luong Ung, *First they Killed My Father* (Harper, 2006); Dith Pran, (author), DePaul, Kim (ed), *Children of Cambodia’s Killing Fields: Memoirs by Survivors* (Yale, 1999)

43 Philip Short, *Pol Pot: Anatomy of a Nightmare* (John McRae, 2005); Henry Kamm, *Cambodia: Report from a Stricken Land* (Arcade, 1998).

44 Patricia McCormick, *Never Fall Down* (Balzer & Bay, 2012)

45 *The Songwriter*, 360 Documentaries (ABC, 28 December 2014). <<http://www.abc.net.au/radionational/programs/360/the-songwriter/5905132>>

46 Huy Vannak, *Bou Meng: A Survivor from Khmer Rouge Prison S-21* (DC-Cam, 2010); Chum Mey, *Survivor: The triumph of an ordinary man in the Khmer Rouge Genocide* (Translation by Sim Sorya and Kimsroy Sokvisal) (DC-Cam, 2012).

47 Burton, above n 24.

48 Pdraig McAuliffe, ‘The Limits of Co-operation and Judicial Independence: Resolving the Question of ‘How Low Do You Go?’ in the Khmer Rouge Trials’ Bicephalous Prosecution’, (2010) 29(2) *University of Tasmania Law Review* 110; Lucy Keller, ‘Cambodia Conflicts (Kampuchea)’ (June 2013) *Max Planck Encyclopaedia of Public International Law*; Paul Wilson, ‘Observations of the Cambodian Trial of ‘Duch’’ (2011) 22(3) *Current Issues in Criminal Justice* 473.

49 Christoph Sperfeldt, Oeung Jeudy, Daniel Hong, ‘Legal Aid Services in Cambodia’ (Report of a Survey among Legal Aid Providers, Cambodian Human Rights Action Committee, November 2010).

50 Suyheang Kry, ‘The Boeung Kak Development Project: For Whom and For What’ (2014) 3 *Cambodia Law and Policy Journal* 1; ‘Boeung Kak Lake’, *Cambodian League for the Promotion and Defence of Human Rights*, <[http://www.licadho-cambodia.org/tag/boeung\\_kak\\_lake](http://www.licadho-cambodia.org/tag/boeung_kak_lake)>.

51 Melissa Curley, ‘Combating Child Sex Tourism in South-east Asia: Law Enforcement Cooperation and Civil Society Partnerships’ (2014) 14(2) *Journal of Law and Society* 283.

discussion depending on the topics on which they had focused in their readings – thus giving them all a chance to participate. Additionally, students were encouraged to use their readings to inform their reflective journal entries, and each of the readings related to *at least* one experience that students could include in their journals.

While the readings assisted participation in the first week of visits, they had limited overall assistance for the week-long externship experience. The NGOs with which students spent a week, were more likely to provide students with their own relevant materials after arrival in Cambodia, or they requested students to research specific legal topics that had not been specified in advance. Consequently, some students were unlikely to have gained much substantive overall benefit from undertaking this category of readings.

The final readings category was intended to direct students for the assessment by including readings on the purported benefits of reflective practice<sup>52</sup> and clinical legal education.<sup>53</sup> As has already been addressed, students were likely to already be open to self-reflection, but it was essential that students who may not have engaged in formalised university assessed reflection, were guided towards the intended educational purposes of the reflective process, and to understand how to succeed in achieving the Unit's desired outcomes.<sup>54</sup>

The readings appear to have been, by and large, effective in achieving the outcome of giving students diverse options; they will be maintained when the Unit runs again, as will the three categories of reading (background, law-specific and assessment-related). However, a greater emphasis will be given to the contextual and background readings, which appeared to be more useful in encouraging understanding and empathy with the Cambodian experience. Although students will still be encouraged to choose different topic-based readings, more advice will be given to students in future, about the potential role that the readings have in their overall experience so that they can make more informed decisions about preparation.

### III SELECTION PROCESS: SOCIAL JUSTICE VS ACADEMIC ACHIEVEMENT

The Law School received approximately double the number of applications than there were available student places in the Unit. The applications were very impressive and selecting participants was a difficult process. The selection process was designed to mirror an internship application process. Students were asked to give their curriculum vitae and a cover-letter that explained their suitability for participation. All applicants were then interviewed by a two-person panel (the Unit Coordinator and another senior staff member). Applicants were also needed to provide at least one referee from the Law School (who was not the Unit Coordinator). The aim was to ensure that the application process was as robust, fair and transparent as possible.<sup>55</sup>

The process resulted in the selection of student participants of excellent calibre who consistently impressed the academic staff during the trip with their: level of displayed professionalism, the thoughtful questions posed to NGO staff, and occasionally, questions they chose not to ask, as well as the ways in which they supported each other in challenging situations.

52 Les A. McCrimmon, 'Mandating a Culture of Service: Pro Bono in the Law School Curriculum' (2003-2004) 14(1) *Legal Education Review* 53; Ross Hyams, 'On Teaching Students to 'act like a lawyer': What sort of Lawyer?' (2008) *Journal of Clinical Legal Education* 21.

53 Anna Copeland, 'Clinical Legal Education within a Community Legal Centre Context', (2003) 10(3) *Murdoch University Electronic Journal of Law* 25.

54 Ross Hyams, 'Assessing Insight: Grading Reflective Journals In Clinical Legal Education' (2010) *James Cook University Law Review* 25; Ryan, above n 31; McNamara above n 23.

55 The NGOs that students were embedding with for the second week, were given the students' CVs and had an ultimate veto on whether they would accept the student. However, this did not prove a problem.



It was decided early on, that students' prior academic grades would not be a primary consideration in their eligibility to participate, but would be considered as a distinguishing factor when deciding between applications which otherwise offered strong responses to the three key considerations which are discussed further below. The core reason for this was that while grades are important, evidence increasingly suggests that they are only one part of the 'whole picture' of what employers are looking for in an Australian Bachelor of Laws graduate.<sup>56</sup> Certainly, high academic grades should be an indication of a students' legal academic prowess and can lead to inferences about their dedication to their studies and ability to undertake various forms of legal problem-solving tasks. However, academic marks themselves do not necessarily say much about the student as an individual, or their ability to succeed in an atypical learning environment where assessment is based not on structured problem solving, but on self-reflection.<sup>57</sup> Ranking applications on the basis of prior academic grades may have been an 'easy' answer to the selection process, but arguably not the 'best' answer.

Across the cover letter, interview and referee, the selection process considerations fell into three main categories. Students needed to:

1. Demonstrate that the experiential unit would contribute to their personal, professional and/or academic development;
2. Be resilient and willing to be self-reflective about experiences and actions; and
3. Demonstrate that they would be reliable ambassadors for the Law School specifically, and for the University generally.

To determine the first criteria, students were asked to explain their motivation for applying for the Unit and why they would be a good candidate to participate. Diverse responses were received, and students who demonstrated an existing commitment to the Unit's purposes were selected as most likely to excel in the Unit's criteria. Students who demonstrated that they had: undertaken prior studies in relevant units (in law or other disciplines), had participated in extra-curricular learning in international or social-justice-related fields, or had undertaken work or community service within relevant fields, demonstrated that this Unit was not merely an 'also ran' activity during their law degree and that their participation in the Unit was part of a broader commitment to 'global citizenship'.<sup>58</sup>

In light of the Unit's heavy reliance on reflective assessment, as well as the two-week period 'close quarters' experience,<sup>59</sup> students needed to be prepared to self-examine their own preconceptions and behaviours. The literature consistently claims that reflective assessments are not effective unless participants are genuinely open to the process.<sup>60</sup> Hyams suggests that

56 'Do High Distinctions Matter', *Sydney Morning Herald* (online), 14 August 2014, <<http://www.smh.com.au/small-business/the-venture/do-high-distinctions-matter-20140812-3dlfd.html>> Fran Molloy, 'Top 10 Things employers look for in University Graduates', *Sydney Morning Herald* (online) 15 January 2015, <<http://www.smh.com.au/national/tertiary-education/top-10-things-employers-look-for-in-university-graduates-20150112-12mb73.html>>; Marianna Papadakis, 'Law grad has a 'perfect resume' but can't get a job' *Australian Financial Review* (online) 14 April 2016, <<http://www.afr.com/business/legal/top-law-graduates-pinning-hopes-outside-major-firms-20160318-gnlvun#ixzz4jYlheTY>>

57 Mitchell et al, above n 22, 91; Ruth Callaghan, 'Employers want graduates with more than just good marks', *Australian Financial Review* (online), 16 February 2015, <<http://www.afr.com/news/policy/education/employers-want-graduates-with-more-than-just-good-marks-20150212-13d15h#ixzz4jZGSfoG>>.

58 Mitchell et al, above n 22, 91.

59 As part of the pastoral care and risk management plans, even during their unsupervised time, students committed to not go out alone during the two week period with a preference for groups of three or more.

60 Hyams, above n 54.

‘many...will initially resist the requirements of a formal reflective process’<sup>61</sup> so there is an onus on supervisors to facilitate an environment that is conducive to honest and open journaling.<sup>62</sup> A semester-long unit might give supervisors the time to help students overcome initial reticence or preconceptions, for example by creating formative activities where the students receive early feedback and the opportunity to adjust their practice following from reflection. However, the Unit’s limited time frame did not lend itself to such formative activities. Without the possibility of such preparatory activities, it was predicted that students who could not demonstrate a pre-existing willingness to self-reflect and self-criticise in a formal environment, were more likely to struggle to participate in the Unit effectively.

To determine students’ resilience and willingness to participate in the reflective process, students were asked about stressful experiences, examples of conflict-resolution, and how they respond in a situation where there is no single ‘right’ answer to a problem, and they have no supervisor immediately on hand to assist them. It was predicted that students who identified their role in the cause and resolution of a conflict, and who looked for what the interviewers considered to be reasonable solutions to problems, were most likely to meet the criteria best.

Finally, student reliability and suitability for representing the Law School was considered. Unlike a traditional classroom environment where students take responsibility for their own attendance/non-attendance, and bear the risk of any consequences for non-attendance, students who proved to be unreliable or who did not demonstrate a dedication to each visit and activity, would reflect negatively on the cohort as a whole. Consequently, the interview and referee process were intended to select students who had a good track record of reliable attendance, and had demonstrated engagement in group and class activities.<sup>63</sup>

The Law School’s referee involvement meant the selection process considered a more independent assessment of applicants’ engagement with their law studies, other than self-stated answers and academic transcript results. This was possible due to the Law School’s small size and lack of ‘online’ enrolments, meaning that all students, including those in the early stage of their law degree, had at least one or two staff members with a relatively close understanding of their performance. Referees were asked for their opinion about: a student’s engagement with their classmates, their perception of the student’s reliability in classes and assessments, and their view on a student’s ability to take initiative. The core purpose of the questions was to gain the referees’ insight into how suitable the students were to participate in the experiential Unit.

The selection process achieved the desired result of having what we considered to be an excellent cohort of passionate, reliable students for the Experiential Unit. However, because the quality of applications was so high, as previously stated, we interviewed approximately 30 students with a panel of two people, for a total of 16 available places. Given this could have been a ‘one-off’ experience, interviewing all applicants meant that they all had the opportunity to demonstrate the extent to which they met the selection criteria via multiple forms of communication (for example to address any deficits in their cover letter, by expanding their answers in the verbal interview). The selection process also had the benefit of a wider range of staff in the Unit’s preparation. This was intended to foster a sense of ‘Law School’ ownership of the trip, and the staff engagement in the fundraising activity and post-return debrief would suggest that this had some success. However, this was a labour-intensive process so as a concession to that burden, a more rigorous pre-interview selection process will be adopted in future.

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61 Ibid, 27.

62 Ibid, 28.

63 It should be noted that although this was part of the selection process design before applications were received, in practice it did not serve to distinguish between excellent applicants. Reliability as a criteria for selection, remains an important inclusion in the selection process, because it cannot be guaranteed that every cohort of applications for such a trip will be of as high a calibre.

## IV PASTORAL CARE AND PREPARATION

There were two parts to students' preparation before departure to Cambodia.<sup>64</sup> Firstly, practical information was given to students about: general travel requirements (visas, acquiring local SIM cards and so forth), health requirements/vaccinations,<sup>65</sup> cultural awareness, dress codes, and safety precautions.<sup>66</sup> Much of this information was given by an agency that specialises in academic travel that the Law School contracted to arrange the logistics of the trip,<sup>67</sup> with staff giving additional advice such as providing a detailed Risk Management Plan in conjunction with the University's Risk and Compliance Office.

Secondly, activities were arranged to prepare students for the Unit's potential 'culture shock'. Taking a group of 16 students abroad opens the door to a plethora of possible 'risks' not found in a domestic classroom setting.<sup>68</sup> These risks range from personality disputes when living in close quarters, to needing to adapt to unexpected changes to schedules or activities, and extend to the safety risks associated with site visits, or the health risks of travelling in a developing country (including the potential of living in close quarters with a roommate who falls ill). Students also had free-time, and thus would need to navigate the busy roads, public transport and eating establishments in Cambodia.

The rigorous selection process was intended to ensure that participating students were mature and responsible individuals, and thus were likely to be able to respond appropriately to situations that may arise. The Law School predicted that the Unit's smooth running depended on participating students viewing themselves as responsible not only for themselves, but also for each other.<sup>69</sup> However, an unintended consequence of the selection process was that students selected to participate, represented the full spectrum of cohorts ranging from second year through to fifth year students. Consequently, despite the relatively small Fremantle Law School community, the selected students did not necessarily know each other. Pre-departure preparations, therefore sought to foster a sense of community among the selected students, so that they might be comfortable facing the experience 'together'.

In particular, opportunities were created to support students to prepare for the potentially emotionally stressful experiences of: visiting sites related to genocide, and being exposed to some of Cambodia's most disadvantaged groups. Opportunities were also created to foster a sense of community among participants, so they were comfortable to share their perspectives of their experiences, with the academic supervisors and other students on the trip.

The experience of visiting various sites and organisations in Cambodia was *intended* to put students in potentially emotionally challenging situations and encourage them to empathise, but also to ask ethical questions about the nature of such tourist/educational experiences.<sup>70</sup> That being the case, as extensive research into the mental health outcomes facing Australian law students<sup>71</sup> suggests, it is not merely appropriate but as Field & Kift claim, it is 'an ethical

64 Additional pastoral support was provided while in Cambodia, however that falls outside the scope of this paper which focuses only on the Unit's preparatory stages.

65 See, eg, 'Cambodia' *Centres for Disease Control* <<https://wwwnc.cdc.gov/travel/destinations/traveler/none/cambodia>>

66 Smartraveller, <<http://smartraveller.gov.au/Countries/asia/south-east/Pages/cambodia.aspx>>.

67 Antipodeans (formerly Antipodeans Abroad).

68 Mitchell et al, above n 22, 93.

69 Ibid, 93.

70 See, eg John J Lennon, 'Dark tourism sites: visualization, evidence and visitation' (2017) *Worldwide hospitality and tourism themes* 216; Colette Copeland, 'Madness and Mayhem: The Aesthetics of Dark Tourism' (2011) 39 *Afterimage* 43.

71 See Rachael Field and Sally Kift, 'Addressing the high levels of psychological distress in law students through intentional assessment and feedback design in the first-year law curriculum', (2010) 1(1) *International Journal of the First Year in Higher Education* 65, 67-8

responsibility of legal educators to work to ameliorate ...distress, to create positive learning experiences for our students and to *do no harm* through legal education.<sup>72</sup> Further, it was only by giving students the tools to process the potentially more emotionally challenging experiences of the trip, that they could be expected to undertake their reflective assessment meaningfully.

As discussed in Part I, students were given reading materials that specifically addressed Cambodia's genocidal history to introduce the confronting subject matter before arriving in Cambodia. Students were also given readings that discussed the form and purpose of reflective assessment. Arguably however, asking students to read a few assessment directed articles is hardly providing pastoral support to students and, without some form of additional pre-departure engagement, there was no way to determine the extent to which students absorbed the readings' messages.

Two compulsory pre-departure sessions were run by the contracted agency, giving students practical advice to manage their expectations about the types of direct experiences with the NGOs. In addition, the Law School ran two non-compulsory activities which were attended well by student participants and the wider Law School community. An all-day fundraising activity (a BBQ at a local hardware store) was run with proceeds used to offset miscellaneous student costs while in Cambodia, and participating students were invited to a guest presentation from a former student who had recently returned from six months in Phnom Penh.

International travel, including in a student-context, is expensive.<sup>73</sup> In deciding to run the Unit, the Law School knew that participation could be cost-prohibitive for some students. It was not until relatively close to departure that the DFAT NCP grants were announced and preparation and commitments needed to be made to NGOs before knowing about the outcome of the NCP application. Consequently, students were required to commit to their participation and begin to make payments before NCP funding was confirmed. The Law School's intent was to make the trip available to the widest range of students by being transparent about all the costs and, gave them just over six months of time, to finance their participation.

In addition, the Law School offered to support students (both individually and collectively) in fundraising activities. The student cohort collectively decided to undertake a single 'high yield' activity – an all day barbecue, with the funds being used to offset in-country costs and ensure that no student was excluded from any opportunity in Cambodia. Allowing students to participate in decision making both about how to raise funds, and how to spend the funds, arguably raised students' ownership over some of the financial decisions relating to the Unit. In addition, Law School staff who were not otherwise involved in the Unit, volunteered their time to assist with the Saturday activity, demonstrating institutional support for the Unit and alleviating some of the atypical teaching load burden from the Unit Coordinator.<sup>74</sup>

The guest presentation gave students the opportunity to hear a first-hand experience of law and justice engagement in Cambodia. This was also part of the pastoral care commitment to prepare students for the positive achievements and outcomes occurring in Cambodia, tempered by a realistic assessment of the challenges of 'justice' in a developing country. The guest presentation had a significant impact as it received positive feedback from students and, perhaps more tellingly, it was the preparation activity most frequently referenced by students while in Cambodia – by for example, comparing their observations of particular sites with those made by the presenter. While these references were informal (inasmuch as they were

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72 Ibid.

73 Mitchell et al, above n 22.

74 Proctor has pointed to internationalisation strategies of Universities relying on this active engagement by the faculty requiring this shift in overall staff approach to internationalization initiatives. See, eg, Douglas Proctor, 'Faculty and International Engagement: Has Internationalization Changed Academic Work?' (2015) (83) *International Higher Education* 15, 17.

in conversation rather than referenced written assessments), they demonstrated the practical impact of the presentation. Moreover, rather than being presented by an academic staff member, someone who could be viewed as a student peer shifted the presentation of the information from academic discourse, to a potentially more relatable experience. The presentation was potentially an example of a reasoned and thoughtful reflection on the pros and cons of an overseas legal experience, thus giving students a framework to use for their reflective assessments.<sup>75</sup>

Also, our guest speaker gave practical advice about cultural mores and personal safety in Cambodia. Although most of this information was contained in the formal pre-departure training, the guest speaker's personal experiences and practical advice appeared to be well received by students, and when in Cambodia it was the guest speaker's informal lessons that students seemed to expressly mention when reminding each other of precautions to take. Having access to former students who are willing to share similar overseas education experiences, is one way to support students' preparation for an international unit of this kind. To this end, students who participated in the 2017 Cambodia trip were asked for, and provided, examples and advice derived from their experiences for the next student cohort attending the immersion in 2018.

## V CONCLUSIONS

This paper has set out the considerations that went into creating an international experiential unit 'from scratch' at an Australian Law School that had not previously offered many international student opportunities. As Mitchell et al explained, in designing an international experiential unit 'many additional tasks are borne by the academic teaching staff administering the courses — tasks that are on top of the "normal" teaching workload, or are difficult to account for in standard workload formulas.'<sup>76</sup> While many of these tasks fall outside the ordinary tasks of academic teaching staff (such as organising accommodation and facilitating NGO contact), this paper has focused on the design and preparation of the academic content of the unit, which also requires consideration beyond an 'ordinary' unit.

There are several key lessons that can be taken away from the experience of planning this unit. Firstly, in designing the unit assessment and preparatory materials, focus must arguably shift away from legal content and students' prior academic marks. The core task of the academic supervisor preparing a unit of this kind is to facilitate students' opportunities to learn from the diverse experiences that may arise when overseas. While provision of materials will necessarily vary, offering students options and encouraging them to make passion/interest-based decisions about their readings, is intended to facilitate robust discussion among the participants. However, if they are to achieve their purpose, students should also be informed about the usefulness and role of those preparatory materials.

Secondly, careful selection of passionate students who are open to unpredicted experiences, would appear to be helpful in facilitating active engagement with the various NGO visits with little need for prompting from staff – whatever the particular legal topic may be. Arguably, offering the opportunity to students who are already demonstrating an openness to the self-reflection process, was also helpful given the limited time frames in which to develop this

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<sup>75</sup> Rogers, above n 34, 53.

<sup>76</sup> Mitchell et al, above n 22.

skill.<sup>77</sup> Thirdly, pre-departure activities that focus on building a peer support network amongst students can potentially be used to introduce them to the reflection process, whilst planning for the Unit's potentially confronting aspects.

Finally, although the burden of preparation inevitably and appropriately falls to the Unit Coordinator and other staff participating in the Unit directly, involving the wider Law School staff in pre-departure activities, arguably had significant benefits because they were involved in: interviewing student applicants, fundraising and guest lectures, and this seemed to improve the quality of each of these activities, and facilitate an overall sense of a supportive community surrounding the Unit – thus promoting an environment in which honest self-reflection is more likely to occur.

The creation of an international experiential unit was a rewarding experience, albeit one which placed a high burden on the University staff involved. The students involved took full advantage of the opportunity offered.<sup>78</sup> The academic staff function was to open the door for students to engage with the international legal community: it will ultimately be up to those students to learn from their experiences and to continue developing themselves as 'global citizens.'

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77 An argument could be made that students who have not demonstrated self-reflection, or who had demonstrated a reticence to self-reflect would get the most out of an experience such as the Cambodia Unit. However, in light of the existing challenges facing Australian students in Cambodia – the potential culture shock, unpredictability of activities and health risks– combined with the two week time frame, overcoming a reticence for self-reflection would require significant support structures not compatible with the trip's already rigorous activities. Conceivably, this hurdle to participation could be overcome by including reflective practice early in the law degree so that a willingness to engage in reflective practice is an already developed skill by the time students apply for an immersion experience. Exploring this argument is beyond this paper's scope.

78 Fremantle Law School's Inaugural International Immersion – Phnom Penh 2017, *University of Notre Dame*, <<http://www.nd.edu.au/fremantle/schools/law/events/cambodia-2017>>.