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Published

2022

Book Title

Legal Education as a Subversive Activity

Version

Accepted Manuscript (AM)

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Hacking the Priestleys¹

Kate Galloway, with Melissa Castan and Alex Steel*

I. INTRODUCTION

According to commentary around the Priestley 11, the core mandated subjects of the accredited Australian law degree are either a dead hand, or a ‘surprisingly light hand’.² Despite a recent review of the formulation of the Priestley subjects, there has been no change. In the absence of a significant—and likely consensus—shift in the approach to law school accreditation, the Priestleys look to retain their longstanding formulation into the foreseeable future. Partly this is due to an ingrained textbook tradition of the law, that for many in the academy, the profession, and the judiciary, makes it difficult to imagine a ‘coherent body of discipline knowledge’ of the law in any other way. And partly it is fear of creating an alternative and more onerous and intrusive form of law school regulation that would regulate pedagogy and broader educational aims.

Between the framing of the mandated curriculum and the unbundling, globalisation, and ‘technologization’ of legal services,³ what *is* a lawyer in the 21st century? What type of lawyer is the mandated curriculum serving? Assuming that legal education continues to serve the administration of justice, the underlying question, and the focus of this research, is whether it is possible that alternative law curricula might also serve society and the administration of justice through diverse conceptualisations of the threshold knowledge and skills of the graduate lawyer.

The Priestley 11 mandatory knowledge areas are determined by the judiciary, embodied in legislation, and enforced by the practitioners’ admissions boards in each state and territory.⁴ They are also looking increasingly dated. In the US an American Bar Association committee recommended a significant reduction in the number of areas of law in the Bar Examination – the core of the US admission process.⁵ The UK admission requirements now see doctrinal knowledge as part of a more applied approach to legal practice.⁶

Given Australia’s top-down and dated approach to the accredited law curriculum, this chapter critiques the current curriculum regulations and reports on a project of collective

¹ Some of the ideas in this chapter have been adapted from Kate Galloway, ‘Is Legal Education Over-Regulated or Under-Regulated?’ Paper delivered at Professional Legal Education Conference Plenary Panel Bond University, Friday 2 October 2020.

* Thank you to our research assistant, Jill McGrath (LLB (hons), BGIR), for transcription and organisation of the participant data.

² Cited in Richard Johnstone and Sumitra Vignaendra, ‘Learning Outcomes and Curriculum Development in Law: A Report Commissioned by the Australian Universities Teaching Committee’ (2003), 21.

³ Richard E Susskind, *The End of Lawyers?: Rethinking the Nature of Legal Services* (Oxford University Press, 2010); Mitch Kowalski, *The Great Legal Reformation* (iUniverse, 2017).

⁴ See, eg, *Admission Guidelines No 1 of 2016* issued under Rule 9AA of the *Supreme Court (Admission) Rules 2004* (Qld).

⁵ <https://nextgenbarexam.ncbex.org/>

⁶ <https://www.sra.org.uk/sra/policy/solicitors-qualifying-examination/sqe1-functioning-legal-knowledge-assessment-specification/>

reimagination of the core law curriculum — ‘hacking’ the Priestleys. In describing the variety of responses to an ‘ideal’ law curriculum, it highlights diverse conceptions of what it means to be a graduate lawyer in the context of rapid and paradigmatic social, economic, environmental, political and technological change.

Part II outlines the influence of the Priestley 11 on the Australian law curriculum, and its inherent relationship with the essence of what it means to be a lawyer. Part III describes the project we undertook to ‘hack’ the Priestleys. Part IV discusses the outcomes of the project, before concluding.

II. AUSTRALIAN LAW CURRICULUM AS PREPARATION FOR BEING A LAWYER

For an Australian law school to offer a pathway to admission to practice law, they must have their law degree accredited by their state legal practice board. The requirements of the accredited degree are set out in various statutes, approved by the Supreme Court in each jurisdiction. These requirements include a list of prescribed areas of knowledge (the Priestley 11) and include particularised topics within each subject area.⁷

All applicants must have completed a university level qualification offered by a law school⁸ that is accredited by these bodies. Fundamentally, law schools are accredited on the basis of sufficiently rigorous teaching of eleven doctrinal content areas, the ‘Priestley 11’.

These areas arose out of the 1982 McGarvie Report into legal education.⁹ Sandford Clark notes:

The Report also set out ‘topics which will ordinarily be treated as necessary parts of the required area of knowledge.’ These were drawn from the current handbooks at Melbourne and Monash. Importantly, however, they were only meant to help law schools know what an admitting authority would ‘ordinarily’ look for and were offered in an attempt to help law schools meet its expectations more easily than it might otherwise do. But the lists were intended merely to be indicative, not prescriptive. Because Professor Jack Goldring, then Head of School at Macquarie, thought it was necessary to guard against the possibility that they would be wrongly interpreted as prescriptive, a second, more general formula was added to each description to ensure the intended flexibility.¹⁰

Since 1979, the Legal Admissions Consultative Council (‘LACC’) has served as a peak body of state and territory admitting authorities.¹¹ LACC is an advisory body only, and state accrediting authorities may add additional requirements, but it is recognised that LACC has the carriage of any review of development of the Priestleys. Most recently, LACC led a review of the framing of the existing 11 subject areas that sought to update the content of the

⁷ Ibid.

⁸ The exception being the Diploma Law run by the Legal Profession Admission Board in New South Wales.

⁹ Academic Course Appraisal Committee, Council of Legal Education, Legal Knowledge Required for Admission to Practise (14 October 1982).

¹⁰ Sandford Clark, ‘Regulating Admissions – Are We There Yet?’ (2017) 91 *Australian Law Journal* 907, 909.

¹¹ Law Admissions Consultative Committee Charter <<https://www.legalservicescouncil.org.au/Pages/about-us/law-admissions-consultative-committee.aspx>>

knowledge areas without changing the names of those areas,¹² but which it has decided to defer implementing.¹³

An alternative regulatory approach exists. Australian university degrees are required to develop a set of learning outcomes that match levels in the Australian Qualifications Framework (AQF). Law is aided in achieving this requirement by the existence of the more broadly based discipline Threshold Learning Outcomes ('TLOs').¹⁴ These were developed under the aegis of the Australian Learning and Teaching Council which was commissioned by the Australian Government to support the development of disciplinary-based elaborations of the AQF requirements.

The TLOs provide significant support to law schools in devising program level learning outcomes as required by Tertiary Education Quality and Standards Agency. The TLOs attempt to make a break from the Priestleys by formulating outcomes in terms of the threshold of graduate knowledge, skills, and attributes that constitute a lawyer. They relegate the importance of doctrinal knowledge to one outcome that itself extends more broadly than the prescribed knowledge areas of the Priestleys:

TLO 1: Knowledge

Graduates of the Bachelor of Laws will demonstrate an understanding of a coherent body of knowledge that includes:

- (a) *the fundamental areas of legal knowledge*, the Australian legal system, and underlying principles and concepts, including international and comparative contexts,
- (b) the broader contexts within which legal issues arise, and
- (c) the principles and values of justice and of ethical practice in lawyers' roles.¹⁵

The commentary to the TLOs states:

TLO 1 has been drafted to encompass the current 'prescribed academic areas of knowledge' known as the 'Priestley 11' and to be flexible enough to allow for subsequent developments as negotiated between [the Council of Australian Law Deans] and the law admitting authorities.¹⁶

¹² Law Admissions Consultative Committee, 'Redrafting The Academic Requirements For Admission' <<https://www.legalservicescouncil.org.au/Documents/redrafting-the-academic-requirements-for-admission.pdf>>.

¹³ Resolution of the Law Admissions Consultative Committee, September 2020, published on: Law Admissions Consultative Committee, 'About Us' <<https://www.legalservicescouncil.org.au/Pages/about-us/law-admissions-consultative-committee.aspx>>.

¹⁴ Sally Kift, Mark Israel and Rachael Field, 'Bachelor of Laws Learning and Teaching Academic Standards Statement' (Australian Learning and Teaching Council, 2010).

¹⁵ Ibid 10 (emphasis added).

¹⁶ Ibid 12–13.

Despite embracing the threshold outcome of knowledge, the external (professional) requirements for accreditation mean that the TLOs will always exist in the shadow of the Priestleys. The commentary to the TLOs makes clear that the Priestleys retain their primacy, but that the TLO anticipates a future beyond them. That future has not yet arrived.

Given the complexity of the higher education environment, there are multiple other variables informing curriculum: each state and territory regulator's interpretation of the Priestley requirements, each of those decision-makers' own conceptions of what makes a lawyer, vague factors such as the culture of the profession, and of course universities' own policy imperatives. Given the complexity of the system, the relationship between the Priestleys and legal education is inevitably multidirectional. Although the Priestleys might be considered to reflect the profession's image of itself, as the key regulatory organising structure for educating lawyers it may also be sufficiently internalised as the coherent body of knowledge necessary to constitute the baseline of legal education.¹⁷ The Priestleys are 'within us' as *constituting* legal education.

As legal education is driven by the peak accrediting bodies who control lawyers' entry to the legal system, their approach to how to interpret or contextualise the Priestleys — or to fail to seek to renew or replace them — implicitly determines the substantive meaning of what it is to be a lawyer through what is required to be taught in the accredited degree. While prescribing core knowledge areas is one way of organising curriculum, our affinity with knowledge of identifiable core doctrinal subjects as a proxy for what it is to be a lawyer can inhibit the scope to teach a range of other knowledge, skills, and attributes that apparently the profession desires in the 'work-ready' graduate.¹⁸ Yet the meaning of what it is to be a lawyer is increasingly open to interpretation in the professional literature across common law jurisdictions.¹⁹

Lawyers tend to use 'the profession' as a catch all phrase to signify the institution of those admitted to practice, as well as what has emerged as a broader legal services industry. It is also, in general terms, a means of describing the source of regulation of legal education. More precisely, however, the primary source of accreditation body membership is the judiciary, largely drawn, of course, from the ranks of the bar—a subset of a subset of the broader profession. The design of legal education more broadly is informed by stakeholders, including solicitors who employ graduates in their businesses, the courts as gatekeepers to admission, the public as consumers of legal services, and students as learners and future professionals.

¹⁷ See TLO 1, Kift, Israel and Field (n 14).

¹⁸ See, eg, the list identified in the Law Society of New South Wales, *Future of Law and Innovation in the Profession* (2017) ('FLiP Report') 78-9.

¹⁹ See, eg, Lisa Webley and others, 'The Profession(s)' Engagements with Lawtech: Narratives and Archetypes of Future Law' (2019) 1(1) *Law, Technology and Humans* 6.

More generally, if the ‘work-ready’ graduate is a goal of legal education²⁰ the meaning of ‘work-ready’ is somewhat diffuse. In the first place, commentary offered by the profession offers a diverse list of additional knowledge and skills beyond the core—that itself remains vital.²¹ Tellingly, the suggestions are not accompanied by the means of designing a curriculum to meet them all. The questions for any law school designing a work-ready curriculum are what exactly is the desired ‘work-ready’ outcome and how can the crowded curriculum accommodate what looks to be a wish list for graduates entering their first job. Of note, the TLOs²² are capable of accommodating the enhanced skillset. However, as the TLOs are not prescriptive, and in the face of the emphasis on content in the Priestleys, they go only part of the way to assist in designing a curriculum to meet a radically broader skill set.

Without a clear articulation of what exactly they are educating for, law schools face the challenge of attempting to serve all stakeholders while also meeting other (educational) imperatives that intersect to an extent but are not the same. The proliferation of mooting and interviewing competitions, work integrated learning programs, clinical programs, mentoring and internships, volunteering, international experiences, and hackathons and incubators, for credit and extra-curricular, are all examples of attempts to value-add to the student experience in terms of employability skills. There is a cross-over between these activities and universities’ contemporary emphasis on employability²³ reflected also in their framing of programs of study in terms of graduate attributes²⁴ and enterprise skills.²⁵ Law schools will also reflect their own university’s particular branding²⁶ and design curricula aligned with that university’s strategic intent and learning and teaching policies and priorities. This can lend a particular flavour to legal education independent of the imperatives of wider stakeholder groups.²⁷

A further challenge for legal education in terms of graduate work-readiness (as a benchmark of knowledge, skills, and attitudes of graduate lawyers) is that employers of graduates cannot

²⁰ Nickolas J James, ‘More than Merely Work-Ready: Vocationalism versus Professionalism in Legal Education’ (2017) 40(1) *UNSW Law Journal* 186.

²¹ See, eg, FLiP Report (n 18).

²² Kift, Israel and Field (n 14).

²³ Ruth Bridgstock, ‘The University and the Knowledge Network: A New Educational Model for Twenty-First Century Learning and Employability’ in Michael Tomlinson and Leonard Holmes, *Graduate Employability in Context* (Palgrave Macmillan, 2017) 339.

²⁴ Ruth Bridgstock, ‘The Graduate Attributes We’ve Overlooked: Enhancing Graduate Employability Through Career Management Skills’ (2009) 28(1) *Higher Education Research & Development* 31; Sharon Christensen and Sally Kift, ‘Graduate Attributes and Legal Skills: Integration or Disintegration’ (2000) 11 *Legal Education Review* 207; Andrew Litchfield, Jessica Frawley and Skye Nettleton, ‘Contextualising and Integrating into the Curriculum the Learning and Teaching of Work-Ready Professional Graduate Attributes’ (2010) 29 (5) *Higher Education Research & Development* 519.

²⁵ Brian Jones and Norma Iredale, ‘Enterprise Education as Pedagogy’ (2010) 52 (1) *Education+ Training* 7; Elvir M Akhmetshin and others, ‘Acquisition of Entrepreneurial Skills and Competences: Curriculum Development and Evaluation for Higher Education’ (2019) 22 (1) *Journal of Entrepreneurship Education* 1.

²⁶ See, eg: < <https://www.qut.edu.au/>>; UNSW Law motto is ‘Where Law Meets Justice; Monash Law: Law for the Public Good < <https://www.monash.edu/law/>>; Griffith Law School: We Challenge the Rules < <https://www.griffith.edu.au/arts-education-law/griffith-law-school/>>.

²⁷ See, eg, Kate Galloway, ‘Refreshed in the Tropics: Developing Curriculum Using a Thematic Lens’ (2011) 4(1&2) *Journal of the Australasian Law Teachers Association* 119.

necessarily themselves articulate what is required or what they expect. Knowledge (such as is represented by the Priestley subjects) is a straightforward way to articulate what is expected and may perhaps explain why the profession is so enmeshed in the core curriculum as the driver of legal education both in a regulatory sense and in practice.

In the regulation of legal education, whether through accreditation requirements or through policy imperatives for law schools to engage with employability metrics (such as those imposed by the government²⁸), the profession itself has identified an indeterminate field of skills and attributes. Within these skills and attributes, and lending to the ambiguity of the cited skill-set, there is no acknowledgement of the effect on skills of: diverse types of legal service provision, the fragmented effects of technology on legal practice, and the changing nature of legal services altogether.²⁹ There is a general embrace of technology, for example, without any useful or actionable examination of what it means.³⁰ Finally, the profession has not clarified how it might contribute to the framing of the requisite skills or the education of its employees who are necessarily the future of the profession.

The discussion about the nature and content of legal education, therefore, begs the question of the outcome sought. There are a myriad of types of lawyer, with diverse skills and knowledge—but this is not recognised within the scope of the Priestleys and the current accredited curriculum.

Given that there are many types of lawyers and, axiomatically, many purposes for legal education, the idea that a prescriptive list of subjects and associated content will serve the justice system, the profession, or the community, cannot be assumed. But without a process of continuous evaluation and review, the existing structure, prescribed from the peak of the law's hierarchy, will remain in its own image. In this project, we seek to challenge the power inherent in the prescribed curriculum by drawing on the experience, expertise, and informed beliefs of a range of legal educators, to test the universality of the law curriculum as manifest in the Priestleys. In crowd-sourcing a new curriculum—or curricula—this project subverts the expectations in the model of a universal curriculum and the power invested in its pronouncement.

III. HACKING THE PRIESTLEYS

One meaning of hacking is the gaining of unauthorized access to data in a system or computer, widely recognised as a subversive activity. According to Tréguer, for example, ‘...the Internet has enlarged the public sphere, opening a space where once excluded citizen

²⁸ Australian Government, Department of Education, Skills and Employment, ‘Performance-Based Funding for the Commonwealth Grant Scheme’ <<https://www.dese.gov.au/reviews-and-consultations/performancebased-funding-commonwealth-grant-scheme>>.

²⁹ Kate Galloway, ‘Text to Bits: Beyond the Revolution in Law and Lawyering’ (October 2, 2016) <https://ssrn.com/abstract=2879220> or <http://dx.doi.org/10.2139/ssrn.2879220>; Kate Galloway, Melissa Castan and John Flood, *The Global Lawyer* (2020, Lexis Nexis).

³⁰ Kate Galloway and others, ‘The Legal Academy’s Engagements with Lawtech: Technology Narratives and Archetypes as Drivers of Change’ (2019) 1(1) *Law, Technology and Humans* 27. <https://doi.org/10.5204/lthj.v1i0.1337>.

groups can act at its outskirts to challenge dominant discourses and resist power.’³¹ So-called ‘insurgent citizenship practices’ arise online based on the construction of the internet as an extension of the public sphere. Its ready accessibility to all, including the marginalised, provides a new and democratised platform for resistance and expression that challenges mainstream ideas and discourse. ‘Hacking’ in this sense describes, for us, the subversion of the power of pronouncement of the only acceptable curriculum that is emblematic of the law itself.

Hacking also has an older, broader meaning of a technical expert who overcomes the limitations or standard uses of systems of objects using non-standard means.³² In this sense hacking describes, for us, the expertise legal academics have to re-use and re-imagine the elements of the Priestleys to form innovative curricula.

A. Method

The purpose of the study is to answer the research question, what is the ideal law curriculum to develop the graduate lawyer of tomorrow? To answer the question, the project involved a multimodal method situated as a (semi-)naturalistic inquiry to gather data in a fairly controlled setting.³³ The data to be gathered included participants’ vision of a graduate lawyer; the style of curriculum that would achieve such a graduate; and core elements of that curriculum.³⁴

Given that we are seeking to uncover ‘the description of activities [the law curriculum] in relation to a particular cultural context [the law school] from the point of view of the members of that group themselves’³⁵ we adopted an ethnographic approach, broadly speaking. A form of social research, we seek to examine curriculum design through the eyes of the participants. Ethnography as a research method, ‘grasp[s] the point of view of the native [sic], his [sic] view of the world and in relation to his [sic] life.’³⁶ For our purposes, illustrating the breadth of possible curricula depends upon engaging a diverse group of experts in framing the law curriculum in a way that is meaningful to their interpretations of what it means to be a lawyer, and what is the purpose of legal education.

Although we are cognisant of the paradox, and therefore limitations, of a ‘naturalistic’ approach in a contrived environment, we maintain that the nature of the inquiry—into experts in the law curriculum in an academic context—limited the constraints, such that the data produced would be valid.

³¹ Félix Tréguer, ‘Hackers vs States: Subversion, Repression and Resistance in the Online Public Sphere’ (2015) 91(3) *Droit et Société* 639, 642.

³² A well-known example is that of flatbed furniture ‘hack’ sites, eg <<https://www.ikeahackers.net/>>.

³³ Described in Lawrence Manion, Louis Cohen and Keith Morrison, *Research Methods in Education* (Routledge, 2007)

³⁴ This project is conducted under Monash University Ethics Approval Project ID: 22071.

³⁵ Graham Hitchcock and David Hughes, *Research and the Teacher* (Routledge, 1989) 52–3.

³⁶ Bronislaw Malinowski, *Argonauts of the Western Pacific: An Account of Native Enterprise and Adventure in the Archipelagoes of Melanesian New Guinea* (Dutton, 1922) 25.

The participant group was self-selecting—law academics who were present at the UNSW Legal Education Conference, held on 27-8 November, 2019, and who chose to attend. This may seem somewhat limiting notably in that we did not specifically recruit law deans or associate deans education, or ensure a wide representation of law schools. Indeed, it is likely that many law academics could not afford to attend the conference and the group may have had an over-representation of Sydney-based academics.

On the other hand, the conference was going to draw those who were at least interested in legal education, and more likely to be engaged in questions of legal education than the broader law academic population. In electing to participate in this session, we were likely to have the most interested and most dedicated group of relevantly qualified experts. We believe that in light of the nature of this inquiry, the method of selection is valid to provide us with the data we need. This is in line with our second understanding of hacking, ie iconoclastic experts without loyalty to established approaches.

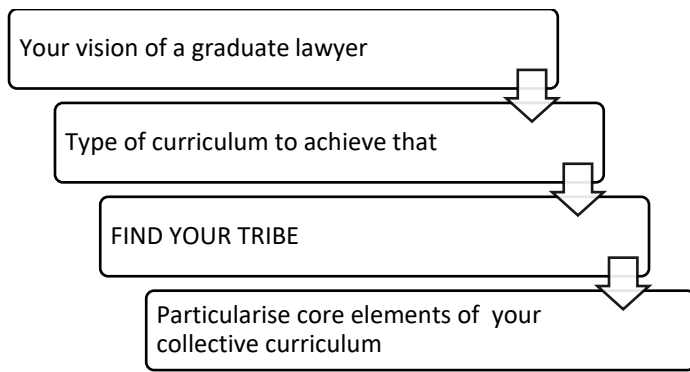
University research ethics approvals were sought and granted. With the permission of the organisers, we advertised the session in advance, together with information sheets and related materials pursuant to our ethics approval. The group that attended the session were then informed of the nature of the research and the process, and signed consent forms agreeing to participate, and for us to use the resultant data. All participants were free to leave the session at any time although to the extent that their (unnamed) contribution was to that point intermingled with other text, it was not possible to extract the contribution they made prior to their departure.

Participants recorded the data as text and diagrams, through a facilitated series of scaffolded, individual and small group activities designed to simulate a curriculum design process. We transcribed the results, consolidating them into the tables produced below.

B. The Facilitated Activities

Tasks and stimuli were designed to encourage participants to identify their vision of graduate lawyers, and the curriculum that will generate that type of lawyer. The group of participants commenced as individuals. As tasks progressed, members joined into small groups with a common interest and through additional tasks and stimuli, articulated that group's agreed core components of curriculum relevant to achieving their ideal graduate.

Figure 1: Scaffolded tasks



Task 1: Identify Graduate Competencies. The first task required identifying words describing what that participant believed were the top three graduate competencies. We provided a list of words (Table 1), but participants could use any word. The words are very general, and some are ambiguous. It was open to participants to interpret the words according to their own parameters. Participants were invited to write one word per post-it note.

Table 1: Desirable Graduate Competencies—stimulus words

| | | | | |
|---------------------------|-------------------------|-------------------------|-------------------------|-------------------------------------|
| Commitment to rule of law | Creativity | Project management | Legal problem-solving | Knowledge of First Nations contexts |
| Ethical | Effective communication | Global-orientation | Commitment to justice | Legal writing |
| Tech-savvy | Learned in law | Leadership | Advocacy | Self-confidence |
| Resilience | Reflective | Adaptable | Coding proficiency | Entrepreneurship |
| Legal design | Client-readiness | Effective collaboration | Self-awareness | Critical thinking |
| Curiosity | Legal drafting | Business skills | Digital literacy | Work-readiness |
| Social awareness | Cultural intelligence | Intellectually capable | Independence of thought | High-level research skills |

Task 2: Frame your curriculum goal. As an introduction to this task, we introduced participants to various frames of thought about curriculum in terms of its purpose (Table 2). Each framing has its own context, but in our view, there are overlaps and similarities. Expressing the four frames in a table allowed us to represent the common themes running through.

Table 2: Frames of interpretation of curriculum purpose

| Curriculum: Schiro (2008)³⁷ | Discourses: James (2004)³⁸ | Curricular emphasis: Galloway (2011)³⁹ | Narratives of ‘lawtech’ in curriculum: Galloway et al (2019)⁴⁰ |
|---|--|--|--|
| Scholar academic | Doctrinalism | Discipline based | Status professionalism |
| Social efficiency | Corporatism | | ‘Death’ (of the profession) (Susskind ⁴¹) |
| | Vocationalism | Practical skills | Disruption (Christensen ⁴²) |
| | Liberalism | | |
| Social reconstruction | Radicalism | Service to community | Adaptive professionalism |
| Learner centered | Pedagogicalism | [Serving a particular cohort eg] external students | |

Table 2 lists the work of four authors, each of whom has engaged in analysis of curriculum according to categories. Using Schiro’s categories of types of curriculum as the starting point, the rows group together similarly themed categories within the work of the authors in each column. These are not exactly correlated, but in our view represent sufficiently similar thematic underpinning to be seen as broadly on the same lines.

We observe an overlap, or alternative grouping between corporatism and doctrinalism, discipline, and status professionalism—largely arising from the corporate nature of the prescribed law degree, and the focus on graduate destinations in ‘Big Law’.⁴³

The purpose of presenting participants with these curricular frameworks was to promote reflection on the type of curriculum a participant might see as generating their ideal graduate. These categories both provide the language to describe curriculum goals or purpose, as well as to stimulate thinking about key differences in approach to the law curriculum. They are not intended to be definitive, and the suggested correlations are open to contestation—this in itself might stimulate participants’ own thinking.

Task 3: Find your tribe: Participants were invited to collect their post it notes and position themselves in the room along a continuum according to their preferred category of

³⁷ Michael Stephen Schiro, *Curriculum Theory: Conflicting Visions and Enduring Concerns* (Sage Publications, 2008).

³⁸ Nickolas James, *Power-Knowledge and Critique in Australian Legal Education: 1987-2003* (Queensland University of Technology, 2004) <https://eprints.qut.edu.au/15910/1/Nickolas_James_Thesis.pdf>.

³⁹ Galloway (n27).

⁴⁰ Kate Galloway and others (n 30).

⁴¹ See, eg, Richard E Susskind, *The End of Lawyers?: Rethinking the Nature of Legal Services* (Oxford University Press, 2010).

⁴² Clayton Christensen, *The Innovator's Dilemma* (Harvard Business School, 1997).

⁴³ For a discussion on ‘big law’ see, eg, George Beaton, *New Law New Rules: A Conversation About the Future of the Legal Services Industry* (Beaton Capital, 2013).

curriculum. Using James’ framework, those preferring doctrinally oriented curriculum were to stand at one end, while the pedagogic approach was represented at the other side of the room. Through discussion with those standing close by, participants could assess the extent to which their desirable graduate competencies aligned—for some this may have involved some sorting to assure the closest alignment of graduate goals and curriculum approach. Thus, this method facilitated participants self-selecting into groups with a similar attitude to graduate competencies and curriculum.

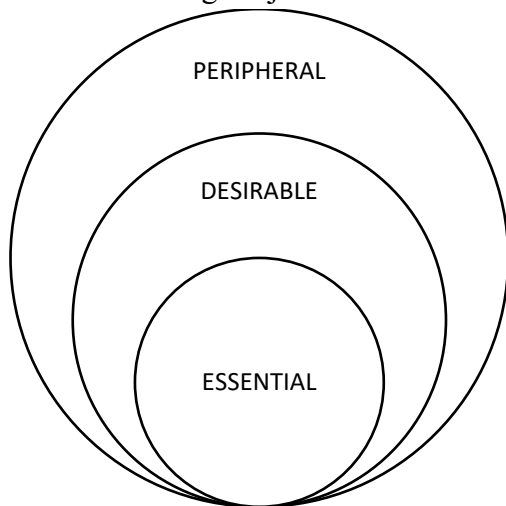
Task 4: Build your curriculum. The next task, undertaken in small groups, involved building the desirable curriculum. We used a simple table (Table 3) to promote targeted thinking of the knowledge, skills, and attributes of the graduate lawyer necessary to achieve the curriculum goals—to a maximum of four each.

Table 3: Knowledge, Skills, and Attributes to achieve curriculum goals

| | 1 | 2 | 3 | 4 |
|------------|---|---|---|---|
| Knowledge | | | | |
| Skills | | | | |
| Attributes | | | | |

Task 5: adopted a concentric framework (Figure 2) to help participants identify subject areas for their curriculum that they felt would develop the knowledge, skills, and attributes, according to whether each subject would be at the core, or outside that as an ‘intermediate’ subject, or one that was peripheral.

Figure 2: Prioritising subject areas relative to achieving curricular goals



A. Results

Participants formed seven groups, based on their ideal graduate and curriculum. Each group clarified their curricular purpose, as well as the key knowledge, skills, and attributes necessary to achieve that purpose. The data is presented below.

Graduate competencies were fairly widely spread, as indicated in Table 4 below. In collating this data, we grouped similar competencies and counted the incidence with which they were recorded. Some groups recorded three, and some recorded six.

The highest incidence of a desirable competency was legal problem-solving and adaptability, both appearing in four groups. This was followed by effective communication, and ethical disposition at three instances, with a number of desirable competencies nominated by two groups.

Table 4: Incidence of desirable graduate competencies

| Number of responses | Graduate competency |
|---------------------|--|
| 4 | legal problem-solving |
| 4 | adaptable |
| 3 | effective communication |
| 3 | ethical |
| 2 | democratic citizen; service to community |
| 2 | empathy; cultural intelligence |
| 2 | critical thinking |
| 2 | creativity |
| 2 | intellectually capable |
| 2 | self-management; reflective |
| 2 | high-level research skills |
| 1 | effective collaboration |
| 1 | disruptive |
| 1 | advocacy |
| 1 | global orientation |
| 1 | work-ready |
| 1 | rule of law |
| 1 | broad legal knowledge |

In tabulating the curriculum approaches, we present the raw data in Table 5. It includes the particular curriculum approach adopted by that group, and the knowledge, skills, and attributes that group saw as the goals of that approach. While we had encouraged limiting these to four goals for each aspect of curriculum, we have recorded all goals proffered.

Table 5: Knowledge, Skills, and Attributes for curriculum approaches

| Status professionalism | | |
|------------------------|--------|------------|
| Knowledge | Skills | Attributes |

| | | |
|--|--|--|
| <ul style="list-style-type: none"> • Doctrinal • Ethical • Service delivery • “How-to” professional knowledge • How to best acquire and use knowledge; “meta knowledge” | <ul style="list-style-type: none"> • Research • Critical evaluation • Communication • Conflict resolution • Problem solving | <ul style="list-style-type: none"> • Professional identity • Self-management • Resilience • Adaptability • Technologically agnostic |
| Liberalism | | |
| Knowledge | Skills | Attributes |
| <ul style="list-style-type: none"> • Interdisciplinary knowledge: politics economics, culture, theory, history, etc. • Holistic legal knowledge; connection between theory and practice | <ul style="list-style-type: none"> • Comparative and international legal skills • Integrated learning • Critical thinking skills • Research • Writing • Applied practical skills • Theoretical skills • Ability to make connections between individual and collective legal ideologies | <ul style="list-style-type: none"> • Globally-minded; ability to make connections to broader context • Critical thinking • Cultural competency • Emphasis on social justice and ethics |
| Service to community | | |
| Knowledge | Skills | Attributes |
| <ul style="list-style-type: none"> • Ethical foundations • Law in action • Positive law • Theoretical framework | <ul style="list-style-type: none"> • Self-awareness • Cultural competence • Professional and ethical competence • Interpersonal skills | <ul style="list-style-type: none"> • Commitment to justice • Commitment to rule of law • Tenacity • Resilience • Kindness |
| Adaptive professionalism | | |
| Knowledge | Skills | Attributes |
| <ul style="list-style-type: none"> • Ethics • World awareness: disruption, climate change and social evolution • ‘Known unknowns’ • Legal discourse, including rule of law | <ul style="list-style-type: none"> • Ethics • Technology-based skills • Self-management across work, social, justice, and interpersonal contexts • Critical thinking | <ul style="list-style-type: none"> • Ethical disposition • Adaptive • Agile • Self-awareness • Social justice |
| Disruptive, creative professionals | | |
| Knowledge | Skills | Attributes |
| <ul style="list-style-type: none"> • Public interest litigation subjects • Technology • Global legal frameworks • Work integrated learning | <ul style="list-style-type: none"> • Plain English writing • Critical analysis • Problem identification and solving • Digital literacy | <ul style="list-style-type: none"> • Adaptability • Good communication • Creativity • Collaboration |
| Radicalism | | |
| Knowledge | Skills | Attributes |

| | | |
|--|--|--|
| <ul style="list-style-type: none"> • Foundational concepts • Justice • Morality • Ethics • Law’s failings and limitations • Law as an agent of change | <ul style="list-style-type: none"> • Critical thinking • Interpersonal skills: connective, communicative, and collaborative skills • Ethical skills • Persuasion • Advocacy | <ul style="list-style-type: none"> • Curiosity • Creativity • Intellectually capable • Reflective • Adaptable to change and during uncertainty |
| Environmental sustainability | | |
| Knowledge | Skills | Attributes |
| <ul style="list-style-type: none"> • Knowledge of diverse political theories • Transdisciplinary literacy across politics, philosophy, science and economics • Knowledge of legal principles • Rights and obligations with respect to land (property and environmental law) • Torts and contracts (harm, remedies, restitution, agreement, and negotiation) • International law (private and public) • Transdisciplinary environmental and climate literacy • Corporations law • Administrative law | <ul style="list-style-type: none"> • Ability to read and write at a very high level • Communication • Critical thinking • Ability to actively listen • Collaboration • Ability to translate technical information to non-specialists • Boundary spanning • Integrative thinking • Facilitation, mediation and negotiation | <ul style="list-style-type: none"> • Respect for differences • Curiosity and openness to new experiences • Empathy • Conscientiousness/ discipline • Cultural competency • Critical and independent mindedness • Creativity |

In the final part of the curriculum development activities, groups identified the core, intermediate and peripheral curricular topics that they felt necessary to deliver on that group’s vision of curriculum, for the graduates they envisage. This is presented in Table 6 below.

In examining the data, we saw that they fell into categories of knowledge, skills, dispositions, and pedagogy. This echoes the data shown in Table 5 above. We have grouped specific responses together under a general category but provide in the table some details of the variety of specific topics included in that category.

Each topic is given a number to permit cross-referencing with topics that cross boundaries. We had the choice to aggregate some responses under one category, but in some instances felt the specificity of a response warranted keeping a separate category. The aim of the table is to identify broad themes (categories), whilst retaining some of the individuality in the responses. In the columns essential/desirable/peripheral, we indicate the number of incidences of that category in the responses.

Table 6: Incidence of topic categories in curriculum as essential, desirable, peripheral

| | | | | | | |
|--|------------|----------------------------|-------|-----------|-----------|------------|
| | Categories | Specific topics include... | X-ref | Essential | Desirable | Peripheral |
|--|------------|----------------------------|-------|-----------|-----------|------------|

| KNOWLEDGE | | | | | | |
|--------------|---|--|------------|---|---|---|
| K1 | Context (incl Global legal frameworks, Political knowledge, legal history and institutions, Future of law, Critical perspectives on law (eg according to contexts of class, race, gender, and environment)) | | D3 | 7 | 2 | |
| K2 | Doctrine | doctrinal areas; thematic ie legal principle across doctrinal areas; 'law'; [peripheral: Priestley 11] | D1 | 4 | 1 | 3 |
| K3 | Rule of law, Protections of citizens in the 'halls of power', Sovereignty and power | | D1; D2 | 3 | - | - |
| K4 | Statutory interpretation | | | 2 | | |
| K5 | List of specific doctrinal fields | Contract law + human rights; Civil obligations law (Ethical) Criminal law | | 2 | 1 | |
| K6 | Legal theory, Jurisprudence | | | 2 | 2 | |
| K7 | Foreign law | | | - | - | 1 |
| K8 | Other disciplines | Interdisciplinarity generally; named fields; includes languages | S6 | - | - | 5 |
| SKILLS | | | | | | |
| S1 | Critical thinking/critique | | K1 | 2 | - | - |
| S3 | Lawyering; legal skills | | D1; D2; S3 | 1 | 3 | 1 |
| S2 | Communication | | S2 | 1 | - | - |
| S5 | Other thinking skills (design-orientated thinking; Innovation, creativity) | | S6 | - | 2 | |
| S6 | Technology-based skills | | K1; S2; S6 | - | 1 | 2 |
| S4 | Project management; business skills | | S4 | - | 1 | 1 |
| DISPOSITIONS | | | | | | |
| D1 | Ethics | justice, morality, social justice, professionalism | K1 | 7 | | |
| D2 | Public Interest Litigation; Pro bono law | | P1 | 2 | | |
| D3 | World awareness | | P6 | - | - | 1 |
| PEDAGOGY | | | | | | |
| P2 | WIL | Public interest litigation | D2 | 2 | 2 | - |
| P1 | Project style teaching spanning multiple areas | Capstone | D2 | 1 | 1 | |

| | | | | | | |
|----|---|--|---------------|---|---|---|
| P3 | Starting each course with real-life case studies (as opposed to High Court judgments) | | P2 | 1 | - | - |
| P4 | Interpersonal study | | | - | 1 | - |
| P5 | Industry mentors/networks | | S2 | - | 1 | - |
| P6 | Study exchange | | D3; K1; K7 | - | - | 1 |

IV. DISCUSSION

A. Competencies

While participants were asked to prioritise attributes, it is interesting that given the doctrinal imperatives of the accredited law degree, and the prevalence of *legal problem-solving* in law programs, legal problem solving appears in only four of the seven groups. Notably, however, *legal problem-solving* does not appear together with the competency of *intellectual capability*. It may be that the latter competency implies an ability to solve legal problems.

The balance of the competencies largely, and perhaps unsurprisingly, reflects the TLOs.⁴⁴ What this exercise illustrates, however, is that to design a curriculum requires prioritisation of particular competencies. While other competencies might be incorporated throughout a curriculum, there is a complex filtering process designed to highlighting the most desirable elements. Another feature of curriculum design is that competencies may be expressed at a greater level of generality (eg *intellectual capability*) that gives scope to embed diverse curricular elements under its umbrella (eg *thinking skills, problem-solving*, etc). In the TLOs, there is a blend of higher level and more specific competencies that provides a useful benchmark.

B. Curriculum Goals

As might be expected, curriculum goals varied somewhat between groups. However, there were some common features amongst the knowledge, skills, and attributes connected with each curriculum goal. For example, nearly all groups included *legal and ethical knowledge* as a component of curriculum to achieve desired goals. Similarly, *critical thinking* or *disposition* features in all approaches except *service to community*.

While most groups feature an academic or more theoretical approach to delivering on curriculum, of note *status professionalism* and *disruptive creative professionals* both focus on what might be described as ‘work readiness’. *Status professionalism* seeks to deliver ‘how to’ knowledge with a service delivery emphasis. *Disruptive professionals* incorporates work integrated learning as a core feature of knowledge in curriculum.

⁴⁴ Kift, Israel and Field (n 14).

Despite different curriculum approaches, there is some agreement on a couple of core skills. *Communication* (including *writing* and *interpersonal skills*) and *critical thinking* both feature seven times, and once more as an attribute. *Ethics* (or a variation thereof) appears three times, and a further two as an attribute, while *self-management* including a *reflective disposition*, appears a total of five times as a skill and attribute.

Given the emphasis in university graduate attributes on *cultural competency*, and more recently in the context of legal education itself,⁴⁵ it is perhaps surprising that it appears only once as a skill, and twice as an attribute. The same might be said for *digital capabilities*⁴⁶ (or technology skills), appearing only twice. Otherwise, there is fairly significant diversity in the knowledge, skills, and attributes, according to the particular curricular approach.

The diversity in knowledge, skills, and attributes featured in these curriculum approaches is unsurprising. Thinking about the law curriculum beyond doctrine and instead in terms of how we see our graduates engaging with the world, will inevitably see a divergence in emphasis. What the participants' ideas illustrate, however, is that within any curricular approach the select knowledge, skills, and attributes represent an internally coherent design—even if they do not align with an organisational method such as the Priestleys.

C. Curriculum Topics

By far the most common topic nominated is *contexts of law*—though as might be expected, this is expressed in a variety of ways. Considering the range of curriculum outcomes—from status professionalism through to radicalism, it is interesting to observe the importance attached to context. This is perhaps indicative of the way that law is taught—it is taught and learned beyond 'pure' doctrine and according to broader contexts.

The second most common topic we describe as a *general approach to doctrine* (four essential, three desirable and one peripheral). This category warrants some explanation. Only one of the groups expressly identified the Priestleys as relevant to their curriculum, and then it was a peripheral matter only. Perhaps this suggests that the Priestleys as such would not be prescribed (but may be optional). The absence of Priestleys from the list of essential and desirable topics might be the strongest indication in this project of their perceived redundancy as an organising concept for curriculum.

Despite this, two other groups indicated as essential what might be a *reframing of the Priestleys*. *Public and private law*, *the law of organisations*, *transactions*, *business* and *dispute resolution*, all within one group's response, was the most comprehensive of these. Another group indicated *transactions*, *governance*, *remedies* and *dispute resolution*. Group

⁴⁵ See, eg, Marcelle Burns, 'Are We There Yet: Indigenous Cultural Competency in Legal Education' (2018) 28 *Legal Education Review* 1; Marcelle Burns, Anita Lee Hong and Asmi Wood, 'Indigenous Cultural Competency for Legal Academics Program data' (2019) [is there citation information missing here?]; Galloway, Castan and Flood (n 29) 71–94.

⁴⁶ See, eg, Kate Galloway, 'A Rationale and Framework for Digital Literacies in Legal Education' (2017) 27 *Legal Education Review* 117; Galloway, Castan and Flood (n 29) 97–129.

two felt that ‘*multiple legal areas*’ would be essential, and group one identified ‘*coherent legal principles inside and outside the Priestley 11*’. Less specifically also, group 5 identified ‘*law*’. Only two groups gave circumscribed specific areas of doctrine—*contract* and *human rights* in one case, and *civil obligations* and *criminal law* in another. Two groups named *statutory interpretation* as a standalone essential component of curriculum.

If doctrine as a general topic is aggregated with specifically nominated doctrinal fields to include K2–K5, then it is doctrine that forms the basis of curriculum topics. However, the different ways in which doctrine is represented highlights the challenges of retaining the dominance of the Priestleys in the face of preparing law students to be 21st century lawyers. The variation in expression of doctrine, notably without citing the Priestleys, points to a wide variation amongst participants in the fields of law seen as essential to legal education. While the two most extensive lists provided might reflect the Priestleys, they moved away from naming doctrinal areas in favour of thematic approaches to the law. This offers an important insight into the possibilities for the law curriculum, even where it is expected to meet the existing doctrinal list. While many contemporary law courses do reconfigure their curriculum to some extent (eg the law of obligations, etc), there is scope for a reconceptualization of how we teach and learn law beyond naming doctrinal fields.

Beyond doctrinal knowledge there was a strong theme of *ethics* throughout the groups—on its own account, and as *justice and morality*, *professionalism*, *social justice*, *pro bono* and *public interest litigation*. Depending on one’s perspective, ethics might be expanded to include *sovereignty and power*, *protection of the citizen* and perhaps even *rule of law*—three other listed essential topics. These latter topics might also be considered to overlap with *contexts of the law*, which was another persistent theme. ‘*Contexts*’ extends to *history and institutions*, *global legal frameworks* and *political knowledge*, and may also include ‘*future law*’. Finally, there were two groups that listed *legal theory* and *jurisprudence*, respectively, as essential parts of curriculum.⁴⁷

Two groups included skills—*critical thinking*, and *communication*—in the essential column. There were also three pedagogies mentioned: *project style teaching*, *public interest litigation*, and *work integrated learning*. The somewhat sparser, but still present, inclusion of skills and pedagogies highlights the differential conception of what is essential for a lawyer to know, and how they come to know it.

But the downplaying of doctrine in these potential curricula may be due to other subtler reasons. All of the aims of the curricula need some source materials to work on — legal doctrine. The extent to which expertise can be developed in providing advice to clients, acting ethically or thinking critically is likely to be limited by the degree of granularity with which a law student understands legal doctrine and the accepted rules for its manipulation.

⁴⁷ We have previously identified these elements within taxonomies of research into legal education. See Kate Galloway, Melissa Castan, Alex Steel, ‘Towards a Taxonomy of Legal Education Research’ in Ben Golder and others (eds) *Imperatives for Legal Education Research* (Routledge, 2020).

So, it is unlikely that any of the contributors to the session saw legal doctrine as unimportant. What is more likely is that there is a strong message that the learning of legal doctrine is not an end in itself, but an enabler of the more complex and nuanced understandings and skills that these variants of lawyers need. While the Priestleys only refer to doctrine and make the broader skills implicit, our contributors to varying degrees subverted that approach and privileged the skills and attitudes over the more instrumental doctrinal knowledge.

V. CONCLUSION

This chapter concludes that the subversion of power to create a law curriculum reveals the potential for alternative iterations of the core law curriculum adapted to the future, that might otherwise be masked by a commitment to reproducing the past.

Our research suggests that doctrine remains a key element of a legal education but that it should be seen only as knowledge. Importantly, knowledge and skills are necessary first steps towards greater educational goals. Those goals represent diverse images of the lawyer who will emerge at the end of their threshold university qualification. When those greater goals are brought to the forefront of curriculum, doctrinal knowledge may only be necessary to the extent it helps to achieve the overarching goal.

By letting go of knowledge areas as the organising category of the law curriculum, students can instead learn to independently access and interpret doctrine — resulting in less need for comprehensive doctrinal coverage in a degree. The Priestleys would, on that basis, move from a prescriptive role in degree accreditation, back to illustration only.

Given the interesting array of approaches to curriculum illustrated in this project, it is clear that knowledge areas might sensibly give way to a more purposeful and targeted curriculum. Were accrediting bodies to listen to this subversion of the underlying entry requirements into the profession, they might no longer require law schools to ‘give students fish’. Teaching students *how to fish* may instead hold the key to the future of legal education.