BRINGING KNOWLEDGE ABOUT THE CAREER DESTINATIONS OF AUSTRALIAN LAW GRADUATES INTO 21st CENTURY LAW SCHOOLS IN AUSTRALIA: A SUMMARY OF WHAT IS PROPOSED

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I Introduction

In 1998 the Centre for Legal Education published a study of the career destinations of Australian Law graduates. The 1998 report, written by Sumitra Vignaendra of the former Centre for Legal Education, surveyed the career destinations of two cohorts of Australian law graduates who had finished an undergraduate law degree and who, on the whole, had completed their final year of law study at the end of 1991 and 1995.

The aims of the survey were to answer the following three questions:

- Where do law graduates go?
- What do law graduates do in their jobs?
- Which factors, if any, have played a part in determining career destinations?

The study was also undertaken to provide answers to related questions such as, ‘Are there too many law graduates?’, ‘Are there too many law schools?’, ‘Is law becoming the new Arts degree (ie a generalist degree)?’, ‘What skills and knowledge do law graduates actually use in their jobs?’

1 Gary Tamsitt is the Director of the Legal Workshop, ANU College of Law, The Australian National University; Marlene Le Brun is a Research Fellow at the Legal Workshop heading this project and related projects; Julie McMillan is a Fellow with The Australian Demographic and Social Research Institute, ANU College of Arts and Social Sciences.

We wish to thank Sumitra Vignaendra for her generosity and assistance; David Barker for his sleuthing; Lee-May Saw of the Women Lawyers Association of New South Wales, who has acted as a helpful liaison; Professor Paul Boreham of UQ for meeting with Le Brun to discuss possible collaboration with the ANU, Pam Zwickert for her administrative acumen, and others who are named below in this paper.


3 Approximately nine per cent completed their law degree mid-1991 (Vignaendra, n 2, xi)

4 The 1991 cohort was chosen because of the possibility of tracing the graduates career paths and because it takes some time for graduates to establish a career. The 1995/6 cohort was chosen because the researchers assumed that they would be in their first jobs. In addition, this enabled the author to compare her findings with the rest of the population using the ABS census data. (Vignaendra, n 2)

5 This question was designed to ‘contribute to debates on curricula and on the role and value of a law degree.’ (Vignaendra, n 2 above, 7)

6 This included: ‘Do career intentions translate to career destinations? Do law graduates consider jobs in a wide range of areas when looking for their first and subsequent jobs? What factors and criteria do law graduates take into account when choosing their first and subsequent jobs? What roles do other tertiary qualifications and social profile (gender, age, family responsibilities, social class, ethnicity) play in predicting the areas in which graduates work?’ (Vignaendra, n 2 above, 7)

7 Vignaendra, n 2 above, xxii
The aim of this paper is to outline how The Australian National University (ANU) in collaboration with the University of Queensland (UQ) and with the assistance and support of law deans and heads of school will be taking forward and building upon the Centre’s informative research: by refining the original questionnaire and conducting an online survey of four cohorts of law graduates (1991, 1995, 2001, and 2005); and by developing a new survey instrument for final year law students to be piloted in the ACT and NSW later this year.

II 1998 Report by the Centre for Legal Education

The data generated by the research conducted by the Centre for Legal Education came primarily from responses to a mailed questionnaire and two follow up letters which were distributed by university alumni officers or their equivalents to the 1991 and 1995/6 law graduates. Not all law schools that existed when the survey was conducted (August/September 1997)\(^9\) participated in the survey because the newer law schools did not have graduates in one or both cohorts. Nevertheless, all universities who had graduate law students in one or both cohort years accepted the invitation to participate.

Although the response rate to the questionnaire was not as high as one might have liked,\(^10\) in part because the survey had to be posted to potential respondents and in part because alumni lists were incomplete or out of date,\(^11\) the report does provide considerable insight into the career choices of Australian law graduates and the skill sets that these graduates use in their employment. In addition, it provides a wealth of demographic information about the graduates (eg socio-economic details; ethnicity; family responsibilities) as well as information about career progression, career satisfaction, and predictors of career destinations. Some of this information could then be compared with Australian census data to compare the survey responses with other data about the Australian population in general. Finally, the results challenge some myths about law, lawyers, and legal careers, which could be used to explode commonly held ideas about the work of lawyers and law graduates (eg that there are too many law graduates).\(^12\)

III Additional Insights from Sociologists

Despite its importance and significance and perhaps because of its modest compass, the 1998 study did not draw on or refer to over three decades of empirical research into the professions which was commenced by Don Anderson and John Western in the early 1960s. Their initial study of four professions – engineering, law, medicine, and teaching – was designed to question students at several points in their university studies about their ideas of what a profession is, focusing on issues such as specialist knowledge, autonomy, and service.

This study grew, somewhat unexpectedly, into a significant 33 year longitudinal study of three professions – engineering, law, and medicine. This Professions in Australia study provides a rich source of information about these groups.\(^13\) Teaching was excluded from the later stages of the longitudinal study because of the difficulty of tracking teachers at that time, most of whom were women, many of whom changed their surname when they married.

Over the 33 years of project, a number of people joined the research team. Many, if not all, of these people were students of John Western.\(^14\) The data they have collected over the years as the law students completed their degrees and entered the work force have

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\(^9\) Vignaendra, n 2 above, xi
\(^10\) Thirty-two per cent for 1995 and 26 per cent for 1991. Vignaendra, n 2 above, 17
\(^11\) Vignaendra notes that many graduates whose addresses were known did not, in fact, return the questionnaires. This assumes, of course, that they actually received the questionnaire. Vignaendra, n 2 above, 17
\(^12\) Vignaendra, n 2 above, xx
\(^13\) For example, one can compare ideas about the relationship between professionalism and service over time.
\(^14\) This statement is tentative because we have not been able to confirm its truth.
provided a fertile source for a number of publications. Several of these authors are now academics, working in Australia.

**IV Eleven Years On: Change, Change, and More Change**

Since 1998 there has not been another survey of Australian law graduates career destinations per se, although a 'stocktake' was undertaken into learning outcomes and curriculum development in law by the Australian Universities Teaching Committee. The stocktake, conducted by Richard Johnstone and Sumitra Vignaendra, reported on law programs of study (structure, subjects) and teaching and learning rather than on professional goals.

In the intervening eleven years since the Vignaendra career destination report was released, the number of law students and law graduates has increased.

In addition, the type of programs that offer a law qualification have expanded (eg more double degrees, the introduction of the JD degree, and moves generally towards postgraduate forms of law qualifications).

Moreover, the pressure on legal educators to meet this swell in demand has increased considerably.

As a result, there have been some marked changes in the provision of legal education in Australian universities as law schools are asked to do more with less. Margaret Thornton documents some of these changes as a result of the 'massification' and under funding of education. These include: a consolidation of a ‘user pays’ system that puts many students into debt; competition from ‘non-traditional producers’ such as for-profit providers; a shift in curricular offerings to those that are commercially- and vocationally-oriented; a re-emphasis on doctrinalism at the expense of critique and of contextual and theoretical analysis; a decrease in the number of elective courses offered; the growth of ‘clear divisions between institutions;’ changes in pedagogy, modes of delivery, and assessment that have ‘all contributed to a narrowing of the curriculum’ and a ‘reversion to an unedifying chalk and talk’ pedagogy in most institutions; and assessment by examination.

These and other changes (eg the increase in the number of female law students) may well have a significant impact on career plans and actual destinations of law graduates today; they may also have an impact on the quality of work undertaken by recent law graduates and the skill sets and knowledge that they employ in their working environments, which itself has undergone change since 1997 (eg the incorporation of law firms). Thus, a survey conducted to canvass career destinations of law graduates in the 21st century is timely; it can build on what we already know, and it can also tease out what we think we know about Generations X and Y in the work force. Moreover, the response rates to the questionnaire should be higher

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16 As Thornton notes, ‘in less than two decades – since the creation of the unified system of higher education – the number of law schools in Australia has increased from twelve to thirty two, with more waiting in the wings. In terms of numbers of students, there were 11,254 enrolled in law in 1984, compared with 36,331 in law and legal studies in 2000. In terms of degree completion, there were 1,932 in 1984 and 7,112 in 1999.’ Margaret Thornton, ‘The Law School, the Market, and the New Knowledge Economy’ (2007) 17 Legal Education Review 6

17 Thornton, n 17 above

18 Thornton, n 17 above

19 Thornton, n 17 above

20 Thornton, n 1 above

21 For example, students with high levels of university-related debt may be less inclined to work in lower paid employment such as legal aid or community legal clinics.
because of the method of administration (online rather than mailed), because of the sophistication of online usage by law graduates today, because of their abilities to ‘connect’ (eg e-mail, Facebook, Twitter), and because of improved survey administration and follow-up procedures facilitated by advances in computer science and programming.  

V Updating the 1998 Centre for Legal Education Survey

In 1998, Gary Tamsitt decided that there was a need to update the 1998 survey. He was concerned about what was being said about the purpose of legal education and that decisions were being made on the basis of anecdotal evidence about the career destinations of law graduates (eg that most law graduates never go into practice; the extent of ‘churn’ – ie law graduates spending a short time in practice before moving on to other careers). He was keen to find information that could be used to inform decision making in legal education so that it was evidence-based and, therefore, credible. As well as informing the development of law degrees and legal practice programs within individual institutions, such information would be relevant to the Law Admissions Consultative Committee’s (LACC) national work in setting academic areas of knowledge for law degrees and competency standards for legal practice programs for admission to practise. Finally such information bears on the question of what is legal work and how is it changing – a question with wide-ranging opportunities for scholarship.

In addition, Tamsitt was involved in numerous conversations about graduate attributes and the importance of developing these attributes in universities even though, again, there is a lack of evidence about what these actual attributes are or should be. In short, our academic programs are not as well attuned as they could be were this information available.

Tamsitt asked Marlene Le Brun, who had returned to Australia from work overseas, to lead this initiative. Le Brun contacted Vignaendra to see if she were available to assist with the project. Vignaendra could not; however, she did give Le Brun a copy of the survey instrument which was used. Initially when the project began in 2008, it was anticipated that the original instrument could be reworked and disseminated by March 2009. This has not been possible (nor desirable) in light of what has transpired, unexpectedly and quite serendipitously (ie the discovery of the empirical research that Anderson and Western commenced in the mid 1960s).

Since the 1998 survey instrument was designed more than ten years ago, it did not ask some questions that are relevant today (eg incorporation of legal practice). Le Brun and Tamsitt knew that the survey needed some refining/rewriting for online dissemination, which was more cost-effective and possibly more efficient than hardcopy dissemination and return. In Le Brun’s attempt to bring a sociologist on to the team to help with survey instrument refinement and data analysis, she came across the research of Anderson and Western through

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22 The 1998 paper survey was limited, in part, because of the mode of distribution of the survey instrument. We are hopeful that the use of technology in the 2009 Project 1 update will increase our contact and survey response rate. We plan to use what we learn about the use of technology to survey populations in Project 2.

23 See the LACC’s website at http://www.lawcouncil.asn.au/lacc/information_home.cfm

24 Le Brun contacted all deans and heads of law schools, law school and university alumni and career departments, law societies, bar associations, other bodies such as the Law Council of Australia, and leading figures in law and legal education such as Sir Anthony Mason, Professor David Weisbrot of the Australian Law Reform Commission, and Steve Mark, Commissioner of the Office of the Legal Services Commission NSW to gauge their support and interest in participating in this initiative.

An advisory group has been established that will provide guidance and support to the project.

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contact with sociologist Professor Toni Makkai.\textsuperscript{25} Makkai told Le Brun and Tamsitt about a paper written by Dr Julie McMillan on the legal profession which drew on some of the data. Le Brun and Tamsitt contacted McMillan, and over the past few months the project team of researchers has expanded to include Emeritus Professor John Western, who still contributes actively to the intellectual climate of UQ and to the research institute that his son, Mark Western, heads, which is The University of Queensland Social Research Centre.\textsuperscript{26}

In the meantime, when Le Brun spoke with the Dean of Law at the University of Technology, Sydney, Professor Jill McKeough, McKeough suggested that Le Brun speak with the Women Lawyers Association of New South Wales about the project. The Association and the ANU have agreed to collaborate where possible in order to learn about law graduates career destinations, particularly as they affect women in law, in large part because the ANU has invited accomplished sociologists to join their research team.

VI Where We Are as This Is Being Written

After considerable discussion and debate, the core research team of Le Brun, McMillan, Tamsitt, and Western decided that, given the timeline and in light of the changes to legal education and in the profession in the past 12 years since the 1997 survey was distributed, it was preferable to:

1. update the Vignaendra survey instrument and ready it for online dissemination with the assistance of UQ because of their expertise in empirical research of this nature (Project 1)
2. design a new survey instrument for piloting on final law students in the ACT and NSW, if possible, in semester 2 of 2009 (Project 2, Part 1) that addresses the goals of the Women Lawyers Association of NSW, takes forward the work of Anderson and Western, and leaves open the possibility of a longitudinal study,\textsuperscript{27} and
3. refine the new survey instrument on the basis of information collected during the pilot (from Project 2, Part 1 above) and plan for national distribution of the refined questionnaire, if the law schools are interested in participating and additional support is available (Project 2, Part 2).\textsuperscript{28}

VII What Will Sociologists Bring to the Project? McMillan Explains

The sociologists currently working on the projects will bring theoretical and empirical insights\textsuperscript{29}

\textsuperscript{25} Sincere thanks are owed to Professor Sharyn Roach Anleu of Flinders University for suggesting that Le Brun contact Makkai.
\textsuperscript{26} Warren Laffan and Judith Griffiths from the UQ Centre are now working closely with us on the refinement of the original survey instrument, readying it for online dissemination. Our core team’s deliberations are also informed by regular feedback from Professor Makkai and Dr Kathryn Dwan, another Western protégé who works in medicine at the ANU.
\textsuperscript{27} The core team of Le Brun, McMillan, Tamsitt, and Western will drive this initiative with the help of the sociologists at UQ (see n 20 above).
\textsuperscript{28} We are also exploring whether some of the research that has been conducted on attitudes towards legal ethics is of interest to lawyers and legal academics and, if so, whether aspects of the earlier Anderson, Western, \textit{et al} should form part of Projects 1 and 2 survey design (potentially Project 3).
\textsuperscript{29} The sociologists on the core research team have worked extensively in a broad range of areas related to this project, such as: educational attainment,\textsuperscript{i} and education-to-work transitions, career trajectories, and occupational outcomes at particular lifecycle stages\textsuperscript{ii}. They have also considered these issues within specific professional groups such as lawyers\textsuperscript{iii} and have explored attitudes to professional issues and attitudinal change in the legal profession and in other professions.\textsuperscript{iv}
as well as technical expertise in the design, conduct, and analysis of the surveys.

The sociologists are trained in various research methods (eg quantitative and qualitative) and have held various positions on a range of major cross-sectional and longitudinal social surveys including the Longitudinal Surveys of Australian Youth project, the Negotiating the Life Course project, the Australian Class Study project, and the Professions in Australia project. Their training and hands-on experience will inform all stages of the research process from research design and fieldwork through to data analysis and the dissemination of results. For example, they will advise on sample design, questionnaire development, the mode of data collection, and fieldwork procedures so as to ensure, whenever possible, the representativeness of the final sample and the collection of valid and reliable data which can then be used to address the project aims/research questions.

Most of the sociologists on the project are quantitative sociologists, and all have experience in the analysis of survey data. They will combine their theoretical and empirical insights with a range of analytical techniques in order to address the research questions in a conceptually meaningful manner. Two broad statistical approaches will be used: simple descriptive statistics; and the more complex multivariate techniques.

Descriptive statistics can be used to address the ‘What?’, ‘How many?’, and ‘How much?’ questions, such as, ‘What are the typical career pathways of law graduates?’, ‘Are there differences between the career pathways of males and females?’, ‘What proportion of law graduates go on to practise law?’, and ‘What are the earnings of law graduates who follow particular pathways?’. This approach is typified in the 1998 Centre for Legal Education report.

A range of more complex multivariate techniques will allow us to dig deeper to address the ‘How?’ and ‘Why?’ questions such as, ‘How do aspects of the university

The influence of factors such as gender, family background, ethnicity, geographic location, aspirations, and other attitudinal factors are common themes that cut across this project. As a result, the sociologists on the project are well placed to assist in the shaping of the research questions to be addressed in the study/studies.


31 ADSRI Negotiating the Life Course http://lifecourse.anu.edu.au/, no date, accessed 5/6/09


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experience and early work histories influence attitudes towards ethical issues?’ and ‘Why are there gender differences in earnings?’ Multivariate approaches have not typically been employed in graduate outcomes research conducted by the legal profession in Australia. However, such approaches will enrich our understandings by permitting the core research team to investigate the influence and interplay of a range of factors simultaneously. Among other things, this will allow the team to isolate the independent effects of a particular factor, examine how various factors interact to influence particular outcomes, and help unravel causal pathways.

Finally, the sociologists on the project team will provide statistical information that is attuned to the needs of a variety of audiences ranging from the non-academic and the academic but non-statistical through to the more technical audiences. They will assist in translating our survey results into a form that the non-statisticians among us can understand.

VIII The Process: Project 1

Below we summarise the process that we have commenced for Project 1 (updating the 1998 survey with four cohorts of respondents). We will –

- Identify and engage the sample
  - contact stakeholders and institutions for assistance with the dissemination of the questionnaire
  - publicise the questionnaire
- Design/update 1998 questionnaire
  - update, add to, and refine the Centre for Legal Education questionnaire
  - conduct focus groups in order to pre-test the questionnaire and gather information that will form the basis of new questions
  - revise the questionnaire on the basis of focus group feedback
  - pilot the questionnaire
  - refine the questionnaire in light of the pilot findings
- Collect and prepare data, which will involve
  - ‘sending out’ the questionnaire online
  - following up non-respondents, whenever possible
  - coding the responses to the open ended questions

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34 For example, if our descriptive statistics demonstrate gender differences in earnings, we will be able to examine whether these differences remain after taking into account factors such as time spent out of the workforce due to childcare responsibilities. This will provide a stronger indicator of gender inequalities and possible discrimination than the initial simple descriptive statistics.

35 For example, we will be able to investigate whether aspirations, motivations, and university grades have the same influence on the career outcomes of males and females, or whether some of these factors are more important for males or females.

36 For example, if we find that particular socio-demographic groups have different career outcomes on average, we will be able to investigate whether this can be partially or fully explained by differences in the motivations, aspirations, or university grades of the different groups.

37 For example, McMillan, J University Study in Australia: Persistence, Completion and Beyond, LSAY Briefing Number 18, Melbourne, ACER, 2008


39 For example, Western, J, Haynes, M, Durrington, DA, and Dwan, K ‘Characteristics and Benefits of Professional Work: Assessment of Their Importance over a 30-year Career’ (2006) 42 (2) Journal of Sociology 165

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• cleaning the data
• Analyse the data
• Write up the findings
• Report the findings

What we learn from this process will help us with the design and development of Project 2.

IX Why Are Law Teachers Hesitant to Collaborate with ‘Outsiders’ such as Sociologists?

A quick survey of some of the literature on information about law students, law graduates, and lawyers (and other data related to law and the legal profession) indicates that researchers trained in law seem hesitant, at least in Australia, to conduct empirical research; they also seem hesitant to conduct research that is designed, conducted, analysed, or authored in collaboration with other discipline ‘outsiders,’ such as sociologists.

‘Why the reticence?’ we ask.

There are a number of possible explanations, both anecdotal and speculative – cost, effort, and efficiency; ignorance; arrogance.

Bringing ‘outsiders’ on to projects can prove costly, entails considerable effort, and may be less efficient. Many ‘outsider’ professionals are on short term contracts and their time is limited and funding available to bring them on projects is poor. Some work for private companies, and their services can be quite costly. Their inclusion can increase project time and delay decision-making since project team size tends to increase. As in any multidisciplinary research, members of the various disciplines spend considerable time finding a common ground before moving forward.

Many law teachers lack an awareness of the contribution that professionals from other disciplines can make. They also may lack the knowledge/understanding of discipline content/boundaries (eg ‘Do I need a sociologist, a demographer, a statistician? All of the above? Someone else? If so, whom?’). As law teachers tend to work in law schools that are segregated from other disciplines, they may well not have developed a network of ‘outsider’ colleagues on whom they can call for guidance.

Many law teachers hold only degrees in law so they are not well-placed to judge the quality of the work of the ‘outsiders’ or supervise their work. Some may think that as law students and graduates tend to be high achievers, students and graduates of non-law/non-medicine disciplines are not as accomplished. Some think that designing and conducting a survey is just about asking questions, which they think, quite mistakenly, anyone can do (the ‘just add water and stir’ approach).

Some just don’t like being out of their comfort zone.

X Significance of and Support for the Project(s)

This research is significant. It is supported by the Australasian Professional Legal Education Commission (‘APLEC’) and unanimously supported by the Council of Australian Law Deans (‘CALD’). Without exception, the law schools deans and heads have applauded the decision to update the 1998 survey and have agreed to provide support in their schools and universities to enable it to proceed. The Law Council of Australia is working closely

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40 The need for data cleaning should be minimized with the use of online technology for the administration of the survey. Data cleaning involves checking the data for accuracy. For example, if a respondent types in that the respondent is 150 years old, the computer should send back a message to get the respondent to confirm the respondent’s age.

41 In this regard we wish to thank the deans and heads of all the Australian Law Schools: the current Chair of CALD, Professor Bill Ford; the former Chair of CALD, Professor Michael
with us and has already helped us contact some of their members online. Some of these former law students will be asked to form focus groups to test the refined survey instrument for Project 1 and others will be invited to assist with Project 2. Some of these meetings will be held face to face, others will be virtual.

If all goes as planned, the 2009 research Project 2 will expand the compass of the 1998 survey. The 1998 study did not decide what legal work actually is, although several questions were linked with this central concept. Attempting to define what legal work is within a broader inter-disciplinary context will provide insight into the nature of the work that law graduates undertake. The need to address what legal work is using up to date survey instruments is important to legal educators, Bar Associations, Law Societies, continuing legal education providers, and institutions such as the Law Council of Australia. If we know more about our law graduates, we can use this knowledge to inform the work of institutions such as Law Societies and Bar Associations. This insight can help legal educators design better educational programs, provide guidance on careers in law, manage some of the unrealistic expectations that law students hold about a life in the law, tailor continuing legal education programs, and minimise some of the stress that lawyers report in their work.

Coper; and the law school and central universities’ alumni and career departments for their generous offer of help and support for this initiative.

In this regard we would like to thank the Law Council of Australia, in particular Bill Grant for his support and Nicole Pulvirenti for her able assistance, most recently with helping us contact some of her constituents for focus group and pilot testing purposes.

Vignaendra writes, ‘In the absence of a definition of legal work, graduates in this study were forced to decide for themselves whether their job was legal in nature. As such, there was risks that graduates working outside the private legal profession may have considered their jobs to be legal simply by virtue of the fact that they were law graduates and hired for those positions.’ Vignaendra, n 2 above, xxii

‘The Mental Health of Australian Lawyers: A Challenge for the Law Schools and the Profession’ reports that

[t]he ongoing evaluation of, and research into, mental health and education promotes good health and a balanced approach to managing the pressures of practice in the legal profession. The Tristan Jepson Memorial Fund and the Brain and Mind Research Institute through the distribution of its national study examined the actual incidence of depression in the legal profession in Australia and evaluated mental health literacy interventions targeted specifically towards the profession.

The institute's survey of 2,413 lawyers included 738 students from 13 law schools nationally, 924 solicitors and 751 barristers. Professor Ian Hickey delivered the results of the survey at the annual Tristan Jepson Memorial Lecture on 18 September 2008, where it was found that the level of distress was high in all three groups.