

should not be seen as a sudden *volte-face* in the intellectual allegiance of the law school. It represents a new stage in an evolutionary process. The new spirit does not mean the subjugation of law to sociology. Rather, it represents the realisation that law can become a site or focus for many disciplines within the academy.

It is not clear that academics wholly understand the implications of espousing law as a liberal education. The problem for liberal education is to produce specialists who are in touch with a humane centre, and to produce a centre for them to be in touch with. A liberal education is seen as involving both a highly detailed technical education in an individual discipline and an attempt to facilitate students' appreciating the all-imbuing nature of, and involving themselves in assessing, questions of value and worth.

Whatever its value in training the mind or in building a suitable intellectual base for the practitioner, there can be little doubt that the essential aridity of doctrinal study has a disabling effect on most of those who are subject to it. Doctrinal study mostly teaches a student to particularise and narrow argument. At the same time doctrinal study also forbids the making of the connections with the wider questions which lie at the root of human inquiry. The person skilled in doctrinal techniques is, by virtue of this skill, no better equipped to attend to non-doctrinal questions. Doctrinal study thus builds a dissonance between the psyche of the student and his or her academic persona. The alienating effect of doctrinal concepts has previously been noted in the context of women students, those from socially disadvantaged backgrounds and those who hold radical political views.

Historically, the law school has contributed little to the main body of

the university, except to provide large numbers of highly qualified students taught very cheaply. In particular, there has been little curricular contact or cross-over between the law school and other departments. This isolation is the logical and necessary outcome of the doctrinal method and the doctrinal concepts described above. New developments in teaching law to non-law students demonstrate some of the possibilities for new contacts between law schools and other departments if law is treated as a parasitic discipline.

The abandonment of the doctrinal project is seen to greatest effect in the research work of the law school. It continues to pervade much teaching and doubtless will do so for some years as it gradually loosens its grip on the law school, thereby enabling it to be able to take its proper place in the academy. The university, whatever else it is, is a conversation: a place for different people and different discourses to meet and, by their exchange, grow richer. Doctrinal study has held both students and the law school back from that conversation. Law as a parasitic discipline offers a much brighter future.

POSTGRADUATE PROGRAMS

FAQ: initial questions about thesis supervision in law

D Manderson

8 *Legal Educ Rev* 2, 1997, pp 121–139

The importance of the experience and the privilege of writing a thesis comes about because writing a thesis is a license to ask questions: questioning what the field of law is and offers; questioning how things have been approached and how they might be changed; questioning one's own thinking, assumptions and expectations. The dialectic of questions would be

familiar, with its Socratic overtones, to many law students. But now and perhaps for the first time, it is the student who gets to ask them and the answers are not so pat. And it is through this constant interrogation — of the material, of the discipline and of oneself — that one learns about genuine scholarship. This approach is very different from most students' experience of undergraduate legal education. For those who succeed, undergraduate education is a system of constant reward. In particular it rewards certainty and confidence and *right answers* to given questions. Through the process of questioning, on the other hand, higher-degree studies aims to transform students from consumers into producers of legal knowledge. Postgraduate legal education is a journey, not a system. It does not reward but enriches and the complex enrichment it offers is the *negative capability* of doubt.

The success or failure of this process is profoundly influenced by the kind of supervision the student receives and here too, particularly in the earliest stages, the student is plagued by questions: who should supervise me, how should they supervise me, what problems am I having? Because the relationship of supervision is so important, these questions often loom over the more substantive and personal questions which the writing of a thesis entails.

In Australia, teachers in a law faculty almost invariably now have a higher degree in law and doctoral degrees are also increasingly common. There has been a great proliferation of Master's degrees in law throughout the world. Many of them, however, especially in the US, require only the completion of a year's coursework. This gives the student, in whatever discipline, a tremendous grounding and breadth of knowledge. In contrast,

PhD students in Australia have typically been required to complete little or no coursework before working on their dissertation. However, while providing the student with an additional body of knowledge, coursework by itself does little to teach the student special skills either in research or writing. A combination of the two approaches is therefore required. This mixed approach — coursework plus thesis — is characteristic of most Australian higher degrees in law, whether PhD or LLM.

A student embarks on a thesis with particular strengths and weaknesses. In order to make the most of their studies, they have to find a supervisor who can address those weaknesses and help them overcome them. The starting point has to be the needs of the students, honestly and openly considered. One chooses a supervisor firstly by looking at oneself.

Students can expect their supervisor to give generously of their time. Supervision is a part of the job description of an academic as basic as teaching, research or publication. Furthermore, universities rely on their graduate students: they pay fees and attract funding. The supervision of students is not a chore but a privilege. Most failures by academics to meet this expectation are manifested in deception. One of the commonest is the acceptance of supervision itself, which implies a commitment of time and energy of which the academic may in actual fact be resistant or resentful. Supervision is time intensive. This is its nature, not its problem.

Conversely, it is the student's obligation to engage their supervisor and show them why their work matters. Students who feel inadequate may make little effort to communicate their ideas or enthusiasms to their supervisor. The result is a distant relationship

which the student has done little to improve.

A student can expect guidance from the supervisor. It is a word which covers a multitude of virtues and can be thought of as comprising two aspects. The more immediate aspect involves a range of ways in which the supervisor can help the student as they think about their work, including suggesting appropriate readings and other people to talk to, giving advice on methodology and research, and so on. The more indirect aspect of this guidance involves mentoring which helps the student become more fully a part of the academic community.

More often than melodramas, students suffer from an absence of guidance — the supervisor's engagement with the student is limited to their periodic meetings and extends no further. The difficulty with the art of guidance lies in the fact that it must be both committed and unselfish. Between the two extremes of entanglement and disinterest lies the golden mean.

If a problem arises with their supervisor, it is first most important for students to make their concerns explicit. If the problems within the relationship are not too severe, a simple conversation may help. If the supervisor herself cannot advise on how to deal with particular research problems, she may well be able to put the student in contact with someone who can.

More serious problems require a more formal articulation. If students feel they are being treated dishonestly or without respect, they should always report their complaints to the head of department or some other appropriate person. If a supervision really goes wrong, there will be a specific mechanism to allow the student to change supervisors. Secondly, even in less serious cases, a student can find help elsewhere. Students who are having

specific problems, most typically in areas requiring particular expertise, always ought to seek out other academics within their school or faculty to whom they can talk about their work.

The aim of supervision is not to provide students with answers but to encourage better questions. But the kinds of questions that are frequently asked about the relationship itself tend to focus on the unilateral allocation of blame and responsibility. Questions which focus on the relationship at issue and which therefore import mutual responsibilities and capacities are truer to the expectations of supervision and offer greater scope for changing and improving the quality of that relationship.

PRACTICAL TRAINING

History is past politics: a critique of the legal skills movement in England and Wales

A Boon

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The past ten years has seen a rapid incorporation of 'legal skills' into the education and training of lawyers in common law jurisdiction, particularly in the vocational stage. The structure of training to become a lawyer, usually a law degree followed by a vocational course, a period of apprenticeship and continuing professional development, is the result of historical accidents and jurisdictional compromise between the profession and the academy which allows significant gaps in professional preparation. In order to achieve wider objectives, including developing the values of legal practice, there is a need for continuity and integration in legal education. This calls for unprecedented cooperation between the profession and the academy.