



04.02.2011

Submission to ALSA CRWP

Introduction

1. ANULSS welcomes the efforts by the MCTEE to strengthen the AQF machinery.
2. We think the maintenance of consistent and high standards is good for:
 - a. Current and prospective law students
 - b. Employers
 - c. Consumers of legal services
3. We are conscious as law students that the value of our degree in a national and indeed global labour market is predicated on the maintenance of such standards. Given the proliferation of law schools in the Australian higher education landscape in recent years, it is especially crucial now that uniformity of quality is maintained.

Honours degrees

4. We note with concern that the AQF indicates that Bachelors (Hons) degrees (Lvl 8 AQF) ought to involve an additional yearlong program within or following a Bachelors degree (Lvl 7 AQF).
5. This formulation of the Bachelors (Hons) degree is at odds with the traditional requirements of an LLB(Hons): academic excellence within the Bachelors degree and a shorter research undertaking embedded within the final year of the Bachelors program.
6. While we understand the desire to ensure that the Honours qualification is uniformly associated with a certain standard of specialist research in a given field, we submit that undergraduate legal education has unique needs which merit differential requirements for Honours admission.

7. The LLB is already a four year program, and the overwhelming preponderance of Australian law students are enrolled in five year combined programs. It is common for even exceptional students to take longer than five years to complete such a program, and we consider it onerous to lengthen legal education for an additional year. It is to be noted that the lengthening of the degree program has implications for equity, and especially so in a degree which remains the primary means of entrance to a respected profession. Given the length and intensiveness of the LLB program, we consider it appropriate to use academic distinction within the Bachelors program as at least partial qualification for the grant of an Honours degree.
8. The AQF distinguishes between the 'purpose' of Level 7 and Level 8 qualifications based on the specificity of context in which a student applies knowledge. In a Level 7 qualification, it is intended that a student 'apply a broad and coherent body of knowledge in a range of contexts to undertake professional work and as a pathway for further learning'; the Level 8 qualification by contrast requires that a student 'apply a body of knowledge *in a specific context* to undertake professional work and as a pathway for research and further learning'. While there might well be a strong distinction between the generality of a pass degree and the specificity of an Honours degree in other undergraduate qualifications such as Arts or Science, the LLB pass degree is already a quite narrow program. The LLB does not encompass different academic disciplines, as other more generalist undergraduate degrees do. Rather, students apply essentially the same legal and analytical skills to different areas of legal thought and practice. Within an already highly specific vocational program, then, we contend that it is unnecessary to append a yearlong program to the LLB in order to meet the purposes stated for the Level 8 qualification.
9. The Australian undergraduate law degree is a professional, indeed a *vocational* qualification, but one which nonetheless demands a high degree of academic rigour and research ability. We consider it worthwhile to encourage law students, though they may well be headed for practice rather than academia, to engage with legal research at an advanced level. It would be undesirable both for students and industry if law students were to self-select into different streams: those engaging with the more academic side of the law and those more concerned with the vocational application of the degree. Post-graduate qualifications continue to become more important for practitioners wishing to specialise in their practice mid-career. As such,

we consider that decreasing the accessibility of the Honours undergraduate degree will serve to defeat the utility of the LLB as a ‘pathway to future learning’ — a stated purpose of the Level 8 qualification.

The Juris Doctor

10. We are very concerned about the classification of the JD as a Level 9 Masters program. The introduction of the JD at the ANU and at institutions around the country poses a real dilemma for legal education. On the one hand, the intention to craft a distinctive legal degree for graduate entrants is laudable. On the other, the JD and the LLB are both designed as first law degrees, and as vocational qualifications for admission to the same professional status, and schools such as the ANU have expressed their resolve to avoid any depreciation in the value of the traditional LLB.
11. Accordingly, the JD sits very uneasily within the AGF parameters. Given the commonality across the JD and LLB of *at least* the core Priestley subjects, it is difficult to see how the JD as a whole can satisfy the requirements of a Level 9 qualification. The construction of the AQF levels reflects a desire for uniformity across disciplines, but the distinction between an undergraduate and graduate qualification for admission to the legal profession simply does not align with the more general distinction between undergraduate and graduate study in Australia.
12. This dilemma poses a problem for students of both stripes:
 - a. JD students are encouraged to pursue a Masters-level qualification which might be, in effect, simply a mildly differentiated offering of the traditional Bachelors-level law degree. This is of particular concern in light of the cost of post-graduate education and especially where the JD is offered on a non-CSP basis either to domestic or international applicants.
 - b. LLB students will see the value of their qualification decrease. The sole imperative for the JD is differentiation from the traditional undergraduate program, either in actual content or as an exercise in branding. The typical latter-year LLB student has indeed already completed an undergraduate degree in another discipline within their combined program and is in their fifth year of tertiary education. There seems to be little distinguishing them from the typical latter-year JD student who has a prior undergraduate qualification and is in their *sixth* year of tertiary study. If law schools actually design their

JD programs as Masters-type degrees, LLB students have good reason to ask why in their latter years the opportunities extended to JD students are not available to them. If law schools offer the JD as a more traditional vocational qualification, LLB students ought to ask why their own legal education is being portrayed as in some manner inferior to the JD.

13. These problems arise necessarily out of the classification of the JD based on entry standards rather than exit standards. Obviously, the distinction between the two degrees is predicated on the fact that entry to the JD is available only to graduates. As noted above, this is problematic given the considerable overlap in course content. More than that, though, the undue focus on entrance standards strains against the design of the AQF itself. The stated benchmarks for Level 9 qualifications do not refer to the knowledge and skills held by entrants to a program – they refer to the knowledge and skills held by *graduates* of a program. The AQF, rightly, focuses not on what sort of person enrolls, but on what that person gains from their education.

Conclusion

14. We hope that ALSA will urge the MCTEE to reconsider the current design of the AQF in light of the unique requirements of legal education.
15. The special position of Honours within the LLB should be recognised by the AQF, and there should be no move towards a distinct yearlong LLB(Hons) program.
16. The classification of the JD as a Level 9 qualification should be reviewed. The MCTEE's current position emphasizes the uniformity of the AQF at the expense of the nuances of modern legal education. The ill-fitting categorisation of the JD as a Masters program will have negative consequences for both JD and LLB students.

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