
**Australasian Law Teachers Association - ALTA
2006 Invited Conference Paper**



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Legal Knowledge: Learning, Communicating and Doing

Invited Conference Paper

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The Australasian Law Teachers Association (ALTA) is a professional body which represents the interests of law teachers in Australia, New Zealand, Papua New Guinea and the Pacific Islands.

Its overall focus is to promote excellence in legal academic teaching and research with particular emphasis on supporting early career academics, throughout Australasia, in the areas of:

- (a) Legal research and scholarship;
- (b) Curriculum refinements and pedagogical improvements in view of national and international developments, including law reform;
- (c) Government policies and practices that relate to legal education and research;
- (d) Professional development opportunities for legal academics;
- (e) Professional legal education and practices programs.

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**CROSSING BORDERS:
NEGOTIATING THE COMPLEXITIES OF AN ACADEMIC
CAREER PATH**

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I INTRODUCTION

The invitation to speak at this inaugural academic network session offered an excellent opportunity for me to address a few of the problems facing legal academics today. Some very useful suggestions on how to satisfy the criteria for academic promotion at various stages of the academic career journey have been provided by two highly respected Deans of two of our most distinguished Law Faculties in Australia, Professor Michael Coper and Professor Ros Croucher. It is my task to provide some insights from the perspective of an intrepid traveler. As I am still very much negotiating the journey towards academic success, I am somewhat well placed to talk about the road already traveled and the hurdles that have to be negotiated along the way.

The exercise has proved to be insightful as it made me reflect on the reasons why law was the occupation of choice when I decided on a career change after some 15 years working in hospitals in Australia and overseas as a registered nurse. Law, like health care, is a dynamic, ever-evolving discipline characterised by the need for its practitioners to engage in a process of continual learning and enquiry. Law is also the other side of human well-being, providing as it does, the structural mechanisms on which we depend for protection from harm in its varied forms. The idea of being able to pass on knowledge about the system of justice that unites and protects us was very appealing. Being an academic lawyer is, as Professor Coper so eloquently put it, *a great vocation*. I must have some morbid attraction to the blood, sweat and tears that must be shed in progressing towards seniority in great and noble vocations. The idea made me assess the nature of the changes to institutional structure in the years since I commenced my legal academic career back in 1992 and the impact of those changes on academics.

The changes are quite significant compared with how things were back when I commenced as a student of law in 1981. Since that time I have progressed from part time tutor to associate lecturer, on to lecturer and then to senior lecturer. The journey through progression has been demanding so I am aware of just how all encompassing

the promotion process is and how the hurdle-bar is increasingly being raised. The move from one level to the next is an exhaustive and time-consuming process. The very basic job of preparing the documentation required for promotion - an up to date CV, a teaching portfolio and a biography of achievements as measured against criteria that must be satisfied to get past short-listing, is quite daunting. But the upside is that your CV is autobiographical. You finally gain insight into why you are time poor and feeling somewhat exhausted. You also get to stand back and consider your successes along the way as well as the frustrations, often associated with having made a non-strategic choice. This could involve anything from publishing non-DEST recognised journal articles, books or book chapters, to over-commitment of time to one academic workload category over another for example 'university and community activities' at the expense of time devoted to 'research'. I have always viewed the frustrations as a vitally important source of feedback because it is through looking disappointment and failure in the face that actual self improvement takes place.

Professor Croucher has raised the question we all ponder at times - 'what about me?'¹ – as we pursue career success as legal academics within the high pressured environment of the contemporary university. We are all aware of the expectations that give rise to the pressure just as we are familiar with the balancing required if we are to satisfy them. From the time one chooses to pursue an academic career whether in law or any other discipline, promotion becomes a central goal and the strictly defined categories that constitute the criteria for promotion become the guiding principles that designate what is and what is not of value to a CV.

II KEEPING UP IN A CHANGING ENVIRONMENT

The contemporary legal academic landscape is, as already pointed out by Ros, one that emerged out of the transformations of the latter half of the twentieth century. The swing away from the part-time lecturer-practitioner to the full-time career academic

¹ Rosalind F Croucher. 'What About Me? Academic Futures-From the Ground Up', paper delivered at Legal Academic Job Network Session, ALTA Conference 2006, Victoria University, Melbourne, 5 July, 2006.

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dating back to the 1970s, not only changed the manner in which law was taught and learned but it also imposed upon legal educators, the research responsibilities that attach to university academics including expectations that they will publish and make scholarly contributions to institutional and community life.² The academic environment has since undergone further transformation under the weight of ever increasing pressure brought to bear on universities as a result of changes in government policy. Retraction of the funding base which once sustained universities and treated education as a public or quasi-public good, has forced institutions to commercialise on both teaching and research fronts. Thus, in recent years we have seen the introduction of tuition fees and a move on the part of universities to become entrepreneurial and compete for a diminishing pool of public funding on the one hand and lucrative research collaborations with industry on the other.

Efficiency and accountability are key elements of universities' commercial viability. What this means for academics is that the road upwards is becoming more vertical as each institution strives to achieve a high rating on the list of Australia's top universities. The universities are putting increasing pressure on academics to demonstrate achievements across a broad range of academic activities that will enhance the institution's commercial prospects. In the modern commercial university environment, students are consumers of education and teachers are service providers. This generates pressure to provide these students with what they want and avoid situations that might result in expressions of dissatisfaction which, in turn, might lead to an unsatisfactory teaching performance review. Teachers must win favour with the students they teach as it is student ratings of teacher performance in the classroom that is crucial for the academic performance review.

To meet the academic obligation to publish, national recognition is not enough. International recognition of one's scholarly writings has become the hallmark of a marketable academic. Success at developing industry collaborations is also essential if one is to compete for the most lucrative research grants and pave the way to a

² Lancaster J, *The Modernisation of Legal Education: A Critique of the Martin, Bowen and Pearce Reports*, Centre for Legal Education, Sydney, 1994.

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‘research active’ classification on the annual performance review. ‘Research active’ is the sought after label to acquire as it signifies ability to generate institutional income. Academics who fail to appreciate this will find they are left behind in their capacity to satisfy the ever widening promotion criteria, driven as it is by the commercial imperatives of institutional marketability.

The authors of the 2002 DEST Report on implications for universities of changes in the academic workforce and work conditions noted the broad range of tasks that now form part of the academic workload.³ These range across a broad spectrum that includes decision-making about how one’s subject/s should be delivered, the topics to be covered, the assessment methods to adopt, preparation of reading lists, lecture notes, practical class notes, discussion notes, visual aids and e-learning tools to monitoring students’ progress. It also includes identifying and resolving problems that might impair a student’s learning capacity as well as providing feedback and maintaining interest and encouragement. Then there is accompanying research and administrative tasks academics must perform. These were identified in the Report as writing research proposals and grant applications, pursuing their research, taking part in meetings of their departments and faculties, responding to questionnaires from inside the university (from the library, the central administration, the traffic authorities and so on) or from outside. In many fields they are expected to maintain good links with related industry and be ready to assist those industries with specialised knowledge.⁴ Keeping up in this fast changing environment and in circumstances where, according to the authors of this Report those who teach will see their own graduates go into those industries and fairly soon earn more than the academics who taught them,⁵ is arduous but essential for those who wish to carve out a successful and progressive academic career for themselves.

³ Don Anderson; Richard Johnson; Lawrence Saha, (2002) Changes in Academic Work: Implications for Universities of the Changing Age Distribution and Work Roles of Academic Staff, Report of the inquiry into the implications for universities of changes in the academic workforce and work conditions, Department of Education, Science and Training
<http://www.dest.gov.au/sectors/higher_education/publications_resources/profiles/changes_in_academic_work.htm>.

⁴ Ibid 6.

⁵ Ibid 7.

III WHY A LEGAL ACADEMIC CAREER?

If an academic career is as financially unrewarding as these authors suggest then why have we all chosen such a path? I suspect the answer for most of us is similar, in so far as the financial rewards were low on the list of important factors when career choices were being made. For me it was the prospect of having the opportunity to research, write and publish that provided the primary incentive. I was also attracted to the idea of passing on the knowledge gained from the research and writing, to an upcoming generation within a collegial environment. The combination of teaching, research and the opportunity to exchange ideas with students and colleagues provided a very attractive career choice.

IV HAS ACADEMIA DELIVERED ON ITS PROFESSIONAL PROMISE?

Primarily, it has delivered job satisfaction but its attainment has been more difficult than expected. The task of successfully executing the multiple jobs set out within one's teaching workload allocation while simultaneously balancing the demands to publish and contribute to the wider university and community activities is, in my experience, impossible to achieve in a 35 hour working week. Success comes at a cost in terms of personal sacrifices that have to be made along the way, the most obvious being personal and being perpetually time poor. Virginia Trioli, a former Melbourne radio commentator who made the switch this year to Sydney radio, was recently commenting on a conversation she had with an adolescent who questioned the concept of schooldays being referred to as the best days of one's life. She commented that in her experience one thing that could be said in favour of the work force over school was that employment meant that you never had to do homework again.⁶

Not the comment you would be likely to get from an academic, I thought at the time. In my experience, the notion of 'homework' is what distinguishes academic work

⁶ ABC Radio 702 Mornings with Virginia Trioli, June 2006.

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from most other occupations. Out of hours work defines one's life as an academic because the criteria that necessarily must be satisfied as a prerequisite for accumulating the academic currency necessary for progression, particularly research related criteria, can only be satisfied by being prepared to make ongoing commitments of personal time to job related tasks – in other words, never ending 'homework'.

Career planning and the whole exercise of promotion is, at the end of the day, a solitary effort driven by a high level of commitment. The clocking up of achievements that count is a single-handed, carefully planned and strategically executed exercise. Career advice is available but it is usually restricted to the kind of advice that goes only as far as communicating the formal criteria – what it is and the relative value of the component parts in terms of the 'academic currency' value. In other words, it is relatively easy to access prescriptive information about different categories that constitute the formal criteria and how to satisfy each criterion but it is not so easy to find guidelines for managing the expanding expectations and demands for more in an environment that has significantly less of the resources required to meet these demands.

In previous times, academics could reasonably rely on various avenues of support for career development activities that would assist them attain their set goals. But the far reaching effects of the decline in government funding has meant that the mechanisms that were once available to provide support for the academic activities through which research networks can be established and output generated, are less available. Inevitably you may find yourself asking how to go about meeting all the requirements with less funds available for attending conferences and ever-increasing teaching loads, volumes of emails to attend to and a growing number of administrative tasks generated by the increasing class sizes that have to be managed.

V MAPPING A WAY FORWARD

Making the best use of what is available has always been a good point to start out on the path along which you wish to travel. That is why it is a good idea to start by

identifying the resources that can support the teaching and research activities you designate as important for you to pursue and map out plan of how to access them. The plan needs to address the hurdles that must be negotiated factoring in the time required to do it. It must also ensure that the mechanisms necessary to facilitate achievement of goals are in place. The necessary mechanisms are the processes that provide academics with the means to satisfy the institution's quality standards as well as promotion criteria. These might include the following.

A Good workload design and clearly defined policy to implement it

Workload policies commonly set out the categories of activities that make up an academic workload - research, teaching, contributions to university committees and policy making as well as community engagement. Usually, they also go on to describe particular activities and the level of contribution expected – publications (DEST approved); teaching 8/9/10/11/12 hours per week for example, as prescribed for the particular faculty through its workload policy; and general types of university and community activities. A good workload policy is constructed on principles of equity and developed on a collaborative basis with all academic staff. It should be sufficiently flexible to acknowledge and accommodate the complexity and diversity of tasks undertaken by academics today as well as being capable of accurately identifying individual inputs required to produce the expected outputs. Importantly, it should identify differences in class sizes, total number of students, modes of teaching and the demands of preparation, delivery and assessment – factors which can vary significantly between courses and subjects.

To achieve this, it is wise to avoid the nominal, 'one-size-fits-all' teaching workload model if the teaching program for the faculty comprises some disparity in the responsibilities imposed on teachers.⁷ Disparities arise wherever there are differences in the number of students enrolled in a subject with larger numbers giving rise to more intense marking, and coordination responsibilities. Nominal teaching workloads

⁷ The 'one-size-fits-all' or nominal teaching workload model operates on the basis of allocating a standard number of teaching hours to each academic regardless of the differences in total student numbers and assessment and marking responsibilities.

operate on the principle of allocating a standard number of teaching hours to all academics based on the assumption that standard hours ensure an equal distribution of duties and responsibilities. In doing so assume that allocations amongst teachers are equivocal. This renders invisible, the additional tasks generated by course, subject and class variables.⁸

In other words, care needs to be taken to ensure that a workload policy avoids concentrating on form over substance. For example, a 'one size fits all' approach to workload will disadvantage academics engaged in the teaching of subjects with proportionately larger enrolment numbers and relatively larger numbers of students in need of learning support.⁹ These factors will impact on subject co-ordination and management. Greater student numbers will generate more marking and a larger volume of administrative tasks. There will also be increased demands for consulting and responding to email enquiries.

Another important aspect of a good workload policy is for it to provide for teaching allocations that, where possible, correspond with each academic's area of research expertise. This is important because it not only sends a message to academic staff that their expertise is valued and appropriately channeled but it avoids the inefficiencies that arise from job fragmentation. Fragmentation due to overlapping tasks, disrupts the focus and concentration required to undertake and complete academic work, particularly research and writing for publication.

B Getting informed and being strategic

The Research Quality Framework (RQF), the Federal Government's latest initiative to make research more relevant to the world of commerce, makes it imperative for academics seeking job security to ensure they satisfy the research performance quota and quality publications standard set by their institution. The best way to achieve this

⁸ Such tasks include but are not limited to marking, consultation and coordination.

⁹ The increase in the number of international student enrolments in recent years has given rise to additional responsibilities being imposed on teachers. This might include such things as arranging for support to deal with such things as language difficulties and cultural adjustments to unfamiliar learning modes, such as those associated with small group teaching.

is to devise a strategic plan that strikes a balance between the three categories that make up an academic workload - teaching, research and university and community participation.

A proposed research and publication plan and timetable for at least a year in advance is a useful tool for getting started and staying on track. An equally important tool is a list of referred journals ranked in order of their relevance to your individual area of expertise. Definitive information about how the hierarchy of research value operates and what is and what is not of sufficient quality to translate into career currency is essential for academics that plan to develop the sort of curriculum vitae necessary for academic survival and advancement. Many academics have found out the hard way that authorship of text books counts for nothing under the Department of Education, Science and Training (DEST) quantum formula because text books do not fall within the definition of original quality research. Similarly, the choice of journal in which to seek publication is crucial. Come quantum collection time, many academics have discovered that the journal in which they published was either not a refereed journal or was refereed but not to a standard to satisfy the institutions internal 'quality standards'.

But definitive information has proved to be an elusive commodity when it comes to seeking out useful mechanisms to support rigorous research endeavours. There is no shortage of descriptive information about funding opportunities and where to locate the relevant application forms and the closing dates for submitting applications to compete for them. In fact, academics are increasingly finding themselves overwhelmed with the constant flow of electronic notifications with sizeable attachments heralding opportunities that are likely to be out of reach to many time-poor academics already stretched to their limits with the ever-growing commitments generated by the ever expanding teaching and committee aspects of their workload. What is less readily available is the time to develop and construct a proposal capable of achieving a competitive edge necessary for success.

While sustaining measures like those discussed above are essential for ensuring the effectiveness of research effort and for establishing a strong foundation for ongoing research and publishing activities, proactive measures are equally important and the best proactive measures are the ones you seek out for yourself. For example, it is worth checking out if a research mentor scheme is available within your institution particularly one that places junior academics under the guidance of senior staff with strong research backgrounds. Mentor programs have been known to have been highly effective particularly for guiding new researchers through the difficult process of constructing a successful grant application and assisting them to find and connect with collaborative research partners or even.

Similarly, much can be learned from seeking out accurate data on the number of academics in your institution who are actually enrolled in PhDs, how many complete, the time frames in which they did so and what hurdles can be identified from previous experiences. Information like this can provide valuable insights into the amount of support for higher degree research you might realistically expect your institution to provide

A less explored avenue for seeking support for the difficult task of balancing higher degree studies with ongoing personal and financial needs and commitments is that of scholarships. Each year a number of scholarships are offered to assist higher degree candidates to undertake a PhD.¹⁰ However, it appears there may be some institutional obstacles to the idea of academics holding a scholarship in conjunction with fractional employment arrangements so it will be an option only in institutions where there is a policy addressing this. Thus, the award of a scholarship can be a two-edged sword as some institutions consider this to be 'outside work' and therefore incompatible with anything other than casual work as permitted by the supervisor.

There is a paucity of information available to clarify the exact proportion of non-casual work that can be undertaken in conjunction with a scholarship. Given the

¹⁰ Many of the scholarships on offer are part of Australian Research Council (ARC) funded projects such as Discovery Projects and Linkage Projects.

increasing pressure being placed on academics to undertake higher degree studies this is an area that needs to be further explored.

VI CONCLUSION

While strategic measures like those mentioned above are essential for ensuring the effectiveness of research effort and the establishment of a strong foundation for ongoing research and publishing activities, finding the time to concentrate, research and write can be an elusive task given the ever increasing teaching and administrative commitments that tend to dominate the workload agenda. But balance is possible and it is important to personally take charge and implement a strict regime that ensures that one area of academic workload does not dominate the time available in such a way as to preclude the possibility of achieving a satisfactory research output. Time management is a skill all academics need to acquire for this purpose.

So for those committed to continuing the journey on the demanding road to academic career success, I trust that the reflections that have come from my various experiences along the way can provide somewhat of a guide to assist others in negotiating the many career 'border crossings' along the way.