

## APPLICATION-ORIENTED SCIENTIFIC RESEARCH IN THE LAW INDUSTRY IN AUSTRALIA AND LESSONS LEARNED FOR VIETNAM

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### ABSTRACT:

*The article focuses on analyzing and pointing out the progress in the postgraduate law education program in Australia related to the implementation of research projects. From there, it draws lessons learned in building the training program, innovating the deployment of scientific research at universities in our country today.*

*Keywords: Scientific research, thesis, master, application-oriented*

### 1. Problem statement

The face of postgraduate legal research in Australia has changed significantly in recent years. The number of students completing postgraduate research programs at Australian law schools has increased.<sup>1</sup> This increase represents a significant change from recent decades, when most postgraduate law students enrolled in coursework programs, mainly Master of Laws (LLM).

This change may reflect the increasing popularity of the LLM degree and accordingly, the completion of a postgraduate law education program will help students have different career orientations, giving them an advantage when applying for a certain position in the context of an increasingly competitive legal job market. The completion of a postgraduate law education program is also considered to reflect, at least in part, the recognition and increasing demand for postgraduate research qualifications in the professional context of government and non-government, as well as academic circles. In the context of Australia having many law universities across the country, the state needs to have strict management to ensure that the process of assessing the capacity of students is unified, reflecting the true capacity of students through scientific research works.

Accordingly, to help learners develop their thinking, as well as scientific research works that have practical value for society, in Australia, the Carnegie Foundation has been formed and developed to support learners in postgraduate education programs, because this progress when students carry out scientific research programs to obtain a master's or doctoral degree in law according to the research orientation on law, has generated a series of specific structural issues

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<sup>1</sup> Mary Keyes and Richard Johnstone, 'Changing Legal Education: Rhetoric, Reality and Prospects for the Future' (2004) 26 Sydney Law Review 537

related to funding, training, process, supervision and evaluation.<sup>2</sup> The training programs that award research degrees at Australian law schools include Doctor of Philosophy (PhD), Doctor of Juridical Science (SJD) and Master of Laws (LLM) according to the research level, the length of the thesis, dissertation will be submitted to award the degree.<sup>3</sup> At that time, if placing students at the center of postgraduate legal education, in Australia, three aspects of legal research at a higher level have been identified, forming a common basis for the experience of students that universities need to pay attention to: (i) Intellectual challenges in legal research, (ii) Personal aspects of postgraduate research experience; (iii) Supervision process and relationship. From the issues of experience in Australia, it will be a valuable lesson for the development of postgraduate education with law in Vietnam.

## 2. The significance of using legal research works in Australia

Universities play a role as a pillar in the innovation system of countries, through missions such as providing human resources, promoting scientific and technological progress, transferring knowledge, new technologies, providing entrepreneurial and innovative skills ..., universities contribute to the innovation ecosystem through different mechanisms and often manifest in three missions: (1) Providing human resources with appropriate skills through teaching; (2) Promoting the development of scientific and technological knowledge through scientific research; (3) Transferring scientific knowledge, technology from schools to production, business and social organizations through technology transfer.<sup>4</sup> The activities of creating and transferring knowledge, technology are seen as the driving force of social, cultural and economic development.<sup>5</sup> Universities carry out some activities to promote innovation, including patenting, licensing, research collaboration, consulting, networking, education and entrepreneurship support. With legal research works in Australia with valuable works, high scientific content, in addition to being supported to publish the works, the research products can also be built to deploy applications into life. Accordingly, every year, the Council of Australian Law Deans (CALD) will select works that are feasible, capable of application to introduce to the legislative bodies to seek funding to develop the work, on the other hand, the law training institutions will have the function of synthesizing research results, submitting to the Australian Federal Parliament as a basis, basis for amending the law. In addition, the Carnegie Foundation will fund support for postgraduate students to access research funds, access information, data necessary to produce research results that are relevant to the local reality that students have researched, these works will also be transferred directly to the

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<sup>2</sup> Faculty of Law, University of Sydney, Research Programs @ Sydney Law School <<http://www.law.usyd.edu.au/fstudent/research/programs.shtml>> at December 23, 2019.

<sup>3</sup> Alison Lee, Marie Brennan and Bill Green, 'Re-Imagining Doctoral Education: Professional Doctorates and Beyond' (2009) 28(3) Higher Education Research and Development 275–87

<sup>4</sup> Bedford, T., Kinnaird, Y., Migueis, R., Paolucci E, Wijlands, B., Vos, A.: "Role of universities of science and technology in innovation ecosystems: towards mission 3.1", October 2018, Cesaer white paper

<sup>5</sup> Etzkowitz, H., & Leydesdorff, L.: "The dynamics of innovation: from National Systems and "Mode 2" to a Triple Helix of university - industry - government relations", February 2000, Research policy, 29 (2), tr. 109 - 123

locality to deploy and complete the mechanism<sup>6</sup>. These are valuable values that help legal research works have practical application value that Australia has implemented in recent years.

### 3. Research Experience in Law in Australia with an Applied Orientation

For postgraduate law programs, it is necessary to focus on clarifying some legal theories, studying legal situations or researching issues related to the practice of applying law. However, the most important thing that law training institutions need to point out is to be aware of and reflect properly on the nature and parameters of legal scholarship in the current era. Regarding the nature of legal scholarship, the Council of Deans of the Australian Law School (CALD) has acknowledged that legal research will have overlaps but still exist distinct points with studies in the humanities and social sciences.<sup>7</sup> The CALD believes that legal research will focus on the special doctrine and concept of "legal reasoning," legal research that does not fall entirely into one category or another. In its Statement on the Nature of Legal Research, CALD has stated that legal research can be described as occurring in different combinations of the following categories: doctrine, theoretical, critical/reform, fundamental/contextual, empirical, historical, comparative, institutional, process-oriented and interdisciplinary. Accordingly, when a student begins a graduate research program, they may have only outlined the broad lines of a research project, or have only identified a specific topic or field of study at the time they begin their research. From there, the postgraduate training process will be a premise to help students studying postgraduate training programs understand the rules, orientations and methods of implementing research through the following measures:

First, law training should orient learners to significant differences in a field of study (such as human rights law) and a research project (such as the development of rights in international law). One of the first tasks faced by postgraduate research students is to finalize their research project. Here, the law training institution will guide students to find a way to build a project that they can complete, working with available resources, within the allowed time frame.<sup>8</sup> To achieve this task, the instructor will help participants identify focus research questions, establish methodologies, identify sources, and evaluate relevant issues in the field. This process can be implemented in the subjects designed in the program, but most have been implemented in the entrance exams to the graduate curriculum. This demonstrates that the process of implementing subjects related to the scientific study of law has been implemented quite early in Australia. Specifically: in the essay review courses before entering the university training program, in the undergraduate training program, 6 credits have also been implemented spread over 03 consecutive semesters. At the postgraduate level, research training subjects are also interested with 06 credits, instead of most only 02 credits as law training institutions in Vietnam.

Notably, in courses on essay writing and scientific research methods, training institutions have distinguished learners to understand research in the field of law from other humanities. In particular, in order for the research work with the necessary breadth and depth to be applied in

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<sup>6</sup> Etkowitz, H., & Leydesdorff, L.: "The dynamics of innovation: from National Systems and "Mode 2" to a Triple Helix of university - industry - government relations", February 2000, Research policy, 29 (2), tr. 109 - 123

<sup>7</sup> Council of Australian Law Deans, above n 1, 3. See also Terry Hutchinson, Research and Writing in Law (2nd ed, 2006) 7-8

<sup>8</sup> Ruth Neumann, The Doctoral Education Experience: Diversity and Complexity (Department of Education, Employment and Workplace Relations, 2003) 4.5 (DEST Report)

practice, most law education institutions have funds to support postgraduate researchers, this fund can be contributed from many sources such as extracted from the school, mobilized from society and also from the state. This is less likely to happen for postgraduate law students in Vietnam, as the majority of postgraduate research is carried out through learner finance rather than supported through various resources.

Second, during the process of obtaining a postgraduate research degree, a topic studied will evolve into the subject of a thesis or dissertation. Consequently, educational institutions assist learners in orienting themselves and addressing research questions related to their work. As a result, students will grasp the criteria set for awarding a degree based on a research project. An example provided by the examiners at the University of Sydney highlights a research project that requires the convergence of specific elements:

(a) Is a significant original contribution to knowledge on a related subject, (b) Provides proof of originality by discovering new facts, (c) Provides proof of originality by demonstrating independent critical ability, (d) Meets the requirements for literary presentation, (e) Contains a significant amount of relevant material for publication.<sup>9</sup> These criteria indicate that evaluating a thesis, dissertation, or postgraduate research project in the field of law serves as evidence of the student's research competence.<sup>10</sup>

When beginning postgraduate research programs, learners are exposed to a standardized set of criteria related to research projects. These criteria are consistent across law schools in Australia, helping students become familiar with the requirements for obtaining postgraduate research degrees they are pursuing. For instance, reviewing guidelines for examiners or examining departmental or university policy documents allows students to understand what is expected of them. Additionally, students may be advised to review copies of Master's theses or Doctoral dissertations available in libraries or electronic formats. This enables them to appreciate the general standards of postgraduate research projects and take note of specific aspects of research and writing they desire. These criteria may evolve over time to align with the real-world context. Supervisors can propose specific theses that students can use as models for their own research and writing. To avoid duplication, as well as transparency in the research process, Australia has implemented a system to look up postgraduate research works at all institutions. Accordingly, this system will guide supervisors and students whether their research is really practical or not, avoiding works that are not new and useful. When comparing this problem in Vietnam, students when choosing a topic may not determine whether the topic they have developed has been studied before or not accurately. Because there is no system to review the duplication of thesis topics, thereby evaluating the novelty of works often based on the feelings of the direct instructor.

Third, writing a thesis is widely recognized as a specific, consistent style of writing. Accordingly, law schools in Australia often have common conventions in academic texts, including citations and references, in the process of completing a thesis or dissertation. Accordingly, law universities often set out common conventions in abbreviations, capitalization,

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<sup>9</sup> He examiner's report form is available from University of Sydney, PhD Award Sub-Committee Forms <[http://www.usyd.edu.au/ab/committees/rtrc/phd\\_award/forms.shtml](http://www.usyd.edu.au/ab/committees/rtrc/phd_award/forms.shtml)> at 23 December 2022.

<sup>10</sup> David Evans and Paul Gruba, *How to Write a Better Thesis* (2nd ed, 2002) 5

quotations. In addition, in Australia there are many ways to encourage students to develop their writing skills through postgraduate research programs, students can choose a scholar, a researcher in their field to guide the direction of their research, this supervisor can be a researcher at the training institution or another training institution, or can be a lawyer instead of being confined within the scope of the training institution as in Vietnam. In addition, aiming to help learners distinguish different types of writing styles, students are trained in the form of self-selecting courses such as writing novels or journalism, through novels, media or blogs. This can help learners to orient their academic writing style, avoiding clumsiness in writing. In the process of research, the authors argue that the conventions in academic texts, the way of citing in the research works of postgraduate students in law should also be implemented as in Australia. Because it is noticed that the current thesis works in Vietnam are not consistent at the training institutions such as: there is no consistency in the length of the works, the form of citation each institution follows a different form, then it can be cited in the form of footnote, or cite APA (American Psychological Association) from the American Psychological Association, or in the form of IEEE (Institute for Electrical and Electronics Engineers) regulated by the Institute of Electrical and Electronics Engineers. From this inconsistency, the authors argue that the research works of postgraduate students in law today need to be implemented according to APA (American Psychological Association) citation from the American Psychological Association. This will help students to approach the presentation form of international scientific journals, as well as easily get acquainted and be able to publish their works in prestigious journals, when most social science journals are structured in APA form.

Fourth, subjects on research methods in Australia are specifically oriented to help learners understand research methods and methods of publishing research works. In Australia, application-oriented law schools have structured 02 credits to guide learners to understand methods such as writing emails to magazines and publishers, helping learners distinguish prestigious journals, with high quality indexes compared to low-quality journals. However, in Vietnam, with the current postgraduate training program with subjects related to research methods, most of them are only structured in 02 credits, and there are too many issues such as: how to write an outline, choose topics, research methods, the form of presentation..., with skills related to publishing research works has not been institutionalized into a specific subject, which makes students limited in publishing their works.<sup>11</sup>

Fifth, similar to some law training institutions in Vietnam, the postgraduate training program in Australia with law also divided into 02 groups: training according to research orientation, as well as training according to applied orientation. With these 02 orientations, the admission methods and training forms, the implementation methods will also have their own distinctive features. Accordingly, with the applied orientation, learners must be working at a specialized agency, or a specific field, learners must have 03 years of experience in their field of work. Conversely, with the research orientation, learners can complete the bachelor's program and participate in the entrance exams without requiring professional experience. This helps the training to be suitable for the target audience, profession.

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<sup>11</sup> Terry Hutchinson and Fiona Martin, 'Multi-Modal Delivery Approaches in Teaching Postgraduate Legal Research Courses' (1997) 15(2) Journal of Professional Legal Education 137

#### **4. Some suggestions for the postgraduate training program in law with applied orientation in Vietnam**

To achieve certain effectiveness in postgraduate training, it requires the training institutions to have innovation in the implementation of the courses in the training program. According to the experience of postgraduate training in law in Australia, it is recognized that there are some experiences that need to be referenced and learned in Vietnam such as:

First, it is necessary to orient the differences between research works according to applied and research orientations, the training institutions need to specify the style, the way of implementing research works with social characteristics will be similar and different. From there, it is necessary to adjust the amount of credits of subjects related to research methods, implement works such as dissertations, theses, books, newspapers, magazines.

Second, in order for quality works to be applied and implemented in society, it requires researchers or research groups to invest human and physical resources into the work. From there, in Australia, internal resources have been mobilized at the training institutions, from businesses, from the State investing money, sponsoring research works of learners. Through this, it is thought that the training institutions should also establish a fund for the research works of learners in the postgraduate training process.

Third, in order for research works to be accessible, to be published in reputable journals around the world, in Australia, there have been experts, classes to distinguish reputable journals, orient writing styles for learners. This in Vietnam also needs to be deployed into a subject, instead of just seminars, workshops sharing at some universities as currently.

Fourth, to make postgraduate training application-oriented, it requires staff with practical experience in teaching fields. In addition, learners also need to be equipped with experience knowledge available at the agency, to do this, learners must actually work and practice in a certain agency so that the approach to problems in teaching takes place in the most convenient way. Thereby, it is required that learners need to have experience working at the agency. In case learners do not have work experience, they can pursue a research-oriented master's program. This needs consistency and consistency among training institutions in Vietnam today.

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