

Bond University

Legal Education Review

Volume 31

Issue 1

2021

Accrediting Indigenous Australian Content and Cultural Competency
Within the Bachelor of Laws

Annette Gainsford
Charles Sturt University

Marcus Smith
Charles Sturt University

Alison Gerard
University of Canberra

Follow this and additional works at: <https://ler.scholasticahq.com/>



This work is licensed under a [Creative Commons Attribution-Noncommercial-No Derivative Works 4.0 Licence](https://creativecommons.org/licenses/by-nc-nd/4.0/).

ACCREDITING INDIGENOUS AUSTRALIAN CONTENT AND CULTURAL COMPETENCY WITHIN THE BACHELOR OF LAWS

ANNETTE GAINSFORD,* MARCUS SMITH,* ALISON GERARD⁺

I INTRODUCTION

The value and importance of embedding Indigenous Australian content and cultural competency within legal education is widely acknowledged. Universities Australia has produced several reports that establish a best practice framework for Indigenous cultural competence, which is reinforced by the Universities Australia *Indigenous Strategy 2017-2020*.¹ The most recent version of the Council of Australian Law Deans *Law School Standards* also calls for embedding Indigenous cultural competence in Australian law degrees as a matter of best practice.² Indigenous cultural competence is not just about curriculum, and extends to Indigenous employment strategies, the involvement of Indigenous people in the corporate governance of the university, and the promotion of cultural safety for Aboriginal and Torres Strait Islander staff and students.³ Universities and law schools have a responsibility to drive this change,⁴ to be reflective, and to contribute

* Centre for Law and Justice, Charles Sturt University

⁺ Canberra Law School, University of Canberra

The authors thank Professor Mark Nolan, the incoming Director of the Charles Sturt University Centre for Law and Justice in 2020, for his contribution to the research.

¹ Universities Australia, *Universities Australia Indigenous Strategy 2017-2020* (2017). See also Universities Australia, *National Best Practice Framework for Indigenous Cultural Competency in Australian Universities* (October 2011) 4 <<https://www.universitiesaustralia.edu.au/uni-participation-quality/Indigenous-Higher-Education/Indigenous-Cultural-Compet#.XGXB-OJKgb0>>; Universities Australia, *Guiding Principles for Developing Indigenous Cultural Competency in Australian Universities* (October 2011) 3 <<https://www.universitiesaustralia.edu.au/uni-participation-quality/Indigenous-Higher-Education/Indigenous-Cultural-Compet#.XGXQ5-JKgb1>>.

² See, eg, Council of Australian Law Deans (CALD), *Law School Standards* (2020). Particularly relevant aspects of the document include Standard 1.3 Statement of Mission and Objectives; Standard 2.3 Curriculum Content; Standard 3.1 Assessment Methods and Standards; Standard 5.1 Staff Numbers, Profile and Duties (especially Standard 5.1.3 re staffing profile and Indigenous cultural competence inductions); Standard 5.2 Staff Qualifications; Standard 5.3 Staff Appointment, Promotion and Development; and Standard 5.6 Part-time and Casual Teaching Staff.

³ *Ibid* 11.

⁴ Universities Australia, *National Best Practice Framework for Indigenous Cultural Competency in Australian Universities* (n 1).

to an expanding community of practice on Indigenous cultural competence in legal education. As Kwaymullina writes, the ‘question for law schools is no longer so much *whether* law curriculum will be Indigenised, but rather *when* and *how*’.⁵

Despite universal acknowledgement of Indigenous cultural competence, there remains a gap between aspiration and application across Australian Law Schools.⁶ The *Indigenous Cultural Competence for Legal Academics Program*, highlighted specific challenges to incorporation faced by law schools, such as, the reluctance to change established law curriculum, racism, law school culture and the view that Indigenous Cultural Competence is a periphery ‘Indigenous issue for Indigenous people to solve’.⁷ These challenges are linked to difficulties attracting and retaining, through to completion, Indigenous students in law programs.⁸ A focus on statistical data, however, cannot provide a contextual and meaningful understanding of these difficulties.

Integrating Indigenous Australian content via place-based learning to include cultural competency within law degrees – moving beyond cultural awareness to provide opportunities for active self-reflection and on Country cultural immersion – allows future lawyers to reflect on the role of the legal profession and the legal system, to address associated social realities and access to justice for Indigenous peoples in Australia. To prepare the learning environment, the Charles Sturt University (Charles Sturt) Centre for Law and Justice established a number of pivotal collaborative partnerships with Indigenous community members including local Elders and Indigenous industry experts to provide authentic learning across the law curriculum content.⁹ The partnerships were formed, according to respectful protocols as part of the Centre’s social justice mission, to engage Indigenous peoples in the teaching of cultural competency across the course and within the governance of the Charles Sturt Centre for Law and Justice. The forming of Indigenous community partnerships required Centre staff to consult with Indigenous peoples and communities according to Indigenous protocols specific to people and place. The Charles Sturt Bachelor of Law (LLB) degree is the first in Australia to require that students acquire Indigenous cultural competence. Indigenous academics, lawyers, community organisations and Elders-in-Residence all contribute to the teaching program, and a

⁵ Ambelin Kwaymullin, ‘Teaching for the 21st Century: Indigenising Law Curriculum at UWA’ (2020) 29 *Legal Education Review* 1, 30 (Emphasis in original).

⁶ Marcelle Burns, Anita Lee Hong and Asmi Wood, *Indigenous Cultural Competency for Legal Academics Program: Final Report* (Australian Government Department of Education and Training, 2019) <https://ltr.edu.au/resources/ID14-3906_Burns_FinalReport_2019.pdf>.

⁷ Burns, Hong and Wood (n 6) 18.

⁸ George Williams and Harry Hobbs, ‘The Participation of Indigenous Australians in Legal Education’ (2018) 42(4) *University of New South Wales Law Journal*, 1294, 1302.

⁹ Alison Gerard, Annette Gainsford and Kim Bailey, ‘Embedding Indigenous Cultural Competence in a Bachelors of Laws at the Centre for Law and Justice, Charles Sturt University: A Case Study’, quoted in Kevin Lindgren, François Kunc and Michael Koper (eds), *The Future of Australian Legal Education: A Collection* (Thomson Reuters (Professional) 2018) pp 323–341.

curriculum has been developed that enables students to collaborate effectively with a diversity of Indigenous peoples and communities to explore Indigenous cultures, the role of law, and justice policy in its historical context and as a contemporary legacy. Law graduates that can engage with Indigenous Australians in a culturally competent way are better placed to fulfil the aims of a legal education that strives to ensure that graduates integrate into the profession in an ethical, responsible way, and contribute to the Australian community.¹⁰

Previous research published by Gerard and Gainsford,¹¹ examined how Indigenous Australian content and cultural competence can be embedded within individual law subjects. This article builds on that foundation, extending that research from the subject level to the course level, and outlining the scaffolding of Indigenous Australian content within a three-year law degree. The article begins with a discussion of the importance of embedding Indigenous Australian content and cultural competence within law degrees, before explaining how this was achieved in the law degree at Charles Sturt, culminating in the process of internal accreditation with the University's Indigenous Board of Studies, and broader learnings from the experience. The article highlights the work of the Indigenous Board of Studies, and the potential for such a Board to be incorporated within universities governance structure and curriculum approval process. A multi-year project is described, beginning with analysing the supporting policy framework at a national and international level, through to the development of the degree and the associated evaluation and accreditation process. This model can serve as a reference point for other institutions undertaking similar work with respect to their law degrees.

II POLICY CONTEXT

According to the Universities Australia *Indigenous Strategy 2017–2020*,¹² Australian universities have committed to collaborate with Aboriginal and Torres Strait Islander peoples and communities to implement a number of actions. These include enrolment targets, building effective community partnerships, the provision of cultural training for staff, and increasing the cultural capabilities of graduates. Charles Sturt has supported the embedding of Indigenous content in their courses through an *Indigenous Education Policy*,¹³ and an

¹⁰ Council of Australian Law Deans, *CALD Standards for Australian Law Schools* (2013) 1.3 <<https://cald.asn.au/wp-content/uploads/2017/11/CALD-Standards-As-adopted-17-November-2009-and-Amended-to-March-2013-1.pdf>>.

¹¹ Alison Gerard and Annette Gainsford, 'Using Legislation to Teach Indigenous Cultural Competence in an Introductory Law Subject' (2019) 28(2) *Legal Education Review* 1.

¹² Universities Australia, *Indigenous Strategy 2017–2020* (n 1).

¹³ Charles Sturt University, *Indigenous Curriculum* (2018) <<https://www.csu.edu.au/division/learning-and-teaching/indigenous-curriculum/guidelines>>.

Indigenous Australian Content in Courses Policy.¹⁴ These provide for strategic targets, guidelines, and quality assurance mechanisms with respect to educating Indigenous and non-Indigenous Australians in a culturally safe learning environment for both staff and students. It is also underpinned by a community driven initiative with local Elders that ensures the protection of cultural and intellectual property. This initiative also sets out the reciprocal nature of the relationship in terms of remuneration and the protocol for maintaining a strong community partnership. Such partnerships are critical to embedding Indigenous perspectives in curriculum.¹⁵

Regarding Indigenous Australian course content, the Universities Australia *Indigenous Strategy 2017–2020* states that

[b]y 2020, universities commit to have plans for, or have already in place, processes that ensure all students will encounter and engage with Aboriginal and Torres Strait Islander cultural content as integral parts of their course of study. This will give all Australian university graduates in the future the chance to develop their capabilities to work with and for Aboriginal and Torres Strait Islander people and communities.

The incorporation of Indigenous content within law degrees is therefore an endeavour that all Australian law schools should be in the process of undertaking. To coordinate its response at a university level, Charles Sturt has an established Indigenous Board of Studies to manage the incorporation of Indigenous content and cultural competence into subject and course curriculums.¹⁶ The Indigenous Board of Studies, led by the Head of the School of Indigenous Australian Studies, approves, and classifies Indigenous Australian studies content and discipline-specific Indigenous Australian content in any subject in any discipline at Charles Sturt. It takes responsibility for ensuring that Indigenous content and cultural competence is not taught in isolation, but in context, and is part of the assessment regime for a subject. This ensures that Indigenous Australian content and cultural competence is a legitimate and assessable aspect of courses, rather than simply being an add-on component. The process of accrediting the Charles Sturt LLB with the Indigenous Board of Studies is considered in the third part of this article.

The development of Indigenous cultural competence should be integrated with the teaching of Indigenous content. Indigenous cultural competence is defined by Universities Australia as:

Student and staff knowledge and understanding of Indigenous Australian cultures, histories and contemporary realities and awareness of Indigenous protocols, combined with proficiency to engage and work effectively in Indigenous contexts congruent to the expectations of Indigenous Australian peoples.¹⁷

¹⁴ Charles Sturt University, *Indigenous Australian Content in Courses Policy* (2017) <<https://policy.csu.edu.au/view.current.php?id=00385>>.

¹⁵ Kwaymullina (n 5).

¹⁶ Ibid.

¹⁷ Universities Australia, *Guiding Principles for Developing Indigenous Cultural Competency in Australian Universities* (n 1).

In recognising the importance of Indigenous cultural competence, Charles Sturt has established a related graduate learning outcome in relation to knowledge, skills and application. It states that graduates will be able to

[p]ractise in ways that show a commitment to social justice and the processes of reconciliation based on understanding the culture, experiences, histories and contemporary issues of Indigenous Australian communities.¹⁸

Moreover, the pedagogical framework informing the Charles Sturt law degree seeks to normalise Indigenous Australian content by embedding it throughout the degree, rather than including it as a ‘token’;¹⁹ and it has been mapped to the pedagogical framework set out by Ranzijn et al.²⁰ The Charles Sturt *Indigenous Australian Content in Courses Policy* classifies Indigenous Australian content into four types:

1. *Indigenous Australian Studies* - defined as the broad area of inquiry related to Indigenous Australian knowledges, cultures and heritages, histories and issues which impact upon, or are of concern to, Indigenous peoples and communities today, such as health, education, criminal justice, land rights and Native Title. Indigenous Australian Studies does not cover profession-specific studies such as Indigenous clinical health and mental health, Indigenous policing and Indigenous education curriculum in schools and other educational settings. Indigenous Australian Studies may be delivered through stand-alone subjects, or as modules within Hybrid Indigenous Australian subjects, or as stand-alone modules within other subjects that do not have any other Indigenous Australian content;
2. *Discipline-specific Indigenous Australian Studies* - defined as that area of inquiry in Indigenous Australian Studies which is specifically related to the theoretical and practical knowledges required for a professional discipline. Discipline-specific Indigenous Australian Studies can be taught as 'stand-alone' subjects, modules or via integration of relevant assessable Indigenous content throughout the program. A subject can only be classified as Discipline-specific Indigenous Australian Studies when it has Indigenous content in every topic/module/assessment task of the subject;
3. *Hybrid Indigenous Australian Studies* - defined as being a combination of Indigenous Australian Studies and Discipline-specific Indigenous Australian Studies. These are subjects that have Indigenous Australian content in every topic/module/assessment task of the subject; that is, 100% Indigenous Australian content in Hybrid Indigenous Australian

¹⁸ Charles Sturt University, *Graduate Learning Outcomes* (2018) <<https://www.csu.edu.au/division/learning-and-teaching/home/csu-curriculum/graduate-learning-outcomes>>.

¹⁹ Martin Nakata, ‘Pathways for Indigenous Education in the Australian Curriculum Framework’ (2011) 40 *Australian Journal of Indigenous Education* 1, 5–6.

²⁰ Rob Ranzijn et al, ‘Towards Cultural Competence: Australian Indigenous Content in Undergraduate Psychology’ (2008) 43 *Australian Psychologist* 132.

Studies subjects. This is an effective strategy for the incorporation of Indigenous content into 'crowded' discipline-specific programs; and

4. *Restricted Indigenous Australian Subjects* - defined as those courses or subjects of any discipline in which enrolment is restricted to Indigenous Australian students.²¹

The Indigenous content within the Charles Sturt law degree falls primarily within the category of discipline-specific Indigenous Australian studies: fully integrated and assessable content throughout the three years of the course. Although, one subject is classified as 'Hybrid Indigenous Australian Studies': a combination of Indigenous Australian Studies and Discipline-specific Indigenous Australian Studies.

In addition, the Charles Sturt LLB integrates the wisdom of Indigenous place-based knowledges, customary law, and Indigenous lived experience through the Elders in Residence program.²² A community partnership was established that makes explicit the expectations regarding the protection of cultural and intellectual property; and the agreement to remunerate Aboriginal peoples for their time in sharing Indigenous knowledges, law and lived experience with staff and students. This agreement actively supports Aboriginal self-determination and autonomy over the governance of Indigenous knowledges. The community partnership with the Elders can be placed at the intersection between community protocols and university/national policy in relation to the ethical development of Indigenous cultural competence. It underpins the institutional framework, as without it, authentic teaching and learning could not take place. Although Charles Sturt campus locations have several Indigenous nation groups that cover the university's footprint, the place-based learning across the Charles Sturt LLB is enacted through legal education that is delivered only on Wiradjuri land. However, during COVID 19 restrictions and with the move to online learning the Centre for Law and Justice were able to collaborate on a joint project with the Bathurst Wiradyuri Elders which resulted in an online cultural immersion so that student learning was not interrupted. It is considered that the Charles Sturt Centre for Law and Justice will further develop cultural learning resources through additional community partnerships across various nations groups in the future. Seven individual subjects will be discussed in detail in the following part of the article; some subjects focus entirely on Indigenous Australian content in the context of the law and criminal justice sectors, in the first and third years of the degree, while other subjects integrate Indigenous content amongst prescribed substantive law content.

²¹ Charles Sturt University, *Indigenous Australian Content in Courses Policy* (n 14).

²² Annette Gainsford, 'Connection to Country — Place-Based Learning Initiatives Embedded in the Charles Sturt University Bachelor of Law' (2018) 28(2) *Legal Education Review* <<https://ler.scholasticahq.com/article/7682>>.

III A WHOLE OF CURRICULUM APPROACH TO INDIGENOUS CULTURAL COMPETENCE

Charles Sturt established the Centre for Law and Justice within the Faculty of Business, Justice and Behavioural Sciences in 2016, to offer an LLB that not only provides legal education in the traditional law curriculum, but also embeds Indigenous content to explicitly teach Indigenous cultural competence, as well as content relevant to regional, rural, and remote Australia. The degree seeks to foster critical reflexivity around the role of the law and the legal profession in these contexts.

Charles Sturt has developed its law curriculum to require students to gain knowledge and skills relating to the practice of Indigenous cultural competence. The curriculum has been developed to enable graduates to develop the knowledge, skills and ability to apply the understandings of Indigenous cultures, histories, and contemporary social realities required to work effectively with Indigenous Australian peoples and communities. Integrating Indigenous Australian content to ensure cultural competency capability within law degrees enables future lawyers to critically reflect on their own cultures and on role of the legal profession in this context. Law graduates that can engage in culturally competent ways are better placed to deliver on the requirements for the highest standards of ethical conduct, professional responsibility, social justice and community service in relation to Indigenous Australians.²³

All academic and professional staff within the Centre for Law and Justice have completed the Charles Sturt Indigenous Cultural Competency Program run by Gulaay, the Indigenous Australian Curriculum and Resources Team at the University.²⁴ For further professional development, all staff attended an on Country cultural immersion program run by the Elders-in-Residence. Significant consultation with Aboriginal Elders, academics, lawyers, and other community members took place during the establishment of the law degree in 2016. Aboriginal and Torres Strait Islander stakeholders continue to be closely involved in its delivery and review, with a burgeoning community of practice on Indigenous Cultural Competence operating within the Centre for Law and Justice.

Consultation with Aboriginal community members was a key part of the design and development of the Charles Sturt law degree. As we have written previously, one of the many advantages of this approach is it guards against a deficit model in curriculum.²⁵ The results of this process were integrated into teaching materials as the course was established and individual subjects were deployed for the first time. This process was supported by the Community Partnership agreement

²³ Council of Australian Law Deans (n 10).

²⁴ Charles Sturt University, *Indigenous Curriculum* (2020). <<https://www.csu.edu.au/division/learning-and-teaching/indigenous-curriculum/home>>.

²⁵ Gerard, Gainsford and Bailey (n 9) 323.

with the Bathurst Wiradyuri Elders, outlined above, that emphasised a reciprocal relationship. In early 2016, Aboriginal lawyers, academics, Elders, and Indigenous Educational Designers were engaged to advise on teaching content within individual subjects, and how specific Indigenous content should be strategically integrated. As face-to-face residential schools were run for the first time, local Indigenous Elders were invited to participate in sessions and present seminars. Staff also participated in Indigenous higher education conferences and workshops on Indigenous Cultural Competence and attended local events with the Aboriginal community to build relationships. Law teaching and educational design staff established the Centre for Law and Justice Reconciliation Action Plan Working Group, and initiated meetings with local Elders.

In the Charles Sturt law degree, students cover a minimum of 160 hours of Indigenous Australian content throughout their degree. This begins with a general background on Indigenous history, culture and contemporary social realities, progressing to critical reflection on an individual's values and attitudes and the nature of the legal profession. It includes analysis of the impact of legal processes and practices, as well as the skills and knowledge to work effectively and respectfully alongside Aboriginal and Torres Strait Islander peoples. This pedagogical framework is informed by the work of Indigenous leaders and educators in academic collaborations focused on curriculum design;²⁶ and through the development of strong relationships with Aboriginal staff, Elders, and legal industry experts.²⁷ Significant Indigenous Australian content is presently integrated within seven subjects at all three levels within the Charles Sturt law degree – introductory, middle and end (capstone). Specific examples of the application of Indigenous Australian content will be provided through a brief discussion of each relevant subject.

A *JST123 Indigenous Australians and Justice: An Introduction*

This introductory subject provides students with foundational knowledge in Indigenous Australian studies, from which they can develop a capacity to work effectively with Indigenous content. The subject seeks to enhance students' engagement in reconciliation and achieving social justice for Indigenous Australians. Learning outcomes include being able to examine how government responses to Indigenous Australians affect their access to justice, to demonstrate critical reflection upon the discipline, including its paradigms, assumptions, methodologies and history of interaction with Indigenous Australians, and being able to demonstrate an understanding of the socio-economic and political policies, practices and ideology of colonisation and its impact upon Indigenous Australians. The delivery of the subject includes an Aboriginal community panel session where students are

²⁶ Annette Gainsford and Michelle M Evans, 'Indigenising Curriculum in Business Education' (2017) 20(1) *Journal of Australian Indigenous Issues* 57.

²⁷ *Ibid.*

able to engage with local community members to explore aspects of social justice for Indigenous peoples and communities in Australia. Assessment items include a critical reflection video, writing a reflective journal and completing research essays.

B *LAW112 Introduction to the Australian Legal System*

In this foundational subject, students are provided with fundamental skills and knowledge for legal studies, including a practical overview of the structure and origins of the Australian legal system and the skills of legal reasoning and analysis. Learning outcomes in the subject include students being able to demonstrate a broad understanding of the sources of law in society and the process of law making, including the place of customary law in Australia, being able to demonstrate a historical understanding of Indigenous social justice and an ability to analyse the contemporary context of reconciliation in Australia. A major assessment task focuses on the Stolen Generations legislative framework: the *Aborigines Protection Act 1909* (NSW) and *Aborigines Protection Amending Act 1915* (NSW); using study of these to also teach how to apply the tools of statutory interpretation.²⁸ A compulsory residential school involves the Centre's Indigenous Academic Fellow, Annette Gainsford, introducing the Indigenous cultural competency pedagogical framework for the LLB, outlining customary law, and consideration of the contemporary social realities affecting Indigenous peoples in Australia today.

C *LAW116 Writing and Communication for Legal Professionals*

This subject provides students with a foundation in legal research and communication skills. Relevant learning outcomes include being able to demonstrate the oral and written skills required to communicate effectively with regional, rural and remote clients from culturally diverse backgrounds, including Indigenous clients. Aboriginal kinship structures and how they impact communication for legal professionals is also examined. The delivery of the subject includes an Aboriginal community panel session where students are able to engage with local community members to explore aspects of how to communicate positively with Indigenous Australian peoples and communities including the examination of specific protocols such as cultural authority. Students are required to complete a critical essay reflecting upon considerations for communicating with Indigenous Australian clients.

D *LAW213 Criminal Procedure*

Three second- and third-year Priestley 11 subjects contain a significant amount of Indigenous Australian content. Criminal Procedure addresses an area of the legal system where Indigenous

²⁸ Alison Gerard and Annette Gainsford (n 11) 1-19.

Australian are significantly overrepresented. The subject is concerned with the procedures relating to police powers, arrest and bail, sentencing, access to justice, and contemporary issues relevant to regional, rural, remote and Indigenous communities, including the issue of ‘targeted’ law reform and its implications for diverse communities and vulnerable groups. A relevant learning outcome includes students being able to demonstrate an understanding of institutional bias and the role of the legal profession in facilitating access to justice for Indigenous people and communities. Part of the final exam assesses students’ understanding of legal frameworks that provide for sentencing authorities to take factors specifically impacting on Indigenous Australians into account when making determinations.

E *LAW219 Company Law*

The core company law subject focuses on the law governing the formation, regulation and termination of companies in Australia. A core learning outcome includes students being able to understand different corporate and governance structures, including provisions for specific Indigenous corporations under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth). Students’ understanding of the similarities and differences between Indigenous and non-Indigenous corporations under Australian law, and how they can be used to the benefit of Indigenous organisations is assessed in the final exam.

F *LAW308 Constitutional Law*

LAW308 Constitutional Law also includes a substantial amount of Indigenous Australian content. It provides students with an understanding of Australian constitutional law, including the relationship between state and federal governments in Australia, as well as a range of constitutional law issues, including sovereignty, separation of powers, rule of law, human rights and the role of the High Court in shaping Commonwealth legislative power. The learning outcomes require that students are able to demonstrate an informed understanding of how the Constitution has excluded specific groups such as Indigenous Australians and women, and to critically reflect upon constitutional law reform with respect to Indigenous Australians. All students are required to complete an essay concerning approaches to Constitutional recognition for Indigenous Australians (Table 3). The Law Admissions Consultative Committee recently announced a revision to the academic requirements for admission as a legal practitioner with respect to Constitutional law to include

the broad theoretical and conceptual bases of Australian constitutional law and its historical and social context, where relevant (including the

relationship between Aboriginal and Torres Strait Islander Peoples and the Australian constitutions).²⁹

This revision will take effect from the beginning of 2021 and will require all law schools to include a learning outcome based on an understanding of the relevance of Constitutional law to Aboriginal people. It was introduced following a consultation process that took place in September 2019.

G *LAW314 Community Law and Culture: Regional, Rural, Remote and Indigenous Contemporary Issues*

This final-year capstone subject addresses the governance of regional, rural and remote communities, especially Indigenous communities. It covers topics such as local government power, community dispute resolution, Indigenous law and culture, and access to legal services. Learning outcomes for students include being able to demonstrate an in-depth understanding of the community issues that arise in regional, rural or remote legal practice, an understanding of the sources of community law and the nature of entrenched social problems evident in some rural communities and being able to critically discuss the role of Indigenous law and culture and its relationship to government policy. Relevant assessment items include constructing a legal services folio, where students are required to research a provider in the students' local community and critically reflect on the issues it deals with in providing services to Indigenous Australian peoples, as well as a critical reflection video, based on a Wiradyuri cultural immersion program undertaken at the residential school through an on Country experience.³⁰

IV ACCREDITING INDIGENOUS AUSTRALIAN CONTENT

As part of complying with the Universities Australia *Indigenous Strategy 2017–2020*, a submission was made to the University's Indigenous Board of Studies seeking accreditation of the law-specific Indigenous Australian content. The submission presented work that has been developed to scaffold student learning of Indigenous Australian content and the development of cultural competency throughout the LLB. In the three years the law degree had been operating, subject

²⁹ Law Admissions Consultative Committee, *Redrafting the Academic Requirements for Admission – Prescribed Areas of Knowledge* (2019) <https://www.lawcouncil.asn.au/files/web-pdf/LACC%20docs/Redrafting%20the%20Academic%20Requirements%20for%20Admission%20-%20Subs/657475579_1_657475579.01%20Prescribed%20Areas%20of%20Knowledge.pdf>.

³⁰ Annette Gainsford and Su Robertson, 'Yarning shares knowledge: Wiradyuri storytelling, cultural immersion, and video reflection' (2019) 53(4) *The Law Teacher* 500-512.

learning objectives were refined to more accurately describe the Indigenous Australian content being taught and assessed. A concerted effort was made to increase Indigenous Australian content within subject modules, topics and assessment tasks, in collaboration with Indigenous and non-Indigenous staff involved in subject delivery.

A The Charles Sturt Indigenous Board of Studies Submission Process

The submission was based upon two key components. First, the consultative process undertaken to facilitate the development of the course and individual subjects. The CSU Bachelor of Laws submission detailed the iterative process that began with recruitment of Annette Gainsford as an Indigenous Academic Fellow and moved to identify and cultivate relationships with key community and industry stakeholders. In so doing, the Bachelor of Laws course team were cognisant of not relying on Indigenous staff to embed Indigenous perspectives, although we understood the need to privilege Aboriginal and Torres Strait Islander perspectives.³¹ We also emphasised the cultural competency training undertaken by all staff that included an on Country cultural immersion. We provided a timeline of the consultative processes we undertook from initial offering of the degree in 2016 up to the time of our submission to the Indigenous Board of Studies in 2018. This included the teaching collaborations that were a direct result of the community partnership agreement, and regular meetings with the Elders to reflect on teaching and engagement. It also included attendance at local Aboriginal community events and engagement in other activities that reflected our commitment to a two-way learning process and a relationship based on reciprocity. Areas of reciprocity through the Charles Sturt Centre for Law and Justice were identified as remuneration to community members for teaching and consultation, support of community projects from Charles Sturt staff and students and providing research leadership in relation to identified community need. Our scholarship on Indigenous cultural competence was also highlighted.

The second key component was mapping the content in individual subjects across the course – three in first-year, two in second-year, and two in third-year – that contain key, discipline specific, Indigenous Australian content. As described above, Indigenous Australian content is included throughout the law degree, with subjects at the beginning and end of the course (JST123 being the introductory subject, and LAW314 the capstone subject). Indigenous Australian content is integrated into the teaching of professional legal skills (LAW116) and in learning the structure of the legal system (LAW112). These perspectives are also integrated throughout the core areas of law taught within the degree (eg LAW213, LAW219, LAW308), ensuring that Charles Sturt law graduates have an understanding of Indigenous cultures, histories and realities, a capacity for reflection on issues

³¹ Gainsford and Robertson (n 30).

impacting Indigenous Australians, and are exposed to relevant issues when acquiring skills and learning substantive law. For context, Table 1 provides a full overview of the subjects required to be completed in the law degree.

In preparing the submission, a mapping process was undertaken to situate and highlight the location of Indigenous Australian content within the law degree. A spreadsheet was created, detailing relevant material across each of the seven subjects. For each subject, information provided included an overview, learning outcomes, syllabus, modules (topics) and assessment items containing Indigenous Australian content. Extracts from the spreadsheet are provided for a first-year and third-year subject, in Tables 2 and 3. This undertaking provided an opportunity to review the strategic placement of Indigenous Australian content throughout the law degree, and contributed to improving the coordination the curriculum delivery.

An integrated Indigenous Curriculum Framework (Table 4) illustrates where the content is situated throughout the three-year law degree for the seven subjects, and the interrelationship of their learning outcomes, module content, assessment items and syllabus. This approach was based on the scaffolding framework developed by Ranzijn et al.³² In aggregate, the documentation illustrates how Indigenous Australian content is presented in the law degree, and the process by which cultural proficiency is developed by Charles Sturt law graduates.

³² Rob Ranzijn et al (n 20).

Table 1
CSU Law degree subjects

Year 1	Year 2	Year 3	Electives
<i>Compulsory subjects</i>			<i>Five selected</i>
JST123 Indigenous Australians and Justice	LAW212 Evidence Law	LAW308 Constitutional Law	LAW202 Family Law
LAW112 Introduction to the Australian Legal System	LAW213 Criminal Procedure	LAW309 Professional Legal Conduct	LAW222 Technology Law
LAW113 Criminal Law	LAW214 Contract Law	LAW311 Administrative and Government Law	LAW223 Succession
LAW114 Law of Torts	LAW216 Property Law	LAW313 International Public and Private Law	LAW240 Industrial Law
LAW116 Writing and Communicatio n for Legal Professionals	LAW217 Civil Procedure	LAW321 Natural Resources Law	LAW300 Environmental Law
	LAW218 Equity and Trusts	LAW314 Community Law and Culture: Regional, Rural, Remote and Indigenous Contemporary Issues	LAW301 Taxation Law (Principles)
	LAW219 Company Law		LAW302 Taxation Law (Issues)
			LAW318 Jurisprudence
			LAW330 Finance Law
			LAW370 Law of Employment
			LAW316 Dispute Resolution: Methods and Results
			LAW317 Mediation: Processes and Uses

Table 2: Indigenous Australian Content Mapping – Example of a first-year subject

JST123 Indigenous Australians and Justice: An Introduction	
Learning outcome/s	<p>Be able to examine the ways in which government responses to Indigenous Australian people affect access to justice for Indigenous Australian people.</p> <p>Be able to demonstrate critical reflection on the self as an individual and professional, and upon the discipline, including its paradigms, assumptions, methodologies and history of interaction with Indigenous Australian peoples and communities.</p> <p>Be able to demonstrate knowledge of Indigenous community protocols and the major issues and strategies relevant to working effectively in Indigenous contexts.</p> <p>Be able to demonstrate knowledge and understanding of the richness and diversity of pre- and post-invasion Indigenous Australian cultures and the continuity and change in aspects of cultures past and present.</p> <p>Be able to demonstrate knowledge and understanding of the socio-economic and political policies, practices and ideological processes of colonisation and their impact upon the First Nation peoples and cultures of Australia.</p>
Subject Overview	<p>This subject provides students with foundational knowledge in Indigenous Australian Studies from which to build their discipline-specific understandings and skills and ability to work effectively in Indigenous contexts. It is constructed within the framework of the findings of The Royal Commission into Aboriginal Deaths in Custody and a Cultural Competence pedagogical framework which enhances the development of student graduates' active citizenship and engagement in reconciliation and the achievement of social justice for Indigenous Australians. Students will be exposed to a body of information critiquing the meta-paradigm and methodologies of the discipline of justice studies and its historical involvement with Indigenous Australians, and the implications of this for contemporary criminal justice practice.</p>
Assessment task/s	<p>Assessment 1: Cultural Competence Reflection</p> <p>Assessment 2: Research Report</p> <p>Assessment 3: Reflective Journal 1</p> <p>Assessment 4: Reflective Video Journal 2</p>

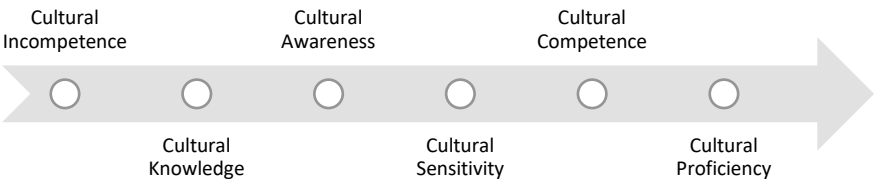
Syllabus	<p>The Royal Commission into Aboriginal Deaths in Custody Law, kinship and relations to land, and the relationship between these factors and identity and self-concept Citizenship and Indigenous Australian activism and resistance</p> <p>The international context - individual and collective rights and international comparisons</p> <p>Over-representation and Justice Institutions</p> <p>Self-determination and justice initiatives including youth conferencing and crime prevention</p> <p>Pre-invasion Indigenous Australian cultures, including an introduction to The Dreaming as a world view</p> <p>The historical and political processes of colonisation including the forcible removal of children and the role of police and social welfare agencies</p> <p>Encampment racism and the law - historical and contemporary</p> <p>Social justice and contemporary issues impacting upon or of concern to Indigenous Australians today</p>
Topics	<p>Module 1 Introduction to Cultural Competency</p> <p>Module 2 General principles of Kinship, Land and Law</p> <p>Module 3 Colonisation and the Colonial Frontier</p> <p>Module 4 Segregation and Protection</p> <p>Module 5 The Stolen Generations</p> <p>Module 6 Contemporary Indigenous Australian culture</p> <p>Module 7 Social justice and human rights: underlying Issues</p> <p>Module 8 Policing, sentencing, and the overrepresentation of Indigenous Peoples</p> <p>Module 9 Racial discrimination and the law</p> <p>Module 10 Self-determination and Indigenous justice initiatives</p> <p>Module 11 Indigenous human rights in the international legal framework</p> <p>Module 12 Indigenous Australians and justice after the Royal Commission</p>

Table 3: Indigenous Australian Content Mapping – Example of a later year subject

LAW308 Constitutional Law	
Learning outcome/s	<p>Be able to critically reflect on the diversity amongst Indigenous Australians with reference to constitutional law reform.</p> <p>Be able to demonstrate an informed understanding of the origins and formations of the Commonwealth constitution including the exclusion of specific groups such as Indigenous Australians and all women.</p>
Subject Overview	<p>This subject addresses state, territory and Commonwealth constitutional law in Australia. It provides students with an understanding of the relationships between the differing levels of government in Australia, and addresses a range of constitutional law issues, including sovereignty, separation of powers, rule of law, and human rights. In addition, the role of the High Court in shaping Commonwealth legislative powers over States is addressed, as well as the limitations of legislative and executive power of the Commonwealth over states and territories. It provides an historical and cultural context for the application of constitutional law in the rapidly changing contemporary state, territory and Commonwealth governments.</p>
Assessment task/s	<p>Assessment 3: Final Exam Question (Constitutional Recognition for Indigenous Australians)</p>
Syllabus	<p>State and territory constitutions and constitutional systems</p> <p>Federalism</p> <p>Commonwealth constitution and constitutional systems</p> <p>Constitutional interpretation</p> <p>Heads of power</p> <p>The constitution and the operation of the legislature, executive and judiciary</p> <p>Legislative power and parliament</p> <p>Separation of powers</p> <p>Proportionality</p> <p>Sovereignty</p> <p>Rule of law</p> <p>The High Court and constitutional law</p> <p>International powers</p> <p>Human rights and freedoms</p> <p>Constitutional amendments, and processes for amendment</p> <p>Recognising Aboriginal and Torres Strait Islander people in the Australian Constitution</p>
Topics	<p>Module 10: Indigenous Australian People and the Constitution</p> <p>Module 12: Constitutional Change in Australia</p>

Table 4: Indigenous Curriculum Framework – Bachelor of Laws (adapted from Ranzijn et al.)

	Year 1	Year 2	Year 3
Professionally specific skills	LAW116 Assessment 1 LAW112 Syllabus, Assessment 4	LAW219 Assessment 5, Syllabus LAW213 Assessment 3, Syllabus	LAW308 Assessment 3, Syllabus
Cross cultural skills	JST123 All aspects relevant		LAW314 All aspects relevant
Critically examining the profession	LAW112 Learning Outcomes LAW116 Syllabus	LAW219 Module content LAW213 Learning outcomes, Topics	LAW314 Assessment 2 LAW308 Syllabus, Learning outcomes
Reflexivity of values and attitudes	JST123 Learning Outcomes LAW112 Assessment 4, Learning outcomes LAW116 Syllabus	LAW213 Assessment 5, Syllabus LAW219 Learning outcomes	LAW314 Learning outcomes, Assessment 3
Understanding indigenous cultures, histories, realities and continuing issues	JST123 Learning outcomes LAW116 Assessment 1	LAW213 Syllabus, Assessment 5 LAW219 Syllabus	LAW314 Learning outcomes, Syllabus, Assessment 3, Assessment 4 LAW308 Assessment 3, Syllabus
Generic understanding of culture	JST123 All aspects relevant LAW112 Residential school LAW116 Syllabus		LAW314 All aspects relevant



B *Discussion*

Charles Sturt's law degree begins with foundation subjects that seek to establish an understanding of the cultural, historical and contemporary issues that impact on and influence Indigenous Australians in general, and specifically, how this manifests in the legal and criminal justice systems. Students are required to critically reflect upon how the paradigms and values of the profession impact on and influence Indigenous Australians collectively and individually.

Building on this foundation, the profession-specific content of the Priestley 11 subjects throughout the degree can be taught, and Indigenous Australian perspectives integrated where relevant, reinforcing in students a capacity to reflect on these when examining legal issues across the curriculum. This includes, for example, in balancing competing interests associated with prosecution and sentencing decisions in the criminal law, when evaluating the constitutional significance of statutes, or when acting for Indigenous clients in providing advice on commercial transactions, or in commercial litigation. In completing the law degree – a process that will take a student between three and six years – continual reflection on Indigenous Australian content and perspectives in developing their knowledge and skills will shape the professional and personal values they take into their professional practice.

In the teaching strategy that has been adopted in the Charles Sturt law degree, first year subjects introduce the overall pedagogical framework and content, while integrated module content in subsequent Priestley 11 subjects enables historical and cultural foundations to be established, as well as the examination of legal pluralism and requisite substantive law. The teaching integrates team approaches including partnerships between both Indigenous and non-Indigenous staff, as well as place-based education concepts. Students interact with Aboriginal peoples from a number of different nation groups across Australia which assists in developing relationships through a two-way learning process. In addition, cultural immersion via visits to cultural sites and yarning circles takes place later in the law degree to enable an informed engagement with the material embedded throughout the course.

The inclusion of a capstone subject incorporating Indigenous Australian content and cultural competency, provides an opportunity for students to aggregate the foundational understanding of culture, experiences, histories and contemporary social realities with the perspectives on substantive law and legal pluralism acquired throughout the degree. It provides a bridge between theory and practice and an opportunity to evaluate the law from the perspective of a service provider, as well as through a wider pluralistic lens. In structuring students' development over the three to six years of their legal education (or longer in the case of combined degrees), the course enables students to reflect on values and attitudes; therefore developing the capability to critically examine the legal profession and apply professionally specific skills to cross cultural contexts.

There is growing awareness in the wider community of institutional racism, the rights of Indigenous Australians and their overrepresentation in the criminal justice system, as indicated by the large numbers that participated in protests as part of the Black Lives Matter movement in 2020.³³ The redrafting of the academic requirements for admission by the Law Admissions Consultative Committee to require Indigenous Australian content, provides some evidence of this shift with the legal profession. Anecdotally, many students have sought out Charles Sturt's law degree on the basis of the commitment that the staff of the Centre for Law and Justice, and the University more broadly, have demonstrated to incorporating Indigenous cultural competence and content. Students value opportunities for greater engagement with Indigenous cultures and histories, to develop the capacity to place contemporary social realities in context, and to benefit from the cultural mentoring of Elders in Residence. The incorporation of Indigenous cultural competence has also had similar benefits for staff members and led to a wide range of opportunities to enhance community engagement. The satisfaction of student learning and experience is also reflected in the student satisfaction rate for the Charles Sturt law degree that has been recorded by the Australian Government funded Quality Indicators for Learning and Teaching. It currently has a satisfaction rate of 90%, in comparison with the sector average for law degrees of 80%.³⁴ The scaffolded embedded Indigenous curriculum content meets firstly, the overall Charles Sturt accreditation of the Bachelor of Laws and secondly, the Charles Sturt Indigenous Graduate Learning Outcome which indicates that law students upon completion of the Charles Sturt LLB will have attained the following attributes.

1. *Knowledge*: Understand specific cultural and historical patterns that have structured Indigenous lives in the past and the ways in which these patterns continue to be expressed in contemporary Australia.
2. *Skill*: Critically examine personal power, privilege and profession within the broader context of the history, assumptions and characteristics that structure Australian society, and the way those factors shape historical and contemporary engagement with Indigenous communities and Indigenous people.
3. *Application*: Practise in ways that show a commitment to social justice and the processes of reconciliation through inclusive practices and citizenship.³⁵

The redrafting of the academic requirements for admission by the Law Admissions Consultative Committee to require Indigenous

³³ The Guardian, *Australia Protests: Thousands Take Part in Black Lives Matter and Pro-Refugee Events Amid COVID-19 Warnings*, (News Article, 13 June 2020) <<https://www.theguardian.com/world/2020/jun/13/australia-protests-thousands-take-part-in-black-lives-matter-and-pro-refugee-events-amid-health-warnings>>.

³⁴ Quality Indicators for Learning and Teaching, *Graduate Outcomes Survey: Charles Sturt University Bachelor of Laws* (2019) <<https://www.qilt.edu.au/>>.

³⁵ Charles Sturt University, *Graduate Learning Outcomes* (n 18).

Australian content in Constitutional law, will provide some impetus for curriculum development. However, there remain a number of barriers to change in universities and law schools. Burns,³⁶ drawing on the Indigenous Cultural Competency for Legal Academics Program, *Future Directions Paper*, identifies a number of barriers to the introduction of Indigenous Cultural Competency, including: reluctance for change, ignorance, lack of expertise and concern about workloads. Embedding Indigenous Australian content and cultural competency across the Charles Sturt degree is challenging work, it requires specialised expertise supported by committed Indigenous and non-Indigenous academics working in collaborations with Indigenous community members to make the work possible. The challenges that the Centre of Law and Justice face in embedding Indigenous cultural competency across legal education that may be of interest to other law schools include:

- securing additional Indigenous academics to provide internal expertise across teaching and learning
- developing culturally safe working and learning environments
- confronting resistance from academics in relation to workload to include Indigenous content in curriculum
- ongoing commitment to provide staff professional development to assist with the culturally appropriate delivery of Indigenous curriculum
- inclusion of Indigenous leadership and governance in the practice of the Centre
- creating a collective social justice vision of how this work brings about social change in Australia

A number of other factors critical to success that are outlined in the *Indigenous Cultural Competency for Legal Academics Project Final Report* include: supported by the wider university, incorporated into graduate requirements, driven by the leadership of Deans, facilitated by access to expertise through university Indigenous centres, and subject to internal and external evaluation.³⁷ Charles Sturt has many of these processes in place, including a supportive head of school, Indigenous staff, motivated non-Indigenous staff, community engagement, and an Indigenous Board of Studies with appropriate expertise, and an established evaluation process supported and valued by the wider University.

V CONCLUSION

This article has emphasised that although the importance of embedding Indigenous Australian content and cultural competency within legal education is widely acknowledged, more can be done by

³⁶ Marcelle Burns, 'Are We There Yet? Indigenous Cultural Competency in Legal Education' (2018) 28(2) *Legal Education Review* 1, 23-4.

³⁷ *Ibid.*

law schools and universities to drive this change and communicate how law curriculum can be decolonised. This continues to be important to the profession because culturally competent law graduates are better placed to provide equity in professional practice to best serve the Australian community.

The Charles Sturt law degree includes scaffolded Indigenous Australian content, integrated through cultural immersion, teaching, assessment tasks and the involvement of Indigenous academics, lawyers, community organisations and Elders in Residence. A three-year process of adapting and accrediting the law degree with the University's Indigenous Board of Studies has been described and broader learnings from the experience discussed. It is hoped that the evaluation and accreditation process outlined in this article can inspire other institutions to engage in a similar process and further develop this aspect of their law degrees.

As law schools continue to grapple with the challenge of how they can embed Indigenous cultural competence, this article provides a framework for a whole of curriculum approach that embeds learning through Indigenous partnerships. This should not function as a blueprint, but instead serve as a contribution to an expanding community of practice for engaging in authentic and respectful partnerships. The strengths in our approach lie in the trust that has been built over time through a reciprocal relationship with Indigenous community partners and stakeholders. This relationship is underpinned by an agreement that exists alongside a strong institutional framework, and both are vital to success and the sustainability of the continuing project of building Indigenous cultural competence as a life-long journey.