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A collaborative approach to developing LLB students' critical reading, thinking and writing capacities

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1   Introduction

Writing and writing development contribute significantly to knowledge building in the discipline of law. This is well-established, in international and local scholarship.[1] Legal scholars across different universities in South Africa have written about their initiatives to encourage law students to engage critically in reading the law, thinking the law, and writing the law. At the same time, there is broad consensus that research and writing is viewed as a problem in the LLB.[2] The Council on Higher Education (CHE), in its 2018 Report on the National Review of LLB Programmes in South Africa, echoed this view, which has been held in much South

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1   CM Venter 'Analyze this: Using taxonomies to "scaffold" students' legal thinking and writing skills' (2006) *Mercer Law Review* 621-638; T Broodryk 'Writing-intensive courses across the law curriculum: Developing law students' critical thinking and writing skills' (2014) *Obiter* 453-466; T Broodryk 'Writing-intensive courses across the law curriculum: Developing law students' critical thinking and writing skills – a post-evaluation assessment' (2015) *Obiter* 615-630; G Quinot & L Greenbaum 'The contours of a pedagogy of law in South Africa' (2015) *Stellenbosch Law Review* 29-62; AD Crocker 'Motivating large groups of law students to think critically and write like lawyers: part 1' (2020) *Obiter* 751-766; AD Crocker 'Motivating large groups of law students to think critically and write like lawyers: part 2' (2021) *Obiter* 1-19.
2   Council on Higher Education (CHE) 'The state of the provision of the Bachelor of Laws (LLB) qualification in South Africa: Report on the national review of LLB Programmes in South Africa' (2018); JM Moore 'What counts as legal writing? An analysis of what it means to write in law, with reference to both legal academics and practitioners in South Africa' PhD thesis, University of the Witwatersrand, 2022.

African legal education literature for almost thirty years.[3] The final CHE report also affirms the 'centrality of research and writing skills to the practice of law' and urges law faculties to 'do everything in their power to significantly improve the writing and research competences of their students'.[4] The report specifically recommends that the 'development of research and writing skills must be fundamental to teaching and learning throughout the curriculum'.[5]

Attempts to address this legal writing paradox can lead to well-intentioned regressions to a remedial mindset that locates the problem within the student, rather than within intersecting challenges in the basic and higher education systems.[6] In this mindset, students are framed as 'lacking skills' or 'under-prepared' or even sometimes as having a 'language problem'.[7] This mindset is not unique to law faculties; Boughey and McKenna caution that 'the autonomous model of literacy, which sees language use as the application of a set of neutral skills, continues to dominate in South African universities'.[8] The solution is too-often simplistic: a skills course to address these perceived deficits or sending the student off to have their problems 'fixed' at the writing centre, language centre or students-at-risk centre. This remedial mindset fails in three main ways:

(a)   It fails to correctly diagnose the problem, locating it in individual students rather than in intersecting systems;

(b)   it fails to learn from the extensive body of literature that shows that such remedial efforts have very limited success; standalone skills, taught

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3   CRM Dhlamini 'Law teacher, the law student and legal education in South Africa' (1992) *South African Law Journal* 595-610; Z Motala 'Legal education in South Africa: Moving beyond the couch-potato model towards a lawyering-skills approach – a case for a comprehensive course on legal research, analysis and writing' (1996) *South African Law Journal* 695-701; S Woolman, P Watson & N Smith 'Toto, I've a feeling we're not in kansas any more: A reply to professor motala and others on the transformation of legal education in south africa' (1997) *South African Law Journal* 30-64.
4   CHE (n 2) 56.
5   As above.
6   C Boughey & S McKenna 'Academic literacy and the decontextualised learner' (2016) *Critical Studies in Teaching and Learning (CriSTaL)*1-9; C Boughey & S McKenna *Understanding higher education: Alternative perspectives* (2021).
7   L Dison & J Moore 'Creating conditions for working collaboratively in discipline-based writing centres at a South African university' (2019) *Per Linguam: A Journal of Language Learning= Per Linguam: Tydskrif vir Taalaanleer* 1-14.
8   Boughey & McKenna 2016 (n 6) 1.

out of context, generally do not seamlessly transfer in the ways in which disciplinary specialists hope they will;[9] and

(c) it fails to curriculate research and writing development, as recommended by the CHE.

In all ways, this mindset is essentially not transformative. It is important, in twenty-first century South African legal education, to resist this kind of deficit-thinking, which can lead to reverting to outdated approaches to writing development that have been shown to be ineffective.[10] The collaborative writing development approach[11] for the LLB presented in this chapter is one way of resisting this mindset and, by contrast, attempting to approach writing and knowledge development in law in a systematic, scholarly and critical manner.

The chapter is structured as follows: First, some contextual factors are outlined. Thereafter, a framework for the collaborative approach is presented. Subsequently, two examples are discussed briefly, to show how this approach can be applied in practice in LLB courses.

2   Contextual and broader complications

2.1   Generative artificial intelligence (GenAI)

Though not the focus of this chapter, it would be remiss not to acknowledge the impact – current and future – of GenAI on writing in higher education. The danger here is to slip into the remedial mindset and allow writing to be framed as a generic skill. With this mindset, GenAI

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9   J MacVaugh, A Jones & S Auty 'Implicit, stand-alone or integrated skills education for undergraduates: A longitudinal analysis of programme outcomes' (2014) *Journal of further and higher education* 755-772.
10   Dison & Moore (n 7) 1-4.
11   C Jacobs 'Mainstreaming academic literacy teaching: Implications for how academic development understands its work in higher education' (2007) *South African Journal of Higher Education* 870-881; C Jacobs 'Academic literacies and the question of knowledge' (2013) *Journal for Language Teaching= Ijenali Yekufundzisa Lulwimi= Tydskrif vir Taalonderrig* 127-139; T Gottlieb & LA Greenbaum 'The effect of integration on learning: An analysis and evaluation of a legal writing project in a South African law faculty' (2018) *Per Linguam: a Journal of Language Learning= Per Linguam: Tydskrif vir Taalaanleer* 47-59; B Bangeni & L Greenbaum 'Bachelor of Laws (LLB) students' views of their literacy practices: Implications for support in a time of change' (2018) *Reading & Writing-Journal of the Reading Association of South Africa* 1-10.

is seen as a tool that allows students to produce technically accurate text. The related response is to either embrace it uncritically as a tool that improves surface features of writing – or to reject it completely, as an unacceptable enabler of cheating or plagiarism. Both responses have no place in a transformative curriculum. If one approaches Gen AI with the understanding that writing is thinking and an essential part of knowledge-building in a discipline, the imperative to develop students' capacity to engage critically with GenAI is clear. Equally, ensuring that students continue to be inducted into the complex ways of reading, thinking and writing in law – without allowing students to outsource these functions to GenAI unthinkingly – is an important and increasingly challenging responsibility of all teachers in higher education.

2.2   A crowded and contested LLB curriculum

The four-year LLB remains contested[12] and crowded.[13] It is an ongoing challenge to attain depth in a broad undergraduate curriculum that is expected to equip graduates with such a wide range of graduate attributes.[14] To simultaneously address critical thinking, research and writing development across such a full and content-heavy curriculum is not easy. This is exacerbated by large classes and the related strain on law teachers, many of whom experience ongoing, often growing, administrative and marking burnout. Whilst not wishing to diminish these very real challenges, I hope to show that drawing on this collaborative approach in LLB curriculum transformation can help to ease these burdens, rather than add to them. However, given that many law teachers may already be struggling with curriculum-change fatigue, I reiterate that this approach is one of many and can be implemented in flexible ways, to avoid further fatigue or crowding of the LLB curriculum.

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12   D McQuoid-Mason 'Developing the law curriculum to meet the needs of the 21st century legal practitioner: A South African perspective' (2004) *Obiter* 101-108; L Greenbaum 'The four-year undergraduate LLB: Progress and pitfalls' (2010) *Journal for Juridical Science* 1-27; L Greenbaum 'Current issues in legal education: A comparative review' (2012) *Stellenbosch Law Review* 16-39; Modiri (n 1) 1-24; J Modiri 'The time and space of critical legal pedagogy' (2016) *Stellenbosch Law Review* 507-534.

13   Greenbaum (n 12); C Van Niekerk 'The four-year undergraduate LLB: where to from here?' (2013) *Obiter* 544; CHE (n 2) 50.

14   K O'Regan 'Producing competent graduates: The primary social responsibility of law schools' (2002) *South African Law Journal* 242-250; CHE (n 2) 31-36.

The transformation of the LLB curriculum is underpinned by a range of contestations about the purpose of the LLB, some of which are captured in the 2018 CHE report, and which reflect entrenched arguments about the scope and purpose of legal education worldwide. The traditional debate about what a good legal education should include is captured in the seminal journal article 'Pericles and the Plumber'.[15] Twining sums up two very differing views on legal education: a broad, holistic programme that encourages philosophical, ethical, and critical thought vs legal skills training in which students learn the law, how to read and write it, and how to apply it. This argument continues, in various forms, to date.[16] It is beyond the scope of this chapter to engage with the nuances of these fiercely contested issues. What is important for any approach to writing development in legal education, however, are two things: First, is that this dichotomous view has been challenged by a range of scholars, both in legal education and more broadly.[17] It should be possible to embrace both normative and critical approaches in any professional degree. Secondly, it should not only be possible but essential to embed reading and writing development initiatives in courses with a critical orientation, as well as in courses that are more normative.

2.3   Competing conceptions of what constitutes good legal writing

In 2001, Greenbaum surveyed twelve South African law faculties about the perceived state of their students' legal writing. This research not only confirmed that legal academics perceived law students' writing to be weak, but that concerns about legal writing focused 'mainly on basic literacy and surface-level grammatical skills as well as an understanding of "writing" as grammatical proficiency'.[18] As part of her analysis,

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15   W Twining 'Pericles and the plumber' (1967) *Law Quarterly Review* 396-426.
16   JM Modiri 'Transformation, tension and transgression: Reflections on the culture and ideology of South African legal education' (2013) *Stellenbosch Law Review* 455-479; Modiri (n 12); Gravett 'Pericles should learn to fix a leaky pipe – why trial advocacy should become part of the LLB curriculum (Part 1)' (2018) *Potchefstroom Electronic Law Journal/Potchefstroomse Elektroniese Regsblad* 1-30.
17   M Young & J Muller 'Three educational scenarios for the future: Lessons from the sociology of knowledge' (2010) *European Journal of Education* 11-27; Moore (n 2) 56-75.
18   L Greenbaum 'Teaching legal writing at South African law faculties: A review of the current position and suggestions for the incorporation of a model based on new theoretical perspectives' (2004) *Stellenbosch Law Review* 9.

Greenbaum drew on a conceptual distinction between traditional and revised understandings of writing. Traditional views on writing generally see good writing as a generalisable skill that can be taught or remediated as a separate set of generic skills.[19] The focus tends to be on surface-level elements of text such as sentence structure, grammar and punctuation. Revised views on writing, by contrast, recognise the inextricable link between writing and knowledge, writing development and cognitive development. An implication is that professional and academic writing is discipline-specific and so cannot be taught outside of the discipline and transferred seamlessly. The focus tends to be more on process, argument, logic and analysis.[20] An important finding of Greenbaum's study was that most law teachers at that time drew on predominantly traditional understandings of legal writing.[21]

By contrast, between 2018 and 2020, I interviewed a range of legal academics and practitioners about their conceptions of legal writing.[22] Two points are pertinent for how we think about writing development in the LLB today: Firstly, the law teachers in this study drew strongly on a revised understanding of writing, suggesting a marked shift in conceptions from the early 2000s. This extended to their descriptions of how they assessed written work, with most describing how they would 'read over' surface level errors and not assess written work using traditional writing criteria. However, interestingly, the legal practitioners in my study simultaneously viewed legal writing as a much more serious problem than the law teachers did, but also did not draw as strongly on this revised view. They consistently valued traditional writing criteria more strongly than the law teachers did.

It would be easy, but wrong, I think, to understand practitioners' views as an untransformed or old-fashioned concern with grammar and punctuation for its own sake or for gatekeeping purposes. Many legal concepts are strongly bound to precise terms and words. To be imprecise with words and punctuation is not merely stylistic carelessness, therefore, it is conceptually problematic. The wrong word, the wrong phrase, a misplaced comma or semi-colon can change legal meaning.

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19   JC Rideout & JJ Ramsfield 'Legal writing: A revised view' (1994) 69 *Washington Law Review* 42.
20   Rideout and Ramsfield (n 19) 99.
21   Greenbaum (n 18) 9.
22   Moore (n 2) 81-86.

Bernstein, an educational sociologist, calls this the 'strong grammar' of certain disciplines.[23] (Bernstein's term should not be confused with the everyday definition of the word 'grammar'). A discipline with a strong grammar has highly differentiated and specific terms for concepts, and students who fail to learn to use these terms correctly, and to understand the nuanced relationship between terms and concepts, will fail to fully understand or be able to practise the discipline. If my research findings are generalisable, law teachers of today are drawing predominantly on revised writing criteria when they teach and assess legal writing. If they neglect traditional writing criteria, including precise use of vocabulary and terms, while practitioners continue to value them, this could be contributing to the claim from the profession that law graduates' writing is not up to par.

There are at least two implications of the research outlined above for any approach to writing development. First, it is important to establish how law teachers are thinking about writing and writing development before any writing development initiatives are begun. A shared understanding of what it means to write in law cannot be assumed. Identifying whether predominant views are traditional or revised, and attempting to achieve a balance between both, rather than rejecting traditional criteria completely, may be most helpful in helping students to succeed both at university and in the legal profession. Secondly, this and much other research highlights the value of developing legal knowledge and legal writing together. Generic, stand-alone writing courses have very little effect and neglect the disciplinary specificity of legal writing. Despite the significant challenges of a crowded LLB curriculum, the teaching of legal reading and writing should not be outsourced.

To sum up the implications of these contextual factors, collaborators should embed a critical orientation to and use of GenAI as part of their planning; should recognise that it is possible to embed reading and writing development in both normative and critical courses; should identify whether writing conceptions are traditional or revised, and work to embed both traditional and revised writing criteria into their programme.

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[23]   B Bernstein 'Vertical and horizontal discourse: an essay' (1999) *British Journal of Sociology of Education* 164.

3   A collaborative writing development approach

3.1   Guiding theoretical framework

Broadly, this collaborative approach is located within the academic literacies approach to writing development that views reading and writing as embedded social practices that can only be learned as part of the specific discipline, rather than a set of generic, individual skills that can be taught outside the discipline.[24] This approach reflects current research and best practice more than the more old-fashioned 'skills' or 'language deficit' models that characterised many earlier attempts at writing support in South Africa and internationally. The academic literacies approach also advocates that writing developers should go beyond socialising students into dominant forms of writing but incorporate elements of critique and so is congruent with both normative and critical orientations to teaching in the LLB.

Jacobs, a prominent South African academic literacies researcher, argues that disciplinary specialists are, perhaps counter-intuitively, not always the best teachers of discipline-specific academic literacies, as their knowledge is so tacit that they may struggle to teach this knowledge explicitly.[25] Rather, she makes the case for an 'insider-outsider' collaboration between disciplinary and academic literacies specialists, an approach that she terms a 'collaborative pedagogy'.[26] She argues that

> it is through sustained interaction with language lecturers that disciplinary specialists are able to make their tacit knowledge of the literacy practices and discourse patterns of their disciplines, explicit. Such collaboration enables

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24   MR Lea & BV Street 'Student writing in higher education: An academic literacies approach' (1998) *Studies in higher education* 157-172; T Lillis & M Scott 'Defining academic literacies research: Issues of epistemology, ideology and strategy' (2007) *Journal of applied linguistics* 5-32; A Archer & Richards *Changing Spaces: Writing centres and access to higher education* (2011); Boughey & McKenna (n 6).

25   C Jacobs 'On being an insider on the outside: New spaces for integrating academic literacies' (2005) *Teaching in Higher Education* 475-487.

26   Jacobs (n 25); C Jacobs 'Collaboration as pedagogy: Consequences and implications for partnerships between communication and disciplinary specialists' (2010) *Southern African Linguistics and Applied Language Studies* 227-237; C Jacobs 'Opening up the curriculum: Moving from the normative to the transformative in teachers' understandings of disciplinary literacy practices' in T Lillis & K Harrington (eds) *Working with academic literacies: Case studies towards transformative practice* (2015) 131-141.

both language lecturers and disciplinary specialists to shift towards a critical understanding of the teaching of discipline-specific academic literacies[27]

Jacobs further contends that

deep levels of integration are achieved when language lecturers, rather than inducting themselves into the discourses of the disciplines, 'lift' the disciplinary specialists outside of their discourses by asking questions that a novice to the discipline would. In this way they are able to shift disciplinary specialists to making explicit the rules governing their disciplinary discourses.[28]

The collaborative pedagogy described in this chapter involves law teachers (LTs) and an academic literacies or writing specialist (WS) working together to develop effective ways of teaching and assessing reading, thinking and writing in the LLB. Each member of the partnership contributes their respective expertise. LTs are supported to develop the target reading, thinking or writing competencies for their course, without being expected to do all the additional work themselves, on top of the already significant demands of teaching law to large undergraduate classes. LTs know what their students need to be able to know and do; the WS can advise on the most appropriate and effective ways of helping students to develop and apply these capacities. The WS' educational and language teaching expertise, in collaboration with the LTs' disciplinary expertise, is harnessed to make tacit expectations explicit, and to develop effective teaching, learning and assessment strategies. LTs retain autonomy over their courses and can choose whether they would prefer to teach the target competencies; whether the competencies will be team-taught by the LT and WS; or whether the WS will do the teaching in core lecture or tutorial time, or in additional workshops or seminars aligned to the course and curriculated in the course outline. Collaboration can and should extend beyond the LT and WS partnership in individual courses. Part of the WS' role is to facilitate collaboration, where appropriate, with tutors, writing consultants, other colleagues and practitioners, and broader university structures. This allows the work to become systemically embedded in the LLB curriculum, and ensures that learning becomes institutionalised, and is not lost in the case of staff turnover.

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27   Jacobs 2007 (n 11) 59.
28   Jacobs 2007 (n 11) 76.

In addition to being grounded in a collaborative pedagogy, this approach to writing development is also premised on several other principles from research in the field of academic literacies development in higher education. One of these is the premise that reading, thinking and writing are inseparable and all need attention in any writing development programme. For example, Horning argues that '[t]he absence of reading has a direct impact on students' writing...reading forms the basis of academic writing across the curriculum, and the two must be taught in tandem'.[29] Writing intensive (WI) approaches to writing development work from the first principle that writing is thinking and, as such, can only be taught within a discipline, as ways of reading, thinking and writing vary across the disciplines.[30] The course described in the first example is supported by the university-wide writing intensive writing programme. It shows how a collaborative pedagogy can extend beyond an individual course, degree or faculty, and become part of a university-wide and systemic approach to writing development in higher education.

This collaborative approach also draws on some principles from genre theory. Genre theory, together with the academic literacies approach, offers the potential to develop an authentically transformative collaborative approach to the teaching of academic reading and writing.[31] Genre theory operates from the starting point that texts serve different social purposes, and that each genre has its own recognisable structure, language features, and discursive moves. The approach can 'provide students with an explicit understanding of how target texts are structured and why they are written in the ways they are'.[32] It works particularly well in law teaching, as law has such recognisable genres like judgments, legal opinions, heads of argument as well as all the procedural genres. Unpacking and analysing expert examples of different genres with

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29   AS Horning 'Reading across the curriculum as the key to student success' (2007) *Across the disciplines* 9.

30   Broodryk (n 1); P Nichols, A Joffe, R Pillay & B Tladi 'Teacher-team reflections on the quality and modes of thinking in Writing Intensive courses at the University of the Witwatersrand during the first year of the global COVID-19 pandemic' (2023) *Critical Studies in Teaching and Learning* 68-95.

31   U Wingate 'Academic literacy across the curriculum: Towards a collaborative instructional approach' (2018) *Language Teaching* 349-364.

32   K Hyland 'Genre and academic writing in the disciplines' (2008) *Language Teaching* 547.

students is therefore a powerful tool in this collaborative approach to teaching reading and writing.

Genre theory in turn draws on two key principles from learning theorist Vygotsky:[33] modelling and scaffolding. Modelling is 'analysing representative samples of the genre to identify its stages and key features and the variations which are possible'.[34] This can be done in a lecture, in a workshop, or in the form of a podcast, where the LT and the WS work together to point out what is noteworthy and to make visible the reasons for why the text is structured, staged and written in particular ways. Through critical questions, the genres can also be critiqued and alternatives or variations discussed. Scaffolding is where the teachers (LTs, the WS, or both) guide students 'through the gap between their current and potential performance'.[35] This is what Vygotsky calls working through the zone of proximal development (ZPD). Scaffolding is a principled and powerful alternative to the lowering of standards; instead, students are guided to where they need to be and formally assessed once they have had the opportunity to work through their ZPD rather than while they may still be lingering at the bottom of that zone.

An important dimension of this framework is the central role of constructive feedback and formative assessment. Formative feedback, if well done, can lead to deep learning and significant development of students' reading, thinking and writing capacities. Niven and Meyer offer the following useful principles for ensuring that formative feedback provision effects deep and transferable learning : It should be task-involving (focusing on the writing) rather than ego-involving (focusing on the writer); the criteria for evaluating the task must be shared openly with the students at the outset of the assignment; teachers must make sure that students fully understand the criteria; feedback should occur quickly if it is to be helpful to the student. Further useful principles include that feedback should 'feed-forward' – informing future drafts or tasks. It is assessment for, rather than of, learning. It should give constructive, realistic, staged advice on how to improve the next draft or assignment and on how to close the gap between what they wrote compared to an ideal answer. Good formative feedback avoids 'final

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33   L Vygotsky *Mind in society* (1978).
34   Hyland (n 32) 558.
35   Hyland (n 32) 559.

vocabulary'. Comments such as 'disappointing', 'you can do better than this' or even 'excellent work' should be avoided. Finally, good formative feedback avoids over-generous and unfocused praise because this can reinforce underachievement.[36]

A last essential aspect of this framework is that legal reading, thinking, and writing cannot be taught once, at first year level, with the expectation that students will be able to automatically transfer their learning to courses in later years and increasingly complex contexts. This commonly occurring expectation is part of the remedial mindset described earlier in this chapter. Reading, thinking and writing development can and should be embedded in core courses of the LLB in every year, to support deep learning of core substantive material and to develop the desired level of critical competence in reading, thinking and writing. This can be facilitated by having a designated staff member (such as the WS) to keep an eye on horizontal alignment (between courses at each year level) and vertical alignment (between courses at different year levels) in the LLB.

3.2   The framework applied: general principles

A useful starting point is to clarify roles and responsibilities. The LT generally identifies target reading, thinking and writing capacities; creates space for teaching and developing these in their course; aligns assessments with target capacities; and is responsible for summative assessment. Their focus is on this course. All students, working within courses, are taught, practise, reflect on and repeat target reading, thinking and writing capacities. As part of this process, they are all provided with constructive formative feedback on their progress and have the opportunity to consult for further assistance. The role of the WS is to help to make the tacit explicit; to suggest appropriate teaching and assessment strategies; to develop materials and teach or co-teach target capacities if asked to. The WS is responsible for responding to formative assessments. Their focus is both within and beyond each course, and how they articulate with each other.

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36   W Meyer & P Niven 'Critical reflections on the role of identity in two respondents' formative assessment practices' (2007) *English Academy Review: Southern African Journal of English Studies* 6-7.

In the case that this chapter describes, before the approach was implemented, all academic staff were invited to a workshop in which target reading, thinking and writing competencies for the LLB were discussed and identified, and possible course sites for embedding suggested. The documented outcome of this workshop has proven to be a useful guide over the years since implementation started. The WS assists where it is deemed most useful in deciding on teaching, task creation, and formative feedback provision. How this is done should be flexible, with the LT having the final say regarding whether they prefer to teach the target capacities themselves; whether they would like to team-teach with the WS, or whether they would like the WS to teach the target capacities (in core lectures, as an additional seminar or workshop, or in the form of an online resource that is uploaded to the course site).

Collaboration is sustained and iterative: colleagues work together to plan courses, and to identify associated target competencies to be taught and developed. It is important to clarify the respective roles of the LT and WS, and to decide whether other collaborators will be involved. Collaborators work together to plan lectures or workshops, to develop materials, assessment tasks and rubrics, and to decide on modes and frequency of feedback provision. An important principle is that the work should be based on reading that students must do as part of the course anyway. For example, if specific genres are modelled, the texts chosen are texts that students already are required to read for the course. Often, the easiest form of the genre will be chosen for initial teaching and discussion, and then students will be asked to apply this to the text. After formative feedback has been provided (which can occur in lectures, online, or through written group or individual feedback) the students can then be asked to apply the target reading or writing taught to a more complex example of the genre. In this way, they are scaffolded through the course, to the point where they are prepared for formal assessment of the target competencies, at the requisite standard.

Reflection and metacognition are both powerful thinking tools to foster student engagement, deep learning, and greater transfer of learning.[37] As part of this collaborative approach, the LT and WS planning the course should identify spaces in the course where students

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37   N Silver and others *Using reflection and metacognition to improve student learning: Across the disciplines, across the academy* (2023).

are required to reflect on their learning and to think about their thinking. This can be done informally (for example, through a prompt in a lecture, or by tutors asking students to reflect in tutorial discussions) or formally (through building in reflective written questions at the end of a formative writing task or formal assignment). By reflecting on, and thinking about their reading, thinking and writing, students can identify what they understand, and where the gaps are. If they are invited to share this with their LT and/or the WS, the teachers can teach to those gaps and address them before moving on.

Importantly, the collaborators should always consider matters of reinforcement and transfer when designing the reading and writing development in the course. Reinforcement implies engaging in the target competencies more than once. Students need the opportunity to practise, struggle, reflect and learn before they try again; it is through repeated engagement and reinforcement that learning is more likely to occur. Transfer is a more of a challenge. LTs are likely to be all too familiar with the lament that something was taught in a previous year or course, but that students fail to transfer that learning to other courses or contexts. Lack of learning transfer is a significant and under-researched challenge in higher education. Manzini and Genereaux caution that

> transfer is not as easy to attain as we would hope, and that transfer does not occur in many cases where we might readily expect it. In short, we cannot take transfer of learning for granted. To ensure that transfer occurs we must come to understand clearly its nature and design our instruction carefully so as to facilitate it.[38]

Considering transfer when designing reading and writing development interventions can involve being aware of when and how other courses have taught target competencies, explicitly referring to this learning, and telling the students to transfer what they learned in that course to this one. It can be especially helpful to explain what does transfer, and what is different in a new course, especially one at a higher year level. In this way, students are more able to understand that transfer does not mean doing exactly the same thing in new contexts but drawing on existing learning and applying it in more nuanced and complex ways.

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38   A McKeough, JL Lupart & A Marini *Teaching for transfer: Fostering generalization in learning* (2013) 2.

The suggested steps to be followed when implementing a collaborative approach to reading, thinking and writing development are summarised in the diagram below. However, the framework is flexible. It should serve the effective teaching of law and legal reading, thinking and writing and never restrict or complicate LTs' academic lives and choices.

3.3   Example 1: Year level 1

Introduction to Law is a full year course, which is accredited by the University Writing Programme as writing intensive. It entails a collaboration between the LTs responsible for coordinating and teaching the course, the WS, the writing centre, tutors, peer writing mentors, and the University Writing Programme. Of the peer writing mentors who assist, twelve are funded by the School of Law (these mentors also assist other LLB students) and six are funded by the University Writing Programme (and are designated as writing fellows who work specifically with first year students). All writing mentors are senior law students. The LTs and WS plan the teaching and assessment of legal reading and writing each year, building in opportunities for the target capacities to be taught, modelled, practised, formatively assessed, practised at more complex levels, and then summatively assessed. All of this is captured in the course outline. How this works differs from year to year, depending on identified student needs, and LTs' preferred way of working. What follows are some of the common features that have proven to be useful over the years:

In the first quarter of the year, the focus is on developing critical legal reading, with a particular focus on reading case law. Early in the year a double lecture is dedicated to introducing students to the genre of case law, and to teaching specific strategies for reading case law. This is sometimes taught by the WS or sometimes the LT and WS will teach it together, depending on LT preference. The teaching includes critical language awareness and showing students the importance of linguistic precision and correct use of legal terms. Students' first task is to read the target case, apply the strategies, and to reflect on their first experience of reading a case. They complete a written task that captures this learning which is submitted on the learning management system (LMS) and taken to their first reading and writing workshop, which is facilitated by their dedicated writing mentor. (The WS trains the mentors in a very specific pedagogy for facilitating the workshop, so that students are encouraged

to reflect together on their reading, comprehension, and stumbling blocks). In the workshop, the writing mentors explain and reinforce what was taught in the lecture, as well as introducing strategies for reading more complex cases. Students then apply these reading strategies to a different, more complex case, and complete a more complex written task related to this case. This task is submitted on the LMS and reviewed by the writing mentors (who are trained to provide feedback by the WS, who also moderates and standardises feedback provision). Their brief is to provide constructive formative feedback on this task, so that students can see what they have learned, and what they still need to work on in their reading of case law going forward. The lectures, writing workshops and two low-stakes tasks all scaffold the students towards being able to read case law critically and with comprehension, which is then formally assessed in various forms throughout the year.

In quarter two, the focus shifts to legal analysis and problem solving, still using case law as expert examples of the genre. The process is similar (a double lecture, a first task that is taken to a writing workshop, a more complex second task which is formatively assessed by writing mentors, and summative assessment that is conducted by the LTs). Again, through modelling, students' attention is drawn to expert writers' use of language and legal terms. The target competencies are further reinforced by tutors in the substantive tutorials and by LTs in lectures. This multi-faceted approach ensures that students receive the same message about the importance of legal reading, analysis and problem solving, and they have multiple opportunities to practise and reflect on the target competencies before being formally tested. Throughout the year, students can book individual or small-group consultations with their writing mentors, for further assistance and feedback.

In the third quarter, the focus shifts to legal research and writing. The first three weeks of lectures are dedicated to research and writing lectures (which are delivered in various ways, depending on LTS' preferences each year, through a collaboration between LTs, the WS and law librarians.) Topics include critical use of the legal and academic data bases; assessing the reputability and relevance of sources; topic analysis; constructing legal argument; critical use of GenAI; ethical writing; paraphrasing and synthesis techniques; and precise legal referencing through the use of footnotes. These lectures are complemented by a series of writing workshops, where students practise an aspect of the target competencies

in a task they complete before the workshop, and where they peer review, discuss and trouble shoot with peers and writing mentors in the workshop, to hone and clarify their understanding. Students are expected to research and write a full draft of their research assignment and submit it on the Lms. The peer mentors, trained and moderated by the WS, provide detailed formative feedback on the draft that is aligned with what was taught in lectures, as well as with the criteria on the rubric that is used to assess the final essay. This feedback focuses on both traditional and revised writing criteria: the quality of students' research and sources used; the quality of the structure, logic, argument, and engagement with topic; as well as on correct use of the designated style for referencing, and on linguistic aspects of the writing. Students are able to consult further with their writing mentors, before working with the feedback to revise their essays before they submit them on the LMS for formal assessment, which is done by the LTs.

The fourth quarter is reserved for revision and reinforcement of target competencies, as well as applying them when writing in examinations. The intention is that, through this sustained multi-actor collaboration throughout students' first year, a strong foundation is laid for students' future years of study, to which LTs and the WS in subsequent years can refer, and which can be developed in more complex ways in subsequent courses. Importantly, by the end of the year, it should be clear to students how central reading and writing is for success in law. Although students are encouraged to think critically about the ways they read and write in this course, and certain norms and power relations are critiqued, this year is essentially about socialising students in the ways of reading, thinking and writing in the discipline of law. This is as it should be, because meaningful and sustained critique is only possible once discourse norms are learned and understood. This is not, to employ a sporting metaphor, simply that you have to learn the rules of the game before you can bend or break them. Rather, rules can be learned while simultaneously learning to ask questions about whose game, whose rules, and what alternatives exist or could be developed.

3.4   Example 2: Year level 2

Jurisprudence is also a full year course that is taught to four-year LLB students at second year level. (Some students completing different iterations of the LLB, or who are completing the BA or BCom Laws

degree may complete this course in their third year of study). Again, there is extensive collaboration between LTs and the WS, especially at the beginning of the year, when the course is planned and the course outline developed.

With its focus on the philosophical underpinnings of the law, and on social theory as it engages critical legal and social issues, Jurisprudence can be challenging for students, some of whom struggle to understand the ways in which it is read differently, and also written differently, from other law courses. This makes it an excellent site for the explicit teaching of requisite ways of reading, thinking and writing. Part of this teaching is to make visible to students how Jurisprudence engages other core courses and issues in law. Importantly, whilst teaching of reading and writing in the first year is largely normative, this course offers the opportunity to develop more critical reading, thinking and writing capacities. These are taught through a combination of lectures, tutorials and workshops.

Although the initial planning process is similar in that it considers how the various elements of a collaborative framework will be implemented, there are some differences in this course that are worth noting. First, the LTs take primary responsibility for teaching the core reading, thinking and writing capacities, in lectures, whilst the WS' role is to reinforce these in additional workshops aligned to formal assessments. Secondly, tutors and tutorials play a major role in reinforcing and practising target competencies. These differences reflect both the preferences of LTs and the particular needs of the course and illustrate how this collaborative approach can be implemented flexibly, to meet differing curricular needs and preferences.

As with Introduction to Law, Jurisprudence begins the year with a focus on teaching reading competencies. This time the focus is on critical and inter-textual reading, with a particular focus on journal articles and academic book chapters. Again, core readings from the course are selected for the teaching, modelling and scaffolding of critical and inter-textual reading strategies. The LT teaches these in lectures, whilst also teaching the core concepts; a clear example of how reading and knowledge development can be engaged together. Thereafter, students practise these strategies in a tutorial task (whilst also demonstrating their understanding of key concepts) and get reinforcement and feedback from tutors before applying the strategies again in a second, more complex tutorial task. Before the first formal assessment of the year, the

WS runs an online workshop in which students are invited to reflect together on the target reading and thinking competencies that they will have to apply in their assessment. This is then assessed by the LTs, in a formal assessment that they set and mark. Importantly, LTs and the WS refer explicitly to the teaching in first year and remind students of what they have learned and can transfer, as well as how the reading, thinking, writing and language use in this course may differ.

In quarter two, the focus shifts to essay writing in Jurisprudence, especially on ethical writing and referencing. Explicit discussions about the critical use of GenAI and the way in which GenAI cannot (yet?) generate the kind of critical, intertextual text expected in the course are curriculated. Again, this is reinforced by the WS in a workshop held shortly before the formal assessment, and by a short online assessment of students' ethical referencing capacity. The short online assessment is developed and set by the WS whilst the formal essay for this quarter is assessed by the LTs.

In the second half of the year, the focus remains on essay writing but turns to ways of developing more nuanced and persuasive arguments. Here, core readings for the course are used as powerful examples of the genre, that get modelled and analysed, so that students can expand their repertoire of rhetorical and discursive moves in constructing nuanced, persuasive arguments through different social theory. Again, the importance of legal precision and correct use of terms is emphasised. By showing students how different authors construct arguments quite differently, whilst often drawing on some common rhetorical moves, students are more able to think critically about their argument construction, rather than unthinkingly applying the basic moves taught in first year. Also, there is more extensive focus on linguistic awareness and precision; students are shown how authors construct compelling arguments through their intentional choices of particular words and phrases, and through intentional sentence construction and sentence variation. All of this is reflected in the Jurisprudence essay rubric, which is also discussed and unpacked as part of the explicit teaching of thinking and writing in this quarter.

Finally, it must be emphasised that these examples are two of many. The collaborative approach can be (and is) implemented in further years of the LLB. If strategically done, and thoroughly planned, it should not over-burden LTs or further crowd the curriculum. Rather, it should

deepen students' learning of both the law and the ways in which it can be read and written. Moreover, it should increase students' engagement with core course concepts rather than over-burden them with additional 'skills' training.

4   Conclusion

By presenting both a theoretical framework for a collaborative approach to developing reading, thinking and writing capacities of LLB students, as well as some practical examples, I hope to have illustrated the potential and affordances of this approach. More importantly, however, I hope to have made a persuasive argument against the remedial mindset when it comes to student and writing development. The pitfalls of this mindset are theoretical, ethical, and practical. There is no room in a transformed or transforming LLB curriculum for writing development programmes that label, stigmatise and undermine students and their capacities. Rather, students should be recognised as capable actors who must develop their critical reading, thinking and writing capacities as they develop their legal knowledge; a professional and intellectual imperative rather than a skills-deficit.

Equally, as part of achieving scholarly excellence, there should be no room for approaches that have been shown, through extensive bodies of research, to be ineffective. I conclude with a reminder of Mbembe's pertinent articulation of the aim of higher education:

> to redistribute as equally as possible a capacity of a special type – the capacity to make disciplined inquiries into those things we need to know, but do not know yet; the capacity to make systematic forays beyond our current knowledge horizons.[39]

A transformed LLB needs a systematic, scholarly approach to knowledge and writing development that is congruent with this aim.

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39   A Mbembe 'Decolonizing knowledge and the question of the archive' (2015) (spoken text for a series of public lectures given at the Wits Institute for Social and Economic Research (WISER), University of the Witwatersrand (Johannesburg), at conversations with the Rhodes Must Fall Movement at the University of Cape Town and the Indexing the Human Project, Department of Sociology and Anthropology at the University of Stellenbosch) 8.