Knowledge, skills and values: Balancing legal education at a transforming law faculty in South Africa

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Abstract
Determining curriculum content for legal education is difficult, having to consider the value of universal foundational teaching-learning as opposed to dedicated practical legal education; emphasising generic skills development as opposed to accumulation of knowledge or practical skills. Finding an equilibrium between these competing forces and having to consider ‘non-educational’ forces, including expectations of transformation and redress, make the task more complex. This article illuminates challenges regarding the balanced development of knowledge, skills, values, and transformation, and introduces specific initiatives to help students develop especially their ability to write well. It contends that any adversary stances of the academia versus the professions will only be solved by clarity and agreement on the meanings, scope and contextual application of concepts like general and subject knowledge, generic skills and practical skills, and scholarly and professional values. Skills training as a generally accepted outcome should be dissected to clearly indicate the generic or specific purpose thereof, implying a narrower definition of outcomes, but also equipping of lecturers with educational expertise to attain these outcomes.

INTRODUCTION
Determining curriculum content for legal education is a difficult task in any context. Whilst some lecturers still feel that all their students should know nothing less than all of the subject matter that is available in their specialized fields of law, the market is inclined to expect graduates with specialized/specific practical skills. While the university would prefer to develop the student as a societal human being in a holistic way, the market prefers to receive ready-made legal technicians/practitioners. The university has to consider the value of universal foundational teaching-learning as opposed to more dedicated practical legal education. The preparation of practitioners in any case would have to meet the requirements of fifteen or so different occupations for lawyers. Higher education tends to emphasize rather the generic skills development of students as opposed to the accumulation of mere knowledge of facts or practical skills. Some thus see a curriculum more as a composite of educational subject matter, whilst others include the learning activities and experiences of a broader generic...
skills development into their definition of curriculum.

Finding an equilibrium between these competing forces is already a daunting task. Having further to consider ‘non-educational’ forces in the equation makes the task even more complex. These additional contextual forces include, for some such as the historically advantaged law faculties in South Africa, expectations of transformation and redress. It is important to note how all of these forces influence the law curriculum and the resultant knowledge, skills and values bases of graduates from such a faculty.

The law faculty of the University of the Free State (UFS) is regarded as a historically advantaged (i.e. white) institution, and also a historically Afrikaans (language) institution. Developing the abilities of students in such institution must, therefore, not only account for the reading and writing skills itself (amongst others) but also for second or third language skills. This article illuminates the challenges (including inadequate secondary preparation and multilingual students) regarding the balanced development of knowledge, skills and values, as well as transformation, facing academics when teaching at the said institution. It also introduces specific initiatives that have been undertaken to help students develop especially their ability to write well.

**CRITERIA FOR DETERMINATION OF THE CURRICULUM**

Criteria for determination of the law curriculum might differ with reference to the applicable system, country, political stage, local experience of social justice issues such as sex, gender, race, religion, etc., and significance of subject matter as foundational, core and optional courses. On the one hand, the South African legal system as a developed unique system based on the Roman Dutch foundations influenced by especially English Law in many respects, sets specific boundaries to the law curriculum. On the other hand, a new democratic dispensation and a negotiated Constitution geared for societal redress has ensured marked changes to the established law curriculum. In addition, the South African law curriculum increasingly has to cater for abovementioned social justice issues, including also language and even socio-economic class. The twin system of pure legal practitioners – attorneys and advocates – in addition to thirteen other possible legal occupations, pressurize the demarcation of subject matter as foundational, core and optional courses.

Internationalization of the curriculum and incorporating indigenous legal systems as well as ethics and professionalism in the curriculum also create huge debates, especially in developing countries. South Africa, as a developing country running a developed legal system, has to cope with the challenge of inter-nationalization of the curriculum in a more open worldly society while on the other hand meeting the constitutionally safeguarded expectations of the majority population seeking recognition of their various indigenous legal systems (see section 211(3) of the Constitution of the Republic of South Africa 1996).
While a curriculum is sometimes seen as merely a composite of educational subject matter, the UFS include the learning activities and experiences of a broader generic skills development into their definition of curriculum. “A curriculum is more than a syllabus (which mainly refers to content). A curriculum is composed of modules .... Modules refer to all of the teaching and learning components that are part of a learning programme, which includes the overall aim of learning, learning outcomes, content, activities, methods and media, teaching-learning strategies, forms of assessment, and evaluation of delivery and moderation” (UFS 2007, 9).

The law curriculum, as other higher education programmes in South Africa, has to comply with the requirements of the South African Qualifications Authority (SAQA http://www.saqa.org.za) and the National Qualifications Framework (NQF) in terms of the South African Qualifications Authority Act, 1995, and its successor the National Qualifications Framework Act, 2008; as well as the Higher Education Act, 1997, and the Higher Education Qualifications Framework (HEQF) deduced from the NQF (HEQF 2007, 1–29). The NQF description of a qualification impact on learning programme and curriculum development in terms of planned combination of learning outcomes with a defined purpose, intention to provide qualifying learners with applied competence and a basis for further learning, critical cross-field education and training outcomes, integrated assessment, learning assumed to be in place, recognition of prior learning (RPL), and credits (SAQA:1). These requirements focus much more on generic skills development than on subject matter, and especially lecturers of the older generation would find it difficult to deviate from a subject specialist approach to a teaching and learning focus.

The HEQF establishes common parameters and criteria for qualifications design and facilitates the comparability of qualifications across the system. Within such common parameters programme diversity and innovation are encouraged with ample scope to design educational offerings to realize different visions, missions and plans and to meet the varying needs of the clients and communities served (CHE:1). This, for example, enabled the UFS to develop three different B.Iuris programmes in specialized fields not aimed at the attorneys’ or advocates’ professions.

Critical cross-field outcomes (CCFOs) are the broad, overarching outcomes towards which all programmes work in terms of regulation 7(3) of the SAQA Regulations, 1998. They are critical for the development of the capacity for lifelong learning, and are all about the needs of the individual and the needs of society. CCFOs envisage individuals who are able to exercise a list of seven generic skills in an advanced manner. In order to contribute to the full personal development of each student and the social and economic development of the society at large, it must be the intention underlying any programme of learning to emphasize the importance of personal, social and economic outcomes, envisaging individuals who are able to participate in social context responsibly, sensitively, exploratively and in a developmental and empowering manner (UFS 2007, 11–12).

What is evident from these lists of generic outcomes is that they do not relate directly to any legal subject matter nor to any specific legal practical skill. They do,
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however, refer specifically to ‘language skills in the modes of oral and/or written presentation’. To its credit the South African LL.B. programme (or its undergraduate forerunner) has always included at least one language course (formerly also Latin) as a sound basis for reading, writing and presentation skills. These lists, however, strengthen the contention below that clarity and agreement should be reached on the meanings and scope and contextual application of concepts like general and subject knowledge, generic skills and practical skills, and scholarly and professional values. Skills training as a generally accepted outcome should be dissected so as to clearly indicate the generic or specific purpose thereof.

EQUILIBRIUM OF ENVISAGED OUTCOMES

All the above-mentioned criteria influence the equilibrium of envisaged knowledge, skills and values outcomes in the curriculum for legal education. Universities have consistently to fend off the pleas or threats of various stakeholders to increase the load on either side of the balanced scale. In particular, practising attorneys have felt that graduates, their articled clerks, are not equipped with the necessary practical skills (including writing skills). However, this is by no means aimed only at law graduates (see Citizen 2011; Business Day 2011).

Numerous stands have been made over several decades on the positions of the academia as opposed to the practicing attorneys’ profession in this regard. This has eventually led to an agreement to request the Council on Higher Education (CHE) to do an appraisal of LL.B. curricula across the board of seventeen law faculties in 2010. This project was not a national review but sought only to confirm the nature and extent of the problems reported with legal education. The resulting research question, negotiated between the law deans, the professions and the CHE, was: ‘To what extent does the current law curriculum at South African universities meet the requirements of the different professional career paths which law graduates follow?’ (CHE 2010, 15).

Research in support of the project entailed two large-scale electronic surveys. The first was addressed to legal academics and the second to legal practitioners both in their individual capacity and as employers of legal practitioners. The project thus allowed access to a wide range of views from people in different kinds of legal work and at different stages of their careers, and provided the information about what academics and practitioners think students should be learning, and how well the universities are doing in preparing them. It also entailed an analysis of the LL.B. curriculum at the seventeen universities in South Africa offering the degree. Further, legal organizations were invited to make submissions to the project. Finally, international trends in legal education, particularly the duration of LL.B. studies, the requirements for admission, and how curriculum is established, were looked at (CHE 2010, 15).

The results of the project (which was only internally revealed for lack of desired completeness) included a confirmation of the existence of a core curriculum for
LL.B. in South Africa: “It is immediately apparent that there is a great deal of agreement concerning the core building blocks of an LLB curriculum. Of course, one must be cautious that these are only names, and do not go into any level of detail about what might be taught under each of these titles. However, there is considerable general agreement concerning the subject matters” (CHE 2010, 133); ‘There is a great deal of similarity in the substantive law curriculum components offered at every law faculty. In fact ... there is a de facto core curriculum in place. These courses, at least in name, are in keeping with the recommendations of both the Law Deans and the attorneys’ profession” (CHE 2010, 134). It is clear also that academics and practitioners alike agree on the importance of skills training. In fact, there are six competencies which are rated in the top ten by all groups (individuals and employers, attorneys, advocates, judicial officers, legal advisors in the public sector and in the private sector, and academics) (CHE 2010, 92, 161). These six competencies, however, neither directly relate to specialized subject matter (which the academics would prefer) nor to professional practice skills (which the attorneys would prefer). They seem to be more of a broad (subject matter, one) and generic (skills, five) nature. However, it is notable that five of the six can to a larger or lesser extent be related to reading and/or writing.

It is important to note that the CHE report also emphasizes the importance of an equilibrium of outcomes: “However, these similarities are off-set by the significant differences in the course duration and credit rating of seemingly similar courses ... reflect a considerable difference in the thoroughness and depth of study of each ... cannot assume any minimum competence .... It is far more difficult to identify and compare the skills training components of the LLB programme, due to the variety of different ways that skills training is delivered, and the fact that much of the skills training is integrated into substantive law courses, and is not assessed separately” (CHE 2010, 134).

While it is clear that academics and practitioners agree on the importance of skills training, they do not agree on the approach to and type, volume and depth of skills involved. From the CHE survey results it would appear that ‘the divide between legal education for the professions and legal education as a “liberal arts” education, generally recognized around the world, persists’. Roughly one-third of law faculty respondents believe they are educating students for a profession, while nearly two-thirds of respondents believe the purpose of legal education is to develop ‘well-rounded law graduates who engage with legal concepts and can contribute to the legal profession and to society’ (CHE 2010, 162). However, ‘educating students for a profession’ is not always well defined, not even by the professions. The Law Society of South Africa and the General Council of the Bar agreed to, and submitted to the deans in 2005, a draft profile applying to both branches of the profession. They also agreed that the SAQA registered outcomes for the LL.B. (with the addition only of the ability to process numerical data) be accepted as the learning to be in place at the time of commencement by graduates of the training for admission. A provisional list of learning fields and skills required was also submitted, which in
itself demonstrated the lack of practical skills complained about. A more elaborative
document of 93 pages, *Knowledge Outcomes*, was submitted in October 2006 which,
strangely enough but in line with the title, dealt only with knowledge outcomes and
not with the practical skills outcomes propagated for by the professions.

*Reflective* studies amongst graduates, or academics, do not seem to provide reliable
answers to the balancing problem. Attempts to rely on the insights of graduates as
to what would have been the ideal curriculum for them to have followed, seem
fruitless because of the often diverse responses received on the same question, mis-
interpretation of questions, and inexperienced graduates expected to exercise an
opinion on the value of their completed studies. As indicated above, the CHE has
conducted such studies on the views of graduates of seventeen different law faculties
on a national basis in 2010. What came through very clearly is that there is a great
deal of commonality in the competencies which are highly valued by law faculty
and all types of legal practitioners. There are six competencies which are rated in the
top ten by all, as indicated above (CHE 2010, 92 and 161). Perhaps the important
question in the follow-up, whether the graduate regarded his/her own completed
curriculum ‘at your faculty’ as adequate, was phrased somewhat subjectively. The
responses of the less than 5 per cent of aggregate graduates who came from a small
rural university like UFS would be negligible.

The UFS has itself conducted two such studies, the most recent being *Assessment
of the LLB programme of the Faculty of Law (University of the Free State) as perceived
by alumni and employers* (UFS 2008). A concern in the evaluation of this report was
the fact that only about one-third of the graduates whose addresses were known and
who were contacted has responded, and 60 per cent of those have graduated within
three years of the survey indicating very little practicing experience (Table 3 in the
report). Some four out of ten alumni indicated that the programme did not equip
them sufficiently for their profession in that they wanted more exposure to practical
work (‘particularly with regard to deeds and conveyancing’ for which, strangely
enough, there was absolute no exposure even in theoretical work). Interestingly
also, in response to Question 16 (*Were there any aspects of the LLB programme that
struck you as being particularly weak?*), ‘Lack of practical experience/training’ was
the majority response with 30 per cent of respondents having that view. On the other
hand, in response to Question 15 (*Which aspect of the LLB programme would you
single out as being the programme’s strongest point?*), ‘Legal Clinic’ (5,7%) and
‘Law practice’ (4,7%) took fifth and seventh places (Tables 17 and 16).

It is contended that the adversary stances of the academia versus the profession
will not be resolved as long as clarity and agreement is not reached on the meanings
and scope of concepts like general and subject knowledge, generic skills and practical
skills, and scholarly and professional values. Outcomes are the basis for assessment
and are the end-product of a learning process which involves three elements of
learning: knowledge and understanding – content (know that), concepts and theories
(know why); doing – application of knowledge, skills and competencies (know
how); and attitudes – behavior and values (professional conduct) (UFS 2007, 11).
This also seems to be the direction the CHE indicates: ‘... There is a need to be clear about what every law student must know, and what skills and abilities he or she must possess in order to further his or her education and career, and to ensure that all universities provide at least this minimum to their law students’ (CHE 2010, 163). It is emphasized that the concept of a minimum core curriculum “should extend not only to knowledge, but also to skills and attitudes. Definition of the required skills outcomes and desirable attitudes would also help to define the respective responsibilities of universities and professional training, with universities taking responsibility for developing high-level, generic skills, while leaving to the professions the teaching of more particular skills” (CHE 2010, 165).

Attempts to also incorporate ethics and professionalism into the curriculum is somewhat undermined by a general societal attitude of everyone for himself. In student engagement surveys first-year students in the UFS Faculty of Law in 2007 reported (UFS 2008:2, 2): significantly less academic challenge than students in other UFS faculties; significantly less collaborative learning experiences than other faculties; the least amount of time per week on average spent preparing for class; and significantly lower levels of perceived campus support. The overall levels of student engagement in this law faculty were lower than the campus average for four out of the five benchmarks; student : staff interaction being higher. A more representative sample of students in 2009 reported (UFS 2009, 2) key engagement strengths and challenges for students in the Faculty of Law as:

- the highest mean for the Supportive Campus Environment benchmark.
- the second highest mean for the Student-Staff Interaction benchmark.
- the second lowest mean for the Level of Academic Challenge benchmark on campus.
- the lowest mean for the Active and Collaborative Learning benchmark on campus, particularly among female and first-year students.

Apart from certain content material, the faculty now attempts to strengthen ethics and professionalism through amongst others subscribing to student and lecturer codes of ethics (UFS:1) and (since 2009) compulsory class attendance.

While there seems to be a core curriculum for LL.B. programmes in South Africa, it is also clear that paper is patient and what faculties pretend to deliver is not necessarily the real outcome. What needs to be done is a thorough investigation of what really happens in the class or during other learning and assessment activities, and not only what the curriculum compilers desire to be the outcome. This implies, again, a narrower definition of outcomes, as well as preparation of lecturers in order for them to be competent in applying efficient methods to attain these outcomes. ‘It is no longer sufficient that lecturers be only legal experts. Subject-matter expertise must go hand-in-hand with educational expertise’ (CHE 2010, 165; see Sowetan LIVE 2011).
TRANFORMATION AND REDRESS

In legal education at a previously advantaged and transforming law school in rural South Africa, solving the equilibrium becomes progressively even more difficult. Apart from the pressures put on law schools from the professions, the societal pressures of transforming the legal professional and higher education landscapes in South Africa became enormous. The Faculty of Law, UFS, as other law faculties in the country, is under immense pressure, on the one hand from society to admit (give access to) more students while on the other hand from legal practice not to produce under-skilled graduates (see CHE 2010, 9 and 13). The endeavour to increase academic and professional quality (as well as institutional subsidy based on ‘through-put’) by raising the admission requirements for potential students is to be balanced by the transformational responsibility to allow access to less-prepared school leavers (see UFS 2010).

Under pressure of having to deliver larger numbers of especially black graduates to the legal professions, the law curriculum was drastically changed in 1998 to allow students to graduate in four instead of five-years. “In South Africa, one of the acknowledged reasons for reducing the duration of the LLB programme to four-years was the desire to improve access of previously disadvantaged individuals to the legal professions. The need for transformation is compelling” (CHE 2010, 168). This experiment has not been accepted as successful, and a large number of proponents have started to advocate a return to a five-year and/or postgraduate law degree (CHE 2010, 89, 142 and 168).

In his official information channel for staff of the UFS (UFS 2011:2), the Rector and Vice-Chancellor pleaded on 14 February 2011:

Broadly, of course, you would know we have two strategic goals. The one we call the academic project, which is to raise the quality and competitiveness with regard to our academic mandate significantly. In this regard, we have, inter alia, increased academic admission scores, raised the bar for professorial appointments, and require class attendance. The other we call the human project, which is to make the UFS a beacon of hope for South Africa and beyond, by demonstrating how reconciliation and social justice can bring together formerly divided people as we discover and enjoy our common humanity.

In relation to the class attendance requirement emphasis is also placed on the responsibility of the lecturer to add value. The lecturers’ responsibilities are driven by the institutional performance management and programme or departmental evaluation systems, and a new teaching learning policy and plan (UFS:2).

PREPAREDNESS OF STUDENTS

The increasing knowledge, skills and values bases of graduates required by society seem to be undermined by the decreasing levels of preparedness of incoming students in all of those areas. Whereas the professions have blamed the faculties...
for delivering unprepared graduates, the universities seem to be confronted with the reality of having to admit students delivered by an inadequate schooling system. Apart from many other forms of evidence to this fact, the CHE surveys have also revealed definite perceptions amongst stakeholders in this regard: ‘There are a number of common threads that run through all or most of the submissions received: that entry-level students are under-prepared for tertiary study; that language proficiency and numeracy are found wanting; and that legal education must be more skills oriented’ (CHE 2010, 143). Apart from the stakeholders who have submitted submissions, many of the survey respondents, both academics and practitioners, ‘have suggested that the failure of the secondary school system to adequately prepare students for tertiary studies lies at the root of the problem. For some, this was particularly in the areas of literacy and numeracy, while others referred to a more general lack of academic preparedness’ (CHE 2010, 169).

The government have recently supported universities in addressing this problem by funding extended programmes aimed at preparing students in an additional foundation year to prepare for the successful completion of the mainstream programme. The admission requirements for the extended programme would be lower than that of the mainstream (DHET 2001, 21). Its own predicament led the UFS to engage in the government’s programme. An extended curriculum five-year LL.B. programme was added to the mainstream four-year programme in 2005 (UFS 2005, 44). The faculty has initially set a general admission requirement of a matric -points minimum M-score of 34 (Senior Certificate) or 33 TP-score (National Senior Certificate) over and above certain language and mathematics requirements. For the purposes of the extended curriculum programme the admission requirement was lowered to a matric points minimum M-score of 28 or TP-score of 28 as well as lower language and mathematics requirements (the requirements for the extended LL.B. programme actually corresponded, at that stage, with the general requirements for the majority of mainstream programmes of the UFS). Students with lower schooling results were thus allowed to phase into the mainstream programme via a prolonged ‘first’ year of study. The normal first-year modules were split into a two-year study schedule, whilst over the same period (but mainly the first year) a number of additional foundation modules were added. The extended programme’s module schedule in the third year kicks into the second year of the mainstream programme’s so that in effect there is no difference in the last three years of each programme’s modules.

In the case of UFS it seems to have been a fruitful extension of the law curriculum, as revealed by evaluative research with the object of determining the success of the extended LL.B. programme in comparison with the mainstream programme. In a statistical analysis of the results per module of the two groups of students it appeared that generally the success rates of the group in the extended programme were nearly the same as that of the mainstream group. In certain skills-orientated modules, there were even better success rates for the five-year group (UFS 2010:2).

During their first study year the five-year groups follow additional foundation
modules, and in their second year of study also Legal skills, which the four-year groups do not. The average success rates over the period 2005 until 2009 for these additional foundation modules, amongst others, were analyzed. The analysis shows that the five-year groups’ success rates in the time period of five-years for each of the additional foundation modules were consistently at least 71 per cent, and in general higher than 80 per cent (except mainly for Mathematics for Law). The combined average success rate for all the additional foundation modules for the five-year groups is 83 per cent. It would appear as though the students experience the most problems with Mathematics for Law and the least of problems with Legal Skills. Ninety per cent on average over four-years (2006–2009) of the registered students passed the Legal Skills modules. There is a notable difference between this average (only the Legal Skills modules are presented in the Faculty of Law) and those of the other five foundation modules (presented in other faculties). Some of those modules are in the process of being tailor-made for law. A greater measure of cooperation between the lecturers from these different faculties is desirable. The practice and promise of this particular programme could also be enhanced by employing more consistent/senior staff. During the past six years several persons occupied the position of coordinator of the extended programme and of lecturer for the Legal Skills modules. (UFS 2010:2).

A student is allowed to register for attendance of any module in the language of teaching of his/her choice (The UFS is a parallel-medium institution). The students preferring the Afrikaans classes normally choose the Afrikaans vir Akademiese Doeleindes language skills elective module and the students preferring the English classes the Academic Language Course language skills elective module. Eighty-four per cent on average over five-years (2005–2009) of the registered students passed either of these language courses. It should be noted that, while the Afrikaans students mostly apply their mother tongue and the ‘English’ students their second or third language, there is no notable difference in the averages of success rates of these two modules. (UFS 2010:2).

There are big differences between the four-year and five-year first-year groups’ average success rates (2006 until 2009) in seven of the twelve regular first-year modules. The five-year groups’ average success rates are, however, higher than that of the four-year groups’ for English for Law (a language elective) and Legal Practice; – modules which the five-year groups actually only do in their second year. The five-year groups’ consistently higher success rates for English for Law can possibly be ascribed to the fact that the five-year groups are in effect second year students and/or that they have already completed law subjects and a foundation module in English skills in a previous year of study. There are also big differences between the average success rates (2007 until 2009) of the second-year groups in 10 of the 13 modules (five strikingly different). The exception, where the five-year groups show higher average success rates, is Legal Practice which essentially related (in the applicable period) to computer skills. A possible explanation is that the five-year groups have already followed computer literacy in its first-year of study, leading to more success probably also on account of an earlier duplication of the contents of
the *Computer Literacy* foundation module. There are huge differences between the third-year groups’ average success rates (2008 until 2009) in only five of the twelve modules. As opposed to this, the five-year groups’ average success rates for two modules are higher than the average success rates of the four-year groups. A possible explanation for the exceptions, *Mercantile Law* and *Law of Business Entities*, needs to be investigated. The five-year group also shows, as could be expected, in the majority of level 8 compulsory modules lower success rates (in this case the data was only for 2009). There are huge differences between these groups’ success rates in only three of the twelve compulsory modules. As opposed to this, the five-year group’s success rates for *Legal Practice* and *Mini-thesis* are higher than those of the four-year group. A possible explanation is that the five-year group was better founded in language and legal skills. (UFS 2010:2)

Since it is striking that the extended programme’s students in some of the modules perform better than the mainstream students, investigation ought to be undertaken as to whether this only relates to prior foundation modules, and/or the mere fact that second-year students are more mature, and/or the possible differences in language and numeracy proficiency of the different AP-score groups, and/or the nature of and familiarity with the different teaching techniques (including tutorial groups) and methods of assessment that are applied in the different modules. While the admission to either the mainstream or the extended programme was mainly determined by an ‘admission point’ system based on National Senior Certificate results (but also specifically language and mathematics results), results of students’ academic literacy and numeracy skills tests have shown that there might be other factors than average school results that predict success of students at higher education level. The National Benchmark Test (NBT) results of law students at UFS in 2010 show that 30 per cent of the extended programme students might belong in the mainstream, while 60 per cent of the mainstream students should have rather followed the extended programme (UFS 2010:3). It must be further borne in mind that the majority of these students are studying in their second or third language.

**RECOGNIZING THE IMPORTANCE OF WRITING AND READING SKILLS, AND THUS LANGUAGE PROFICIENCY**

The UFS has recognized the importance of developing ‘practical skills’ in addition to content knowledge by introducing *Legal Practice* modules in all four academic years with the ‘new’ four-year LL.B. programme in 1999. None of these modules designed for the purpose of teaching effective advocacy were specifically aimed at ‘legal writing’, although aspects of what could constitute parts of a legal writing course were included. A vested final year *Mini-thesis* was, however, aimed at assessing students’ abilities to academically report on their research into a selected topic. The ostensible lack of ability to report so, led to the introduction of a formal preparation for the mini-thesis as part of the third year *Legal Practice*, and in 2009 to the introduction of a ‘legal writing’ component in the second year *Legal Practice*. Swanepoel and
Snyman-Van Deventer (2011:1) set out the current legal writing model, which ‘is not presented as the ideal … a genuine attempt within the parameters and constraints of the Faculty to achieve the best possible results.’ (Swanepoel and Snyman-Van Deventer 2011:1; UFS 2011, 109–112)

The main experiences of lack of language proficiency with regard to Legal Practice in the first academic year and the extent of writing deficiencies in the majority of students for Legal Practice in the third and fourth academic years, as experienced by those who have presented it for a number of years, is of great concern (Swanepoel and Snyman-Van Deventer 2011:1). The authors’ synopsis relates to experiences over a period mostly before the introduction of the ‘new’ second-year legal writing course in 2009. The current development of that component is exactly aimed at remedying most of the deficiencies listed by the authors. Making way in the programme schedule for a new module in legal writing is one thing, but developing an efficient and effective semester module another. The same authors (Swanepoel and Snyman-Van Deventer 2011:2) have clearly shown that legal writing is but one component of legal advocacy, which should ideally be founded on and integrated with other components mentioned by them (in a sense they are addressing ‘needs of’ rather than ‘need for’ teaching writing skills). They also forward a list of questions to be considered in the process of design of a legal writing module and conclude that ‘The main challenge in the area of developing legal writing courses in South Africa involves the fact that legal academics (including ‘clinicians’) have not been formally trained to teach language and writing.’ (Swanepoel and Snyman-Van Deventer 2011:2). A five-point-penalty language assessment matrix, ensuring that lecturers in all subject areas are sensitive to the need to improve students’ language competence and to feed back on language use, has recently been included across all modules in the faculty. There has been some resistance, in the light of the aforesaid ‘not been formally trained’ syndrome.

The foundation course in the second academic year of the UFS extended LL.B. programme, Legal Skills, consists of two semester modules. The course, initiated in 2006, has been developed and presented by different lecturers in different years seeking an ideal syllabus as foundation for students to be phased into the main programme and especially the Legal Practice modules mentioned above. The purpose of this course is to, in general, provide a bridging course to the five-year LL.B. students and to thereby equip them with the basic skill requirements of both study of law and eventual legal practice. The student would be equipped with identified skills and competencies (UFS 2011, 116). It was recently decided to incorporate a component for developing reading skills as the major part of these modules (Hattingh, Van Niekerk and Venter 2011). Apart from the practicing of the most important reading skills itself, it would also lay the foundation for improving language and writing skills applications through the interaction with well-written (or not) legal texts.
SUMMARY AND CONCLUSIONS

The main challenge for legal educators at the law faculty of the UFS, being regarded as a historically advantaged (i.e. white) and also a historically Afrikaans (language) institution, is to find the equilibrium of envisaged knowledge, skills and values bases of graduates.

It is contended that the adversary stances of the academia versus the professions will not be solved as long as clarity and agreement is not reached on the meanings and scope and contextual application of concepts like general and subject knowledge, generic skills and practical skills, and scholarly and professional values. While there seems to be a core curriculum, it is also clear that paper is patient and what faculties pretend to deliver is not necessarily the real outcome. Skills training as a generally accepted outcome should be dissected so as to clearly indicate the generic or specific purpose thereof. What needs to be done further, is a thorough investigation of what really happens in the class or during other learning and assessment activities, and not only what the curriculum compilers desire to be the outcome. This also implies a narrower definition of outcomes as well as preparation of lecturers, as legal experts only, in order for them to be competent in applying efficient methods to attain these outcomes with educational expertise.

The UFS’ engagement in the government’s programme for extended curricula programmes seems to have been a fruitful extension of the law curriculum. In certain skills orientated modules there were even better success rates for the five-year group than the mainstream students. Investigation ought to be undertaken as to which factors (mostly) contributed to these better results. While the admission to either programme was mainly determined by an ‘admission point’ system based on National Senior Certificate results, results of students’ academic literacy and numeracy skills tests have shown that there might be other factors than average school results that predict success of students at higher education level; especially since the majority of these students are studying in their second or third language.

While academics and practitioners alike agree as to the importance of skills training, they do not agree on the approach to and type, volume and depth of skills involved. However, it is notable that five of the six competencies which are rated in the top ten by all groups can to a larger or lesser extent be related to reading and/or writing. Where the requirements for higher education programmes focus much more on generic skills development, developing the abilities of students to read and write English, which not only account for the reading and writing skills itself but also for second or third language skills, rised to the forefront. The main experiences with regard to skills courses include lack of language proficiency, a large extent of writing deficiencies, little idea of how to structure a legal essay, and poor grammar and vocabulary. The main challenge in the area of developing legal writing courses in South Africa involves the fact that legal academics have not been formally trained to teach language and writing. A five-point-penalty language assessment matrix included across all modules in the faculty has even had some resistance in the light of the aforesaid ‘not been formally trained’ syndrome.

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