



Bachelor of Laws (LLB) students' views of their literacy practices: Implications for support in a time of change

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Dates:

Received: 24 May 2019
Accepted: 24 July 2019
Published: 26 Sept. 2019

How to cite this article:

Bangeni, B. & Greenbaum, L., 2019, 'Bachelor of Laws (LLB) students' views of their literacy practices: Implications for support in a time of change', *Reading & Writing* 10(1), a248. <https://doi.org/10.4102/rw.v10i1.248>

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Background: From 2020, the Law faculty has decided to discontinue the five-year Extended Curriculum Programme (ECP) stream within the Bachelor of Laws (LLB) degree for a variety of reasons, including students' perceptions of stigma, the poor throughput rate of this stream and the identified need to extend academic support to more students in the mainstream class.

Objectives: This article argues that we need to gain insight into the struggles experienced by novice writers on the ECP to inform the nature of support that will need to be provided to LLB students going forward. We thus sought to explore the nature of the challenges experienced by two sets of first-year LLB ECP students with acquiring legal writing practices, namely students from high school and postgraduate students with degrees from other faculties.

Method: Two semi-structured interviews on students' perceptions of their challenges experienced with legal writing were conducted with 12 participants.

Results: Students' struggles with legal writing could be traced to difficulties with engaging appropriately with legal concepts and sources, reading effectively and accommodating the discipline's valuing of conciseness in presenting arguments. We also show how students' English additional language status and prior degrees inform these struggles.

Conclusion: The article shows the value of looking to ECP students' challenges with literacy practices (legal writing) in their first year to inform support for all first-year LLB students.

Keywords: Extended Curriculum Programme; student perceptions; reading and writing; access; academic support.

Introduction

First-year university students' challenges regarding academic literacies, specifically writing and reading, can be exacerbated by the quality of teaching and learning in schools classified as ex-DET (former Department of Education and Training). These schools are characterised by a lack of resources in the form of qualified teachers and teaching materials and are mainly attended by students who fall into the 'redress' categories (classified officially as African, Coloured and Indian). Students with academic literacies challenges, the majority of whom are from ex-DET schools, are placed in Extended Curriculum Programmes (ECPs) due to not meeting faculty criteria for admission into mainstream programmes. Within the University of Cape Town's Law faculty, students who do not make it into the 'mainstream' Bachelor of Laws (LLB) degree are placed on the ECP based on their results in the National Senior Certificate (NSC), combined with the mark achieved in the academic literacy and quantitative literacy components of the National Benchmarking Tests (NBTs), while for graduate students wanting to register for the graduate LLB, their grade point average in their primary degree is a determinant factor. In both cases, thus, the ECP students fall into a band of points below the minimum admission criteria for students admitted to the 'mainstream' class. These students receive extensive support in the development of legal writing skills, by means of explicit teaching regarding the conventions of writing within the discipline of law, as well as submitting weekly written assignments on which detailed written and oral feedback is provided, throughout their first year. However, there has been controversy among students on such programmes, as to whether being separated from 'mainstream' classes, which may induce perceptions of stigma and 'being in need of' academic development, is the most effective way of implementing redress interventions at university.

During the nationwide student protests of 2015 and 2016, the ECPs came under the spotlight, raising issues of placement and of permeable boundaries¹ for students to move between the extended pathway and the mainstream programmes, which would serve to remove the stigma attached to separate curricula. While ECP students have typically matriculated from disadvantaged schools, this is increasingly not the case in the faculty. Many ECP students have attended former 'Model C' schools, typically located in suburban middle-class areas. Bangeni and Kapp's (2017) research on students' negotiations of multiple transitions to and through the university show how this is the case across the university's faculties. This factor begs the question as to whether students from secondary schools across the spectrum are coming into university unprepared for the demands of tertiary study.

From 2020, the Law faculty has decided to discontinue the ECP for a variety of reasons including students' perceptions of stigma, the poor throughput rate of this stream and the identified need to extend academic support to more students in the mainstream class. This move supports a global emerging view of the need to extend support to all students rather than just those from non-mainstream backgrounds (see Tinto 2004 and, more recently, Turner et al. 2017). Sufficient student applicants from the redress categories qualify for entry to the mainstream through achieving the advertised admission criteria, thus ensuring that access to the degree and demographic targets within the first-year class are attained.

The discontinuation of the ECP will have implications for the nature of the support that will need to be provided to incoming students going forward. It is envisaged that the support of students' academic literacies will take different forms from 2020 onwards. Since 2014, a Legal Writing Project, funded by a Teaching Development Grant and then by a University Capacity Development Grant from the Department of Higher Education and Training, has been implemented in the first-year LLB class for all incoming law students. Explicit teaching of legal writing conventions, integrated within the substantive materials, and the submission of four writing tasks, upon which detailed feedback is given by senior writing tutors, were introduced. While the project is now embedded within the first-year law curriculum, discussions around conscientising teaching staff in mainstream programmes to the typical challenges experienced by incoming students and ways of responding to these in their teaching approaches have become especially important for facilitating access to the discipline. We argue that the challenges experienced by ECP students with disciplinary practices related to legal writing over the years should inform discussions around approaches to teaching in all teaching contexts. We therefore sought to investigate the experiences of this group of students in engaging with the literacy practices that shape legal education as a means of taking these discussions forward.

1. From 2016 to 2018, it was possible in the Law faculty to transfer in and out of the first-year extended programme.

The research project on which we draw was conceptualised in 2013 in response to ongoing concerns around LLB students' access and participation within Law faculties. The objectives of this study were to ascertain first-year ECP law students' perceptions of their challenges regarding legal writing upon entering a law faculty, and to interrogate their perceptions of what constitutes good legal writing at this stage of their studies. We then aimed to trace the shifts and developments in these perceptions by reviewing them at the end of their first year of study. We also aimed to conduct a comparative analysis of the perceptions of undergraduate students moving directly from high school into a university law faculty alongside those of the postgraduate cohort. This was done to gauge the extent to which exposure to three years of university study impacted their ability to effectively engage with the literacy practices of Law. It also allowed for a comparison of the nature of challenges experienced by the postgraduate students in relation to those experienced by the school-leavers.

While first year Law students' challenges regarding legal reading and writing have been well documented within a South African context (Bangeni & Greenbaum 2013; Snyman-Van Deventer & Swanepoel 2013; Van Der Walt & Nienaber 1996), these have not been considered alongside those of postgraduate LLB students who have obtained an undergraduate degree in disciplines outside of Law. This becomes especially important when considered alongside studies such as that of Maurer and Mischler (1994) who maintain that novices in most law schools in the United States experience significant challenges with literacy practices in their first years despite having obtained the mandatory undergraduate degree which is a prerequisite for legal studies. These authors assert that the quality of graduate students produced by a law school is invariably tied to a good foundation in their first year. While we look to the first year to understand student's access to the disciplinary literacy practices, we do so with the full understanding that novice writers typically struggle when entering a new discipline (Newell 1992). However, of concern to us is the observation made as early as 1974 by Achtenberg that even though novice students come to quickly realise the difference between legal writing and writing produced in other contexts, this insight is not necessarily transferred to their writing.

The role of discourse in disciplinary enculturation

A combination of English for Specific Purposes (ESP) and academic literacies theories is used to describe our research participants' negotiation of the requisite language and literacy practices of their disciplines. While we aim to understand students' challenges in respect to engaging in the structural and linguistic aspects of legal discourse and its genres, this is considered within a social justice frame which highlights the impact of these challenges on participation and access to legal discourse (see McGrath & Kaufhold 2016, who highlight the importance of drawing on both approaches when exploring the development of the novice writer's literacy practices).

The recent work of Lillis et al. (2015) and Gee (2010) assists us in describing our research participants' attempts to become accepted members within law. These scholars foreground the contested nature of writing and inherent issues around power, with Gee describing what the transition process entails for English as an additional language (EAL) students within law. Like Williams (1991), he views it as one that entails socialisation into a distinct community with its set of discourse practices (see also Swales 1990:24–27). While Swales's (1990) definition of a discourse community emphasises the mechanisms to participation from an ESP perspective that foregrounds form and function, it does not address issues around power and access which Gee (1996) considers in his assertion that discourses are 'inherently ideological' (p. 132). According to him, these serve to position individuals as being insiders or outsiders depending on the extent to which aspiring members successfully engage in the discourse on the community's values, as well as its central concepts:

People do not just read and write in general, they read and write specific sorts of 'texts' in specific ways ... determined by the values and practices of different social and cultural groups. (Gee 2010:20)

However, Gee (1996) cautions that these values can come into conflict with already established ways that are acquired in other discourse communities. Bangeni's (2009) PhD research on Social Science graduate students' transition into Law outlines this phenomenon of feeling torn between past and present ways of being and the implications of this for students' writing (see also Mertz 2007). Furthermore, DeJarnatt (2002) argues that the teaching of traditional legal pedagogy is mainly through oral communication in the form of lectures and through disciplinary practices such as mooting. However, students are evaluated through written tasks. This can be problematic in that they have to make the leap from classroom discussions on content to negotiating the discourses of the discipline in written form.

Language and the law

While six of our participants spoke English as a first language, six engaged with EAL. Within the South African context, several studies have hinted at the gate-keeping effects of English for EAL student writers within the field of law (Greenbaum 2004; Ngwenya 2006). Greenbaum (2004:8) references a survey that sought to access the views of legal educators in South African universities on the language skills of their LLB degree students. The author notes that the areas in which students struggled were mainly centred on language usage, expressed by the educators as 'the inability of students to express themselves' (2004:8). While her study offers useful insights into the struggles experienced by EAL students, it does not consider students' views about their struggles with writing within this context and the extent to which their EAL status contributes to these struggles. This study thus hopes that through its sourcing of students' understandings of their meaning-making practices within Law, statements such as those of the educators in Greenbaum's study can

be contextualised. Hartig's (2017) study explores the factors that promote and impede the development of EAL students' legal literacy. Writing from an ESP perspective in the US context, her research underscores the connectedness of language and disciplinary knowledge. She makes the point that an exploration of the development of L2 legal literacy cannot afford to overlook this link and its implications for how students engage with the discipline's concepts and genres. Other theoretical perspectives on the teaching of legal writing in South Africa reviewed by Greenbaum (2009:89) include those of Bronstein and Hersch (1991) who recommend a multifaceted and integrated approach to teaching law to EAL students, one that would involve changes to pedagogical strategies for law educators (see also Clarence, Albertus & Mwambene 2014 who write about the value of this approach in the context of providing support to large classes within the LLB).

Research methods and design

Twelve Law ECP students in a South African Law faculty volunteered to participate in the study. Of the 12, six were undergraduate students, while the other six were graduates who had already obtained a degree in a faculty other than Law. Table 1 provides an overview of the participants' educational and language backgrounds.

Our methodology aims to extend our understanding of students' challenges experienced with writing as reflected in the findings of a textual analysis of their writing (as suggested by Bangeni & Greenbaum 2013) by soliciting students' perceptions of their challenges. We utilise Lillis's (2008:359) 'talk around texts' methodology which prioritises students' understandings of their writing processes via semi-structured interviews. Foregrounding the student voice reflects the academic literacies approach's insistence on moving away from a sole focus on text as product and instead directing empirical attention to students' views of their *processes* of text production (see Lillis 2008). Drawing on Canning's (2017:520) notion of voice, this methodology also acknowledges that 'certain student voices are not always heard or articulated' (see also Gennrich & Dison 2018).

TABLE 1: Overview of participants' educational and language backgrounds.

Variable	Language	Schooling
Postgraduate participants		
Abdul	L1	Model C
Gugu	EAL	Model C
Inbal	L1	Ex-DET
Nathi	EAL	Ex-DET
Olwami	EAL	Model C
Yusuf	L1	Model C
Undergraduate participants		
Frank	EAL	Ex-DET
Imraan	L1	Model C
Inbal	L1	Model C
Langa	EAL	Ex-DET
Sam	EAL	Ex-DET
Yolanda	EAL	Model C

L1, first language speakers of English; EAL, English as an additional language; Model C, schools typically located in suburban middle-class areas; Ex-DET, former Department of Education and Training.

Semi-structured interviews were conducted with each of the students at the beginning of the year and follow-up interviews at the end of their first year. In both these interviews we asked students to describe their understanding of what constitutes legal writing, as well as their experiences of legal writing. In the first interview, students addressed these questions in relation to a marked essay from one of their courses. In the second interview, the question regarding students' perceptions of their writing in the faculty was revisited with the aim of assessing the nature and extent of their development in engaging with the literacy practices of Law (see Kapp & Bangeni 2009, for a similar methodology in the Humanities). Themes were identified using content analysis (Krippendorff 1980) with each author conducting a separate analysis where keywords and concepts that appeared frequently in the interview transcriptions were identified. The themes were then interpreted in the light of the study's research questions, and developments from the first to the second interview were identified.

Our analysis draws on Joseph Williams's (1991) model which outlines the various stages in the growth and development of novice legal writers. Williams proposes three stages which he sees as constituting the process of acquiring the critical and problem-solving abilities needed for legal reasoning. These are the pre-socialised, socialised and the post-socialised stages. The pre-socialised stage is characterised by a lack of awareness of the values of the discipline which is then reflected in the novice's reasoning, as evident when the law student makes the transition from contexts outside of the university into the law discipline. The socialised stage is characterised by an awareness of the expected conventions and values of the discipline. The post-socialised stage represents another transition, from law school to the workplace (or other learning contexts). This framework assists us in describing what the first two stages look like for our research participants as they engage with legal writing in their first year.

Results

This section presents the themes yielded by the content analysis of the interview data, namely difficulties with legal discourse and English, concision in integrating cases and sources in writing, and engagement with legal concepts.

Difficulties with legal discourse and English

When first interviewed, the participants were asked to describe what they considered to be the characteristics of good legal writing. In this section, we present their responses to this question alongside their perceptions of the challenges they encountered in their writing. Expert views on legal writing characterise it as writing that includes some of the following features: extreme conciseness, which often results in confusion and intimidation on the part of the novice writer, impersonality such as the use of the third person, conditional sentences, pompous tone, dull tone, poetic devices and precise terminology, as well as a defined

rhetorical structure and certain stylistic conventions (see Benson 1985:518; Mitchell 1989:277). Students used a range of phrases to convey the idea that legal writing must be clear, concise and 'understandable' for the reader. These descriptions resonate with Greenbaum and Mbali's (2002:2) identification of some of the conventions of legal discourse, such as the accurate use of certain 'terms of art', as well as an understanding of 'what counts as knowledge in the field' (Williams 1991:10). De Klerk (2003) notes that the peculiarity of legal discourse, including the power relations implicit in its formality and adversarial politeness, serve to exclude those not adept at its practice.

Students' views of their struggles with legal writing were largely based on the prescribed readings with which they engaged in their first-year courses. Responses ranged from the 'difficulty of legal language' to struggles with the various aspects of constructing and structuring legal arguments within genres such as the legal case and the problem question answer (PQA). In the first interview, the undergraduate students communicated that their schooling had not prepared them for the demands of academic writing, much less the demands of legal writing:

'I have to forget what I have learnt at school.' (Imraan, undergraduate, L1 speaker)

'In school we never did such writing, the actual application of the knowledge wasn't taught in school.' (Sam, undergraduate, EAL speaker)

Langa expressed experiencing the same challenges:

'Having to write in a way that was the direct opposite of what I had learnt at school and learning how to apply the legal rules to given factual scenarios in working with the PQA.' (Langa, undergraduate, EAL speaker)

Students who had studied Drama at school spoke of experiencing a loss of personal voice and struggling to avoid producing writing that was colloquial, as conveyed in the comment:

'I write like I talk.' (Sam, undergraduate, EAL speaker)

Gugu, an EAL postgraduate student, articulated this struggle:

'My writing is very poetic, hard to conceptualise, tends to lose people a lot. I worry that it doesn't get the facts across because law, I discovered, is very facts based. They want you to tell them a certain thing and they want you to tell it to them in a certain way. I don't think lawyers are up for interpreting, they want the facts up straight.' (Gugu, postgraduate, EAL speaker)

Here, Gugu is aware of how legal discourse 'summons' (Gee 1996:135) one to be a certain kind of person through their engagement with it. Her comment on her poetic writing is interesting when considered alongside the use of poetic devices in legal writing.

The interview statements also pointed to struggles not only with legal academic discourse but with using English as a medium of learning. The students who had English as an

additional language (EAL) described their writing skills upon entering the law faculty as 'horrible', 'very poor', and 'bad'. Frank, a second language speaker, expressed the view twice that his writing had deteriorated since starting Law:

'My English was good, even talking, but now I don't know what is going on with it, I have lost all my grammar, the thing that I was marked down on most was grammar and sentence construction and my written work is poor because I think much faster than I write.' (Frank, undergraduate, EAL speaker)

This struggle is evident in the statements of Williams (1991:13) who describes how students at times of transition, when absorbing new concepts, often experience a cognitive overload, resulting in a regression in their writing and a temporary loss of skills they had once mastered. A notable difference between the responses of the first language speakers of English (L1) and EAL speakers appeared to be that L1 speakers were more familiar with the structural features of formal writing from their school backgrounds.

Integrating cases and sources in a precise and succinct way

Our data also reflect how students struggled significantly with effectively interpreting sources in light of a given task, which pointed to a broader struggle with integrating prescribed cases and sources in their writing in a precise and succinct way. The challenge of selectively reducing a reading to a summary and explaining complex ideas in one's own words was mentioned by several students and proved to be a particularly difficult task in English. Sam notes:

'I will write something down but sometimes it is like I am rewriting a textbook because everything is important, so I just write it as it is.' (Sam, undergraduate, EAL speaker)

'My problem is more than reading. I feel like if I write exactly what a source is saying, I will be copying what it says, and sometimes I lose track of the meaning when I try to actually rewrite it in a different way.' (Frank, undergraduate, EAL speaker)

Frank was found to have plagiarised a substantial portion of a second semester essay. He was penalised by receiving a zero for this assignment. When discussing his actions, he explained how he had struggled to complete the essay and had followed the expeditious route of copying and pasting a significant amount of text from an internet site.

Fernsten and Reda (2011:171) suggest that the fear of failure that struggling students experience when writing academic tasks may result in them 'subtly or overtly resist[ing] writing assignments by turning them in late, leaving them undone or incomplete, or even plagiarising to approximate school's required discourses'. For some students, using sources effectively was directly linked to how well they understood a source:

'If I have a good understanding, then I can bring the sources in and have my own voice, but if I am not too sure, then it becomes a lot harder to do it in a straight to the point way.' (Inbal, postgraduate, L1 speaker)

Inbal mentioned how she had learnt the skills of 'summarising, in a structured way at school'. This suggests that, while all students struggled with legal discourse, summarising was, to a certain extent, linked to students' EAL status and educational background. The undergraduate students stated that they had found it very helpful to see a sample answer written by another student in the ECP class, which was 'to the point'.

Students' statements also illustrated how their struggles with integrating sources in a concise manner were intimately tied to their struggles with reading effectively and their inability to discern relevant information for a writing task, as is evident from Frank's description of his challenges regarding writing:

'My low marks are mainly due to not reading effectively which then affects how I summarise the necessary information from a long text.' (Frank, undergraduate, EAL speaker)

Even though the postgraduate participants acknowledged the value of conciseness in integrating sources, it was one of the aspects of writing that presented a significant struggle in their initial months in the faculty. Abdul, a first language (L1) speaker of English, felt that studying in the Humanities placed him at a distinct advantage in terms of setting a strong foundation for the legal arguments he would need to construct. In contrast, students like Nathi, an EAL student, and Gugu stated that they needed to 'unlearn' and 'destroy' the ways of thinking that were fostered by their undergraduate disciplines as these tended to get in the way of their attempts to produce concise arguments:

'I struggle to present concise arguments after my Humanities essays which allowed elaboration.' (Gugu, postgraduate, EAL speaker)

Nathi's statement on his problems with precision is illuminating:

'The law faculty likes detail but it's a contradiction because they like detail but not too much and they like you to get straight to the point but not using detail.' (Nathi, postgraduate, EAL speaker)

This statement captures Mellinkoff's (1982) description of legal writing where he notes its verbosity, which directly contradicts its attempts at concision.

Williams's (1991:12) description of the pre-socialised stage illustrates how first-year students typically exhibit deference to authority, focus on concrete rather than abstract thinking, and are unable to manipulate abstract legal principles for application in a different context. They feel slavishly bound to emulate models of case summaries and formulaic approaches to answering problem questions, because they have not yet found the confidence to use their own voices. This was evident in our research participants' use of copious quotes, stating what is self-evident as well as 'an inability to use the language of law with dexterity'.

It is worth noting that the postgraduate students' struggles with drawing on cases and sources had less to do with

deferring to authority as was the case with the undergraduate students. Their struggles mostly concerned selecting key information from cases as well as engaging with the terminology used in older cases:

'There has been a shift in the use of language, the old cases tend to focus more on Latin than the recent ones do.' (Olwami, postgraduate, EAL speaker)

'I struggle to understand the judge's terminology and how it leads to the final decision.' (Yusuf, postgraduate, first language speaker).

It would seem that their undergraduate studies had in some ways managed to move them from deferring to authority, a process which would have occurred in their initial years.

Students' engagement with legal concepts

Bizzell (1992:145) maintains that the ability to use disciplinary vocabulary is often the first test of initiation into a discourse community. Likewise, Hartig (2017:21) writes about 'the close connections between disciplinary concepts and the language used to express them'. One of the interview questions sought to access students' perceptions of their engagement with legal concepts. We revisited this question again in the second interview at the end of the year. Most of the participants described a process of reading complex texts 'over and over', reading different sources 'around' new ideas, and comparing the material in their lecture notes, summaries and primary texts, to enable them to acquire an understanding of new and unfamiliar legal concepts. Some of the EAL participants described how they used dictionaries or internet search engines such as Google and electronic resources such as Wikipedia to assist them in appreciating the meaning of many of the new legal concepts. There was a language-induced sense of anxiety and fear ('a rollercoaster') expressed in relation to the difficulty they experienced in grasping meanings from difficult legal texts:

'I feel bound to use the words from texts, because I am afraid to step out and use my own words, as I might misrepresent the ideas I am writing about. I do not have difficulty with the acquisition of most legal concepts because I can brainstorm them but then at times the English cripples me.' (Sam, undergraduate, EAL speaker)

Students also mentioned the value of discussion as a means of learning new concepts:

'Talking to friends and other students.' (Sam, undergraduate, EAL speaker)

'Asking a teacher or another student.' (Imraan, undergraduate, L1 speaker)

Langa described how he approached new concepts in law:

'If I don't get it the first time I hear it, or the first time I read it, I need to talk about it [a new concept]. So then I hear how my friends interpret things.' (Langa, undergraduate, EAL speaker)

The value of the study groups set up by students was also evident in the responses from the postgraduate students. There was also a notion of students 're-teaching' themselves legal

concepts through group discussions as they started to understand how academic legal discourse worked. Frank and Langa described how they did not learn new concepts at first in lectures, but that they had to 're-teach' themselves by repeatedly reading the texts in which these concepts appeared, a process that also entailed attempts to match the definitions of these concepts to their own understanding derived from other contexts outside of law. Even though both students perceived this as a positive feature in their learning, Gee (1996) coincidentally attempts to debunk the taken-for-granted assumption that students will successfully teach themselves the literacy practices and key concepts of law if these are not taught explicitly to them. He draws on the findings of Minnis (1994) to argue that this process of students teaching themselves does not necessarily work for students from non-mainstream schooling backgrounds. This is evident in how both Frank and Langa, who matriculated from disadvantaged schooling backgrounds, struggled with this process. Students' initial encounters with the concepts in their lectures further serve to compound the problem. Our data, as well as statements from senior students in the faculty, show that in some law modules, there is an assumption by the lecturer that students enter the lecture room with a familiarity with the course's key concepts, which then impacts on how these are mediated to the student.

The postgraduate students expressed confidence in their engagement with legal concepts in the second semester of their studies. Some of the explanations they gave as to how they had arrived at this stage are noteworthy such as the following statement from Gugu:

'I think my stance on legal concepts has changed, especially after we had gotten into Jurisprudence. I recognise now how legal concepts actually inform society. I always thought it was a narrow legal thing, where law is one thing and society is another.' (Gugu, postgraduate, EAL speaker)

'Even though the work in Constitutional Law is very theoretical and loaded with concepts, you can apply these to everyday life, so that helps.' (Abdul, postgraduate, L1 speaker)

Unlike Gugu and Abdul, Nathi struggled significantly with concepts. He stated that he appreciated courses within Law that required him to memorise the rules as he felt that he performed better on those rather than courses which were, according to him:

'More theoretical and more like real law, I don't know how to write these essays better.' (Nathi, postgraduate, EAL speaker)

While their EAL status did not seem to impact their writing to the same extent to which it affected the undergraduate students, the responses from the EAL postgraduate speakers did, at times, suggest that their inability to express their understanding of key concepts was, similarly to the undergraduate students, language related.

The participants were all much more articulate about what constitutes good legal writing after the initial six months. There was clear evidence of a:

'Mindset change.' (Yolanda, undergraduate, EAL speaker)

They could identify with accuracy that legal writing is concise, formal, focuses on facts and requires backing from authoritative sources. 'Nothing superfluous', 'constrained writing' and 'complete clarity' were some of the terms used to identify the type of writing they now aspired to use. While students still struggled with legal writing, they attributed their improvement to having practised during the year and suggested that more written exercises, with extensive feedback on them, would be the best way to support novice Law students to improve their writing skills. Williams (1991:13) postulates that good thinking and good writing are a set of skills that can be deliberately taught and learnt from experts in the discourse community; they are not skills that develop naturally as a result of a student's mind maturing. This view contrasts with dominant modes of thinking within some Law faculties in South Africa and abroad which suggest that students come to acquire the literacy practices of the law discipline by simply being present.

Ethical consideration

Ethical clearance was granted by the Law Research in Ethics Committee for a one-year period (June 2013 – June 2014) with the option of a renewal (2 months before the expiration date) via the Faculty's Research Office Directorate.

Discussion and conclusion

Attaining an understanding of novice law students' challenges regard to disciplinary literacy practices assists in addressing teaching and learning issues within the faculty. Students identified problems not only within the writing process in their struggles with the various aspects of legal writing, but within the reading stage as well. It seems that both groups of students understood the importance of reading effectively in facilitating an understanding of legal concepts and in integrating sources and cases effectively in their writing. While some of the postgraduate students could utilise the reading strategies they came with from their undergraduate degrees, the structure and dense nature of genres such as the legal case resulted in most of them not reading effectively. The interview data suggest that most of the students believed that repeatedly reading the course material would facilitate an understanding of the concepts therein. This lack of awareness of the need to read differently in their discipline dilutes the effectiveness of the arduous reading strategies that our research participants invented for themselves. This then points to the importance of teaching critical reading strategies for law, as well as the modelling of expert reading and writing techniques which would need to be introduced in the initial stages of entry into the faculty.

While we are aware of Gee's (1996) cautioning statements regarding some of the impracticalities involved in making legal discourse explicit to novice writers, the act of modelling is one that is beneficial but which is typically overlooked in the process of disciplinary enculturation. It is also important to note that Gee does concede that in the case of

non-mainstream students, explicit teaching is necessary as their struggles with writing for a new environment are more compounded than those of mainstream students. However, all students would benefit from an approach that directs emphasis from what genres look like to what genres do within the discipline (English 2015:245). This author maintains that this approach raises not only the students' genre awareness but their disciplinary knowledge as well. Students entering the law discipline need to engage in meaningful discussions about how key genres such as the legal case function to create knowledge and how this function is realised in their structure and language use. The process of learning and engaging with new disciplinary concepts should therefore be an area of focus in mainstream classes, as well as in tutorials.

In terms of addressing students' problems with attaining conciseness in legal writing, the provision of samples of good written pieces such as case summaries and problem-solving answers for students would assist in exposing them to the conventions of legal writing. It is, however, also important how the faculty's expectations of students' use of these conventions are conveyed to students. It is envisaged that providing effective feedback should not only be a concern of the Legal Writing Programme but should form part of mainstream lecturers' teaching practice.

While the Law Writing Centre, the ECP classes, and the faculty's mentoring system were identified as important resources in students' transition into legal writing, students still struggled to adjust to its concise nature. In some cases, this challenge was exacerbated by their EAL status. In keeping with our dual focus on academic literacies and ESP approaches, the work of Lazar and Barnaby (2015:296), who write positively about the value of linking discussions about sentence-level grammar to ones about identity and access, is important. This entails not only alerting students to the form and function of the discipline's genres but to how grammar functions as a meaning-making tool which takes into account one's situatedness and audience. The roles of both students and lecturers in this process are significant. The size of the ECP class facilitates interactive teaching, collaborative learning and extended debate, as well as making possible the provision of detailed and regular feedback on students' writing. The use of collaborative learning strategies in the small ECP class (averaging 20 students) has proved to be an important learning approach, which could be creatively adapted for use in tutorials and even lectures. Peer support groups or the formal encouraging of study groups might also be helpful to novice students in mainstream classes.

An important contribution of this study is that it highlights the nature of EAL students' struggles with legal discourse in the first year to show how these are inextricably tied to their struggles with English and educational background and, in the case of postgraduate LLB students, to the ways of doing within their undergraduate disciplines.

Williams's (1991) description of the stages of progression of novice legal writers is located within a context that is significantly different to our context, both in terms of the students' levels of fluency in the English language, as well as the schooling systems from which some of our research participants matriculated. Our research, therefore, contributes to an understanding of the ways in which the stages he describes manifest within legal novice writers in a South African context.

An important finding from the interviews highlighted how mainstream students draw on ECP students' learning strategies by seeking assistance from them. This supports the notion that the mainstream has, over the years, come to be vulnerable and equally in need of interventions for the facilitation of effective teaching and learning which move students from concrete to more abstract ways of thinking. Our data suggest how students' challenges regarding legal literacy can inform teaching strategies, without excessive resource implications, at a time when South African higher education is focused on a transformative agenda through facilitating access to disciplinary practices for all students.

Acknowledgements

We are grateful to Professor Robert Morrell for his insightful feedback on an earlier draft of this article.

Competing interests

The authors have declared that no competing interests exist.

Authors' contributions

Both authors, B.B. and L.G., collected and analysed the data and wrote the article collaboratively.

Funding information

This research received no specific grant from any funding agency in the public, commercial or not-for-profit sectors.

Data availability statement

The interview data used to support the findings of this study are included within the article. The authors fully support open access to their article.

Disclaimer

The views expressed in the article are those of the authors and do not necessarily reflect the official policy or position of any affiliated agency of the authors.

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Appendix starts on the next page →

Appendix 1

Semi-structured Interview Schedule

Interview 1:

1. Tell me about your educational history so far
2. In your questionnaire, you wrote that your reasons for studying Law were....
Could you please elaborate on this / explain this in more detail?
3. How would you describe your legal writing skills at present?
4. How do you approach writing within your law courses?
5. How do you go about the process of writing an assignment, such as the marked assignment which you have here now?
6. Can you tell me about your experiences with acquiring legal writing skills?
7. What challenges, if any, are you experiencing in engaging with key legal concepts in your law courses?
8. Do you think that the knowledge you bring with you from your undergraduate degree / working context hinders or facilitates writing / learning within the Law context? Please elaborate on your answer OR explain in what ways, if at all, do you think your previous learning context prepared you for studying in the Law faculty?
9. Having been in the faculty for four months, what do you think constitutes good writing within the Law discipline?

Interview 2:

1. Tell me about your legal writing skills at present
2. How did you acquire legal writing skills this year? Can you share your experience of this process?
3. Can you comment specifically on legal concepts?
4. What has been helpful to you in improving your legal writing skills?
5. Could you comment on the use of sources in your writing? Were there any challenges you encountered there? To what extent has your undergraduate degree facilitated or hindered your ability to work with sources within legal discourse? (for the postgrad students)
6. Are there any specific things that would have supported the development of your legal writing skills more effectively than the support that was provided to you?
7. Following on from the previous question: What support do you think needs to be provided for students from non-Law backgrounds?