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**THE FOUR-YEAR LLB PROGRAMME AND THE EXPECTATIONS OF LAW STUDENTS AT THE UNIVERSITY OF KWAZULU-NATAL AND NELSON MANDELA METROPOLITAN UNIVERSITY: SOME PRELIMINARY RESULTS FROM A SURVEY**

## **1 Introduction**

After the 1994 elections the Ministry of Justice convened several legal forums to deal with the legislative and other changes required to make the transition from minority rule to a broad-based democracy. The forums examined different aspects of legal practice, legal qualifications and legal education (see for instance, Ministry of Justice *Legal Forum on Legal Education: Proceedings* (1995)).

The legal education forums were attended by the law deans of all the law faculties in the country. By 1997 there was agreement by the deans – albeit reluctantly by some – that the *Baccalaureus Legum* (LLB) degree in South Africa should be modified from a three-year postgraduate to a four-year undergraduate programme (McQuoid-Mason “Developing the Law Curriculum to Meet the Needs of the 21<sup>st</sup> Century Practitioner: A South African Perspective” 2004 *Obiter* 101). The deans made a number of recommendations regarding the new law curriculum, but there was no mandatory uniform law curriculum requirement. Each university had the freedom to decide what it should include in its programme. The deans only made recommendations – their suggestions were not binding (McQuoid-Mason “Message from the Chairperson of the Board of Control, Durban School” *Law Society of South Africa and University of Natal School for Legal Practice: Commemorative Brochure 1994-1998* (1998) 14-15; and cf Iya “The Legal System and Legal Education in South Africa: Past Influences and Current Challenges” 2001 *Journal of Legal Education* 355).

The deans reached consensus that the new law degree should take into account that: South African law exists in and applies to a pluralistic society; students should acquire skills appropriate to the practice of law during the course of their degree; and law faculties should strive to inculcate ethical values into their students. In addition to the traditional core courses taught in the three-year LLB programme the deans recommended that a number of new skills courses should be introduced. The decision as to which courses should be included in the curriculum was left to individual law faculties (McQuoid-Mason 2004 *Obiter* 101).

The deans agreed that the LLB degree should include the following skills: analytical skills to understand the relationship between law and society; language skills (including indigenous languages); communication and writing skills; legal ethics; culture; race and gender sensitivity; practice management skills; accounting skills; research skills; trial advocacy skills; and computer skills. The deans also suggested that law faculties should encourage community service by law students in law clinics and street law programmes (McQuoid-Mason 2004 *Obiter* 102).

The four-year LLB degree recognized for the first time the need for an integrated approach to legal education, rather than the traditional approach that separated the theory of law from practice. The deans accepted that it is not enough to provide students with knowledge about the law without developing the skills to apply such knowledge or inculcating the values necessary for the practice of law in a democratic environment (*cf* McQuoid-Mason 2004 *Obiter* 102). This was in line with international practice (see Australian Law Reform Commission (Report no 89) *Managing Justice* (1990) par 2.81; American Bar Association Section of Legal Education and Admissions to the Bar *Legal Education and Professional Development – An Educational Continuum: Report of the Task Force on Law Schools and the Profession: Narrowing the Gap (The MacCrate Report)* (1992); and *cf* Cooper “The Integration of Theory, Doctrine and Practice in Legal Education” 2002 *Journal of the Association of Legal Writing Directors* 50).

In recent years the South African Law Deans Association (SALDA) has been critical of the four-year undergraduate LLB programme largely on the grounds that, unlike in other Commonwealth countries the majority of South African secondary school students who qualify for university entrance are under-prepared for legal studies. (For earlier criticisms of proposals to change from the postgraduate to an undergraduate LLB degree, see Woolman, Watson and 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 *SALJ* 30.)

## **2 The South African Qualifications Authority exit outcomes for the LLB degree**

The revised South African LLB curriculum places greater emphasis on skills and values than in the past. This emphasis has been incorporated in the SAQA exit level outcomes for the LLB degree (“SAQA Exit Level Outcomes for the LLB Degree” GG 23845 of 2002-09-20), and are listed as follows:

- “1 The learner will have acquired a coherent understanding of, and ability to analyse fundamental legal concepts, principles, theories and their relationship to values critically ...
- 2 The learner will have acquired an understanding of relevant methods, techniques and strategies involved in legal research and problem solving in theoretical and applied situations ...
- 3 The learner is able to collect, organise, analyse and critically evaluate information and evidence from a legal perspective ...

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- 4 The learner will have acquired the ability to communicate effectively in a legal environment by means of written, oral, persuasive methods and sustained discourse ...
  - 5 The learner can solve complex and diverse legal problems creatively, critically, ethically and innovatively ...
  - 6 The learner is able to work effectively with colleagues and other role players in the legal process as a team or group and contribute significantly to the group output ...
  - 7 The learner will have acquired computer literacy to effectively communicate, retrieve and process relevant data in a legal environment ...
  - 8 The learner is able to manage and organise her or his life and professional activities in the legal field responsibly and effectively ...
  - 9 The learner can participate as a responsible citizen in the promotion of a just society and a democratic and constitutional state under the rule of law ...
  - 10 The learner is able to understand the different employment and income generating opportunities in the legal field, including outside the legal profession ...”

The SAQA exit level outcomes for the degree include supporting specific outcomes and associated assessment criteria for each outcome. The latter indicate that law students should be assessed, amongst other things, by performance of tasks such as written and oral assignments, projects, case studies, moot courts, role plays, mock trials, client counselling exercises, observation and assessment of work in live client clinics – all with the emphasis on problem-solving.

The above methods of assessment are clearly reliant on students being exposed to interactive learning methods such as those used in clinical legal education rather than the traditional lecture method.

### **3 Clinical legal education**

Clinical legal education can be simply defined as experiential learning whereby law students gain practical skills and deliver legal services in a social justice environment. During the process students are confronted with real-life situations and play the role of lawyers to solve the problems. They do this by interacting with clients or each other to identify and resolve legal issues and are subjected to critical review by their teachers or peers. Clinical legal education enables law students to play an active role in the learning process and to see how the law operates in real-life situations (Brayne, Duncan and Grimes *Clinical Legal Education* (1998) 1). Clinical legal education programmes usually take the form of “live client” or “street law” (legal literacy) type clinics.

Clinical legal education provides law students with the tools that lay the foundations for their future careers as lawyers. While traditional legal education tends to focus on the theoretical content of the law and to be knowledge-based, clinical legal education goes further and provides law students with the necessary skills for legal practice. It also inculcates values

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such as the duty of lawyers to become involved in social justice issues in society, and to display professional responsibility while practising law. Many of these skills and values can also be incorporated into the teaching of substantive and procedural law.

### 3 1 *Clinical learning methods*

Although clinical legal education learning methods are traditionally used to teach lawyering skills such as interviewing and counselling, legal writing and drafting, fact finding, case analysis, trial preparation and trial advocacy, they can also be used to teach substantive and procedural law courses.

Depending on the nature of the law faculty's academic programme it is probably neither possible nor desirable to replace lectures entirely with clinical teaching methods. However, where there is scope for small group work, such as tutorials or practical sessions, it is possible to introduce a wide variety of interactive clinical legal education teaching methods in order to illuminate the substantive and procedural law curriculum for law students.

Some of the more common interactive clinical learning methods include role plays, simulations, moots, mock trials, case studies, small group discussions, debates, "taking a stand", "thinking on your feet" – the "PRES formula" (see Palmer and McQuoid-Mason *Basic Trial Advocacy Skills* (2000) 47), games, triads, and "fishbowls" (see generally McQuoid-Mason, Lotz, Coetzee, Jivan, Khoza and Cohen *Street Law South Africa: Practical Law for South Africans – Educator's Manual 2ed* (2005) 5-19).

## **4 Expectations of South African students regarding the LLB programme**

How do the SAQA exit level outcomes and their emphasis on skills and values training measure up to the expectations of South African LLB students? In order to obtain an indication, a sample of expectations from law students at the University of KwaZulu-Natal (UKZN) and Nelson Mandela Metropolitan University (NMMU) was taken and analysed during 2005. A simple open-ended questionnaire was designed by the writer requesting students at the UKZN and the NMMU to record the knowledge, skills and values they regarded as the most important to learn during their LLB degrees (see Annexure 1).

Open-ended questionnaires were administered to third- and fourth-year law students by colleagues at the UKZN and the NMMU. The students were asked to list what they thought were the seven most important law courses and the five most important legal skills and values they would like to learn during their LLB degree. One hundred and eighteen students from UKZN and 83 from NMMU responded. The preliminary results of the survey are listed below.

#### 4.1 *Seven most important courses*

The seven most important courses were determined by totalling the most frequently cited choices – that is, the course mentioned most often was ranked as the most important, the next most cited course as the next most important, *etcetera*, resulting in the list of the seven most important courses.

The preliminary results of the survey showed that the UKZN students listed, in order of priority, the following courses as the seven most important: contract, delict, commercial law, family law, constitutional law, criminal procedure and civil procedure. (The UKZN students included property, evidence and administrative law in the top ten courses). Likewise, the NMMU students listed, in order of priority: contract, commercial law, property, criminal law, family law, delict and civil procedure. (The NMMU students included labour law, evidence and criminal procedure in their top ten courses).

The preliminary findings indicate that the courses identified by the law students were virtually the same as the core courses recommended by the law deans in 1997 during the revision of the LLB (*cf* Kaburise “The State of Legal Education in South Africa” 2001 *Journal of Legal Education* 368-369). The courses named by the students are also regarded as core courses at UKZN and NMMU. This factor may or may not have influenced the students in their choice. The questionnaire invited students to list the most important knowledge, skills and values they “would like to learn”. It did not, however, make it clear that the students should use their imagination to compile a “wish list” of law courses rather than what they were already offered by the law faculties. This may have affected the results of the survey.

#### 4.2 *Five most important skills*

As in the case of the law courses, the most important legal skills mentioned by the students were calculated by totalling the most frequently cited choices – that is, the skill mentioned most often was ranked as the most important, the next most cited skill as the next most important, *etcetera*, resulting in the list of the five most important skills.

The preliminary results of the survey indicate that the UKZN students listed trial advocacy, research and problem-solving, legal writing, dealing with ethical issues, and litigation skills as the five most important skills they would like to learn during the LLB. The NMMU students listed trial advocacy, research and problem-solving, legal writing, interviewing and counselling, and litigation as the five most important skills they wanted to acquire. Unlike in the case of the law courses, some of the comments in the questionnaires seem to indicate that the lists of skills were more of a “wish list” than what the students were actually experiencing in their law degrees. The matter could have been clarified by a follow-up question to determine if any of the suggested skills were in fact being taught at the relevant law faculty.

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These preliminary findings indicate that most of the skills identified by the law students at UKZN and NMMU are similar to those recommended by the law deans during the revision of the LLB (see par 1 above). In addition they are also almost identical to the exit outcomes listed by SAQA (see par 2 above). The majority of these skills can only be taught by interactive clinical learning methods and this is implicit in the SAQA assessment criteria.

### 4.3 *Five most important values*

As in the case of the law courses and skills, the most important legal values were calculated by totalling the most frequently cited choices – that is, the value mentioned most often was ranked as the most important, the next most cited value as the next most important, *etcetera*, resulting in the list of the five most important values.

The preliminary findings of the survey were that the five most important values identified by the UKZN law students in order of priority were: respect for human rights, respect for ethical rules, respect for the rule of law, respect for other people and personal honesty and integrity. The values listed by law students from NMMU in order of importance were: respect for legal ethics, respect for human rights, respect for the rule of law, respect for other people and personal honesty and integrity. Furthermore, as in the case of legal skills, it was not clear whether these were “wish lists” of the values that the students would like to have been exposed to or whether they already formed part of the curriculum at their institutions. A follow-up question should have been included in the questionnaire to determine if any of the suggested values were in fact being taught at the relevant law faculty.

The need to inculcate respect for ethical rules was one of the issues identified by the law deans during the revision of the LLB degree (see par 1 above). The emphasis on the need for students to respect human rights, the rule of law and other people was included in one of the listed exit outcomes for the LLB mentioned by the SAQA. For example, listed outcome 9 states: “The learner can participate as a responsible citizen in the promotion of a just society and a democratic and constitutional state under the rule of law” (see par 2 above).

## 5 **Conclusion**

Traditionally law teachers use the lecture method to impart knowledge to law students. There is little emphasis on skills or values development other than case analysis and problemsolving.

Although the revised undergraduate South African LLB programme has been criticized for other reasons (see par 1 above), it has placed greater emphasis on skills and values education than the previous postgraduate LLB programme. These skills and values have been reflected in the SAQA exit level outcomes for the LLB degree. The assessment criteria for measuring success in skills and values clearly indicate that interactive clinical learning methods must be used.

The preliminary findings from an open-ended sample survey of law students at UKZN and NMMU indicate that in general the expectations of students regarding the knowledge, skills and values they wish to acquire during the LLB degree are in line with those suggested by the law deans for the revised LLB degree and recognized by SAQA. However, these tentative findings need to be treated with caution because it was not clear whether or not law students were in fact being taught the desired skills and values at their institutions.

David McQuoid-Mason  
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ANNEXURE 1

**QUESTIONNAIRE**

**WHAT UKZN/NMMU STUDENTS WANT FROM THE LLB DEGREE**

[Professor McQuoid-Mason has been invited to give the Opening Address at an international conference at the University of Warwick in England in January 2006 on "What Law Students want from Their Law Degrees". There is some information from Australia but he would like to tell delegates what the UKZN/NMMU students would like to learn].

[This questionnaire is anonymous and need not be completed by you if you do not wish to do so]

Year of study (eg First, Second etc): ..... Type of High School Attended -  
Optional (Please tick):

- 1. Rural .....
- 2. Township .....
- 3. Model C.....
- 4. Private.....

1. Knowledge: List what you think are the seven most important areas of law that you would like to learn about during your LLB degree:  
[Knowledge is what you need to know, eg: the Law of Contract]

- 1.1 .....
- 1.2 .....
- 1.3 .....
- 1.4 .....
- 1.5 .....
- 1.6 .....
- 1.7 .....

2. Skills: List what you think are the five most important skills that you would like to learn during your LLB degree:  
[Skills are things that you can do, eg: write a legal brief]

- 2.1 .....
- 2.2 .....
- 2.3 .....
- 2.4 .....
- 2.5 .....

3. Values: List what you think are the five most important values you would like to learn during your LLB degree:  
[Values are things that we appreciate, eg the need for the rule of law]

- 3.1 .....
- 3.2 .....
- 3.3 .....
- 3.4 .....
- 3.5 .....

4. Any other comments: Add anything else that you think is important:

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Thank you