

# **Crossing the Threshold from Discipline Expert to Discipline Practitioner**

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## **Abstract**

This paper explores a participatory process between a Law lecturer, an academic literacy practitioner and students as teacher agency was conceptualised and theorised as a means of promoting student success. This position paper identifies and advocates a shift in the role of the lecturer as discipline expert to practitioner to provide students with the much needed community of practice (Wenger 1998) and to bridge the gap between epistemological access to disciplines (Morrow 1993) and student identity. This investigation is premised on the notion that students are usually identified as the only ones lacking in effective academic practices; little attention is given to lecturers' reluctance or inability to embrace methodologies that make disciplinary practices explicit to students to enable them to become academically literate in the discourse of the university as well as their specialist disciplines. The study draws on interviews with the lecturer and focus group discussions with students. Informed by the theories of New Literacy Studies, Rhetorical Studies and Threshold Concepts, the paper presents the notion of 'crossing the threshold' from discipline or content expert to discipline practitioner. The paper suggests that it is through intense and sustained critical conversations between the discipline expert, student and academic literacy practitioner that the role of the lecturer may shift to a shared space where academic literacy is embedded in the methodological practices governing the pedagogy of the discipline. It is also suggested that higher education provide the opportunity and scaffolding for lecturers to move into an academic development role within the parameters of their own faculties and disciplines.

**Keywords:** Scaffolding, shared space, critical conversations, disciplinary practices, community of practice, teacher agency, participatory process, new literacy studies, rhetorical studies movement, multidisciplinary practice, discipline expert, academic discourse

## **Background**

Higher Education in South Africa faces many challenges today. Creating and growing a knowledge economy in South Africa is of high importance and the drive to produce graduates who are capable of contributing meaningfully at this level is warranted. However the socio-academic challenges that students face daily, with the discourse of the university as well as their disciplines are stumbling blocks which prevent the attainment of the national imperatives.

The National Benchmark Tests (NBT) Project (2009), developed by Higher Education South Africa (HESA) and commissioned by the Department of Education (DOE), demonstrates among other things, the inefficiencies or ‘stumbling blocks’ in Higher Education. Students in the basic and intermediate bands together indicated that the majority of students entering higher education need support in academic literacy (AL), without which students’ chances to achieve a degree of quality within a reasonable time would be negatively impacted.

The cohort of university students today is larger and more diversified in terms of academic ability, motivation and cultural background. Biggs (1999) argues that this new landscape ‘is not a matter of acquiring new teaching techniques, as much as tapping the large research-derived, knowledge base on teaching and learning that already exists. Through reflective practice, teachers can then create an improved teaching environment suited for their own context’. He further maintains that ‘we have to adjust our teaching decision to suit our subject matter, available resourcing, our students and our individual strengths and weaknesses as a teacher’.

The HESA report recommends that HE institutions institutionalise their support mechanisms. Traditionally, institutionalised support mechanisms have taken the form of bridging programmes, intervention strategies and writing support programmes for students deemed ‘at risk’, to improve throughput rates and deal with the problem of student under-preparedness. However, the effectiveness of such programmes has been

disappointing (De Klerk, Van Deventer & Van Schalkwyk 2006). One explanation for this is that they are based on a deficit model, which sees students as lacking in generic skills. AL is consequently seen as the remedy or a quick fix to students' immediate problems without providing skills and practices that are sustainable and transferable across the curriculum. Despite the interventions, which are still evident at many HE institutions in SA today (Boughey 2002), students are still seen as lacking in areas of critical thinking, academic writing and academic discourse.

The foregrounding of AL as an indicator of academic success validates the work done by academic development practitioners over decades and HESA'S focus on AL support (NBT Report 2009) could make a strong case for the embedding of AL in the mainstream curricula of the university.

Our education scenario today is challenging education practitioners to redefine themselves. Where once it was expected and sufficient to be 'just' a discipline specialist or content expert imparting knowledge to students, today it is crucial, as evident in the NBT report, that content knowledge is combined with effective academic practices to provide a solid foundation for students, especially undergraduates, to complete their degrees and diplomas effectively, critically, meaningfully and within a reasonable time.

However, lecturers have been resistant to moving into this integrated space, believing that it is not their area of expertise (McKenna 2004) and that the problem is not with the discipline but with other factors such as an inadequate schooling system, top heavy curriculum and too many students. Lecturers erroneously assume that students will acquire the discipline discourse just by being immersed in it (Paxton 1998), and do not see the need to teach students how to acquire the discipline specific codes (Ballard & Clanchy 1988).

It is from this premise that the research process of exploration and conceptualisation of the new role of the lecturer in HE began. The aim was to see to what extent the discipline specific lecturer could cross the threshold from disciplinary expert to disciplinary practice. Such an integrated approach called for a reflexive glance at the often contested area between the lecturer's academic territory and the field of academic development. This study is framed by the theoretical traditions of New Literacy Studies (Gee, Street & Lea), Rhetorical Studies Movement (Geizler, Bazerman) and Threshold Concepts (Meyer & Land).

## **Research Context and Problem**

This research is situated in the discipline of Business Law within the Business Faculty of a University of Technology, where traditionally business students enrol for the subject as a filler subject. Legal education is no longer exclusively the domain of 'pure' Law students as most undergraduate business qualifications require students to complete a course or module in Law. Although Business Law may be an introductory course it has to be substantial as students have to acquire a basic understanding of how Law works and its impact on business. Vida Allen (2007) suggests that the intention is not to turn non-Law students into lawyers but to introduce the legal environment so that business practitioners recognise the need to seek further professional legal advice where necessary.

At the Cape Peninsula University of Technology the cohort of students enrolled for the Business Law course is educationally diversified. Students who have completed their high school careers at schools equipped with possibly the best that high school education in South Africa offers sit alongside students who lack in their preparedness for tertiary education and struggle with the academic demands. A further and potentially the most important challenge students face is negotiating teaching and learning through the medium of English which may be their second, third or even foreign language.

Students enrolled for Business Law are 'forced' to do Law as it is a prescribed component to qualify into their respective fields. Their needs are very different to those of a 'pure law' student. They do not necessarily have the desire to learn about Law. These students often consider Business Law as complex and far removed from the discipline they are registered for and learning thereof is consequently neglected by them. A common question is 'Why must we study Law?' From a lecturer's perspective it seems as if non-Law students are not 'wired' to understand the demands of studying Law. The teaching happens within a quagmire of legal jargon and requires students to be critical thinkers, able to deal with legal processes and arguments.

In 2009 the enrolment for the full time Business Law class was 160. Lectures consist of 2 x 90 minute per week sessions to complete the formal course syllabus and it typically consists of an introduction to South African Law, basic principles of the law of contract and specific contracts for Marketers. These two weekly sessions were largely uninterrupted

transmission of pre-packaged knowledge to students with very little interaction with students. While this teaching method has the advantage of imparting information to large classes quickly (time) and efficiently (limited resources), is it pedagogically sound? The words of Gower (1950) ‘a lecturer dashed in at five minutes past the hour, gabbled dictation until five minutes to the hour, barked forbiddingly ‘any questions’ and then dashed out’ ring true for many lecturers in the field today.

On the concern of how Business Law should be taught, Hanita Sarah Saad (2006) refers to the two different approaches in teaching Law. The first is the traditional or ‘black letter’ approach requiring the retention of legal knowledge, the skills to identify the issues and then application to the given situation. The second approach is the environmental or ‘law in context’ approach which seeks to provide the student with the knowledge of how the legal environment impacts on business decisions and to assimilate the understanding of law with the processes in the business environment.

The above factors demand that the teaching methodology for Business Law should specifically be tailored to address the needs of our students. This is a challenge all Business Law lecturers at Management Faculties face. However as is the norm in Law lectures and as concisely described by Allen (2007) ‘a law lecture usually starts out with an explanation of the legal principle, followed by important cases which either set the ‘precedent’ for the principle and/or expanded principles. Facts of cases will be described and decisions made by judges will be explained’. This is the teaching method employed at most Law schools and this is what most Law lecturers themselves were exposed to. This is also the only experience that Law lecturers draw on when they first start lecturing.

This conflict between what the students need and what the lecturer expects, which compromises the quality of teaching and learning in Business Law highlighted the need for ‘other’ methodologies to be introduced to make the teaching more effective. Literature suggests (Bellah *et al.* 1996) that a hybrid of methods should be employed to teach law to other disciplines as the traditional lecture fails to identify the students’ weaknesses and needs.

In order to identify students’ weaknesses and needs the lecturer introduced tutorials. The tutorials were conducted after new content material was covered during the formal lecture. During these tutorials, students were expected to identify and apply the legal principles. The tutorials were

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conducted in small groups of approximately five students who would collectively discuss, debate and produce one set of answers. These sessions took place during class periods where the lecturer was present to guide and assist them or at a time and place convenient to the student. Another shift away from the traditional lecture was the introduction of student lecturing opportunities. Small groups of five students are elected to present certain Business Law topics to the class. This format allowed for short sections of the course content to be taught by the students, presenting them with the freedom to dictate the style of teaching.

These ‘other’ methodologies presented a window for the lecturer to observe and gain some insight into how students learn. However students still struggled and the challenge of making the students’ learning more meaningful remained. The lecturer’s task grew more onerous in terms of:

- Assisting students to apply their knowledge
- Inculcating the skills of legal analysis so that students can recognise the process and attributes in the context of their likely professions
- Helping students to assimilate their learning of law subjects with their learning of other subjects
- Enabling students to see how Law subjects were going to be relevant to them in ‘real life’ (Christudason 2005).
- A shift was needed but by whom and to where?

## **Theoretical Framework**

This study is informed by three theoretical traditions namely New Literacy Studies (NLS), Rhetorical Studies (RS) and Threshold Concepts (TC). NLS provides an understanding of AL that is more relevant to demands in HE today. It contrasts with earlier work in AL, which focussed on an autonomous model (Street 2003) aimed at teaching struggling students a set of discrete skills that were thought to assist them in their reading and writing challenges at university. Language, in this autonomous, study skills model, which sees literacy as an individual and cognitive skill, focuses on the surface features of form and concentrates on teaching students formal features of language such as sentence structure, grammar vocabulary and punctuation.

According to Lea and Street (2006), one of the main flaws with this approach is that it presumes that students can transfer their knowledge of writing and literacy unproblematically from one context to another. It pays little attention to context and is implicitly informed by autonomous and additive theories of learning, such as behaviourism, which are concerned with the transmission of knowledge.

The New Literacy Studies (NLS) movement, of which American scholar James Gee is considered to be one of the founders, marks the move away from this autonomous, deficit model and foregrounds the act of learning as a social practice, not simply a technical and neutral skill (Gee 1990; 1992; 1998). Gee's understanding of learning points to the 'thinking, feeling, believing, valuing and acting as a social network' (1990).

Brian Street (2003) claims that the way in which people address reading and writing is always embedded in social practices, such as those of a particular job market or a particular educational context. 'Literacy practices' coined by Street, as opposed to 'literacy skills' captures the social and epistemological link that embeds literacy in a social, constructivist theory of learning (2003).

South African AL practitioners expand on the vision of NLS in the context of SA education. According to Leibowitz (2001), AL is a culture specific set of linguistic and discourse conventions. Academic Literacy can also be said to be 'the ways in which students must read, write, speak, listen, even be, for success in the University' (McKenna 2003). 'Knowing how to speak and act in academic discourse' (Boughey 2002) is what differentiates tertiary students from their high school counterparts. Students need to master 'the use of different competencies and conventions' (Weideman 2005) to be successful.

Rhetorical Studies Movement sees literacy as socially constructed (Geisler 1994; Bazerman 1994) and argue that the nature of expertise is constructed from two domains of knowledge namely 'domain content' and 'rhetorical processes'. The latter refers to the hidden traditions that students are not taught, resulting in their inability to navigate through and negotiate meaning of the domain content, or to see the relationship between text, audience and social context. AL projects in SA today have attempted to 'explore how this tacit dimension can be made explicit' (Jacobs 2007) so that students are made aware of the meta-language used in the subject to

construct knowledge, to assess and to evaluate. Often it is difficult to make this meta-language explicit to students as lecturers are unable to identify for themselves what counts as tacit knowledge in their own disciplines. The hope is that students will acquire these constructs without explicit help. Furthermore, the perception is that teaching these norms overtly would be seen as teaching the obvious (McKenna 2003).

Meyer and Land's (2005) 'Threshold Concepts' provides a fresh perspective on how the discipline expert could begin the process of crossing the threshold to make this meta language explicit to students. Threshold concepts are defined as 'concepts that bind a subject together, being fundamental to ways of thinking and practising in that discipline' (Meyer & Land 2005). Practices such as reading, specific disciplinary language, approach to problem-solving and style of writing are examples of 'threshold concepts' that need to be acquired by students. The process of acquisition may represent how people 'think' in a particular discipline, or how they perceive, apprehend, or experience particular phenomena within that discipline. A student who has acquired a threshold concept should be able to relate that concept to their thinking about everyday and professionally contextualised problems without prompting: it should become their way of construing situations.

In order for discipline specialists to identify the threshold concepts in their discipline, they need to interrogate the nature of their field of study to unpack how meaning is made and experienced. This critically reflective process requires the discipline expert to question pedagogical practices, teaching methodologies and domain content to uncover the tacit processes that students must be privy to so that they 'crack the code' of their learning. Examples of the questions that discipline specialists could use to identify threshold concepts are presented in the Findings.

## **Methodology**

In this study a qualitative research design was used. According to De Vos (1998), qualitative research aims to understand and interpret the meaning that the subjects give to their everyday lives and focuses on the different ways in which people experience, conceptualise, perceive or understand the world (Struwig & Stead 2001). The focus of the exploration in this study was on

the metaphorical ‘distance’ that the Law lecturer had to cover in order to cross the threshold from discipline expert to discipline practice. The first interview with the lecturer helped to ground the research problem; the focus group discussions (FGD) helped to uncover ways of thinking and practising in the discipline and the second interview with the lecturer allowed us to identify if the lecturer knew what the tacit knowledge or threshold concepts within the discipline were.

### ***Data Collection***

Data was gathered through semi-structured interviews and focus group discussions. The first interview with the lecturer and the first focus group discussion used the same interview schedule as a probe and took place between the AL practitioner (interviewer) and discipline expert (interviewee) and AL practitioner and students (respondents) respectively. The FGD took the form of an open discussion where respondents (the students) gave input, made comments and asked questions. De Vos (1998) defines a focus group discussion as a ‘purposive discussion of a specific topic or related topics taking place between eight to ten individuals with a similar background or common interest’. Perkin (1982) states that in a FGD, the respondents, under the guidance of the moderator, talk about the topic that is believed to be of special importance to the investigation, answering questions of how and why people behave as they do.

### ***Data Analysis***

Data analysis enabled the researchers to organise and bring meaning to the information received (Struwig & Stead 2001). In this study, responses to the interview schedule were recorded and open coded (Geisler 2004) according to broad themes while the FGD were audio-taped and transcribed.

### ***Findings and Analysis***

In this section the findings are discussed and analysed. Both sets of responses, students’ views (FGD) and lecturer’s responses (interview) were to the same questions and are juxtaposed below to highlight contrasts in the two perspectives. The broad themes that emerged, namely, teaching methodology, assessment, discourse, writing, reading, language used in Law

and status of the subject, are presented together with the verbatim extracts (see italicised text below) reflecting the lecturer's responses, followed by student responses and analysis.

## **Focus Group Discussion 1 and Interview 1**

### ***Theme: Teaching Methodology***

**Lecturer:** I use a typical lecture format, with discipline specialist lecturing to large group of student in lecture hall. Focus is on content and syllabus demand, notwithstanding the pressure of time. Additional tutorials are held for smaller groups. Student participation is minimum in lecture but greater in tutorial.

**Students:** There was too much work to complete in too short a time. The syllabus demands CDDV BN were too great given that they were not 'pure' Law students. They drew attention to the high expectations placed on them to produce outputs and little time to focus on the 'how to' or the process. Classes were too large to do group work, pair work or other 'interesting' things.

**Analysis:** The structure and format of the Law classes lends itself to a transmission model of teaching. The emphasis on domain content affirms the foregrounding of content knowledge as the basis for engagement with the discipline. Students are placed in passive role and have no agency, voice or power over their learning. Meaning is not negotiated but transmitted; the overarching aim being to imbibe as much information as possible. The act of learning as a social practice (Gee 1990; 1998; 2003) is overshadowed by a content and syllabus focus.

### ***Theme: Assessment***

**Lecturer:** Students are unable to successfully decode and respond effectively to questions in their exam papers, resulting in high failure rates. In assignments and tests, they fail to structure their answers in an 'acceptable way' for academic demands of a university and for the subject Law.

**Students:** Students felt that their exams required them to employ archaic study methods and they were strongly opposed to the rote learning and memorisation needed in Law. The legal terminology, case law and precedents with many dates to remember made it problematic. They associated the methods with the learning of History at high school. The instructions in tasks were unclear and no help was given to ‘break it down’. They were unaware of format, rubrics and how assignments and tests were marked. More especially they felt that there was insufficient feedback on completed tasks so students did not know where and how to improve.

**Analysis:** Much of the exam oriented work is left to the devices of the students. It is assumed that students know what is meant by, in the lecturer’s words ‘acceptable’ ways for university and subject demands. The examination practices that students need are assumed to be in place and the expectation is that they can instinctively reproduce work that meets the demands of HE and the subject itself.

### ***Theme: Discourse***

**Lecturer:** Students are not ‘wired’ for Law, I mean ... they do not have the background or foregrounding necessary for understanding the ‘legalities’, nuances and subtleties involved in the subject. They are unable to understand legal discourse; legal texts; or legal style in oral and written texts.

**Students:** They felt that while they could not write or speak like lawyers, there was an unspoken expectation that they should be able to do this. Their legal experience at age 20 (approximate age of students in the Law class) was very limited so they failed to see and understand how legal texts, written or spoken, are framed. They felt that if they asked for these practices to be explained fully, the lecturer would feel that her subject was being oversimplified and trivialised, as the unspoken view is that it takes a particular calibre of student to handle the rigours of Law. The discourse used by students to express their concerns revealed their inability to exercise power over their own learning.

**Analysis:** The lecturer's discourse, unbeknown to her, identifies the very rhetorical processes that Business Law students would need in order to be successful (nuances and subtleties) yet her comment reveals that she cannot distinguish between problems arising from the content domain and those that are tacit practices; she saw the list of problems as entwined and enmeshed. If her students did not have the 'foregrounding for Law' as she pointed out, what had she done in her capacity as expert in the field to provide this? Not being 'wired' speaks to tacit processes that students could only possibly experience from working in a community of practice (Wenger 1998). The lecturer is a key member of that community; yet she believed that her students should have acquired these aspects without her overt explanation of them.

### ***Theme: Writing***

**Lecturer:** Students are unable to reproduce the types of written texts that would qualify as legal. The lack of precision and relevance to the case being studied makes their writing a loose narrative, devoid of the argumentative style that is typical of lawyers.

**Students:** The legal style of writing was problematic for students as it is not an everyday practised genre. While they were aware of legal documents such as wills, rental contracts and cell phone contracts, for example, they did not have to until now produce such documents for an audience. They did not understand the style (genre) required of them.

**Analysis:** The word 'reproduce' locates the lecturer's frame in a behaviourist mode of learning where students are expected to mimic the targeted task and text. The writing that the lecturer expects 'is not embedded in social practices, such as those of a particular job market or a particular educational context' (Street 2003). The lecturer still sees the written ability as literacy skills' rather than a 'literacy practice'.

Students are not instinctively aware of the genre that is required of them. If students are not made aware of the different language and semiotic practices associated with the requirements of different genres

in academic contexts, it is not an easy task to produce a legal text without understanding what constitutes legal texts, how they make meaning, and how they are constructed. Lea and Street (2006) identify the link between cultural practices and different genres. Subject areas and disciplines use different genres and discourses to construct knowledge in particular ways (Bazerman 1988). The academic literacies model, which emphasises the importance of explicitness in teachers marking for students the shifts in genre and mode (Lea & Street 2006), provides a more effective model to understand the relationship between writing, text production and epistemology; helping students to understand what ‘counts’ as Law in the subject.

### ***Theme: Reading***

**Lecturer:** Students have difficulty with reading academic and legal texts. They cannot extrapolate information, they can’t make sense of the vocabulary ... they just can’t do it. Students find it difficult to think critically and apply critical thinking skills when faced with a case study or legal precedent.

**Students:** In general students were overwhelmed by the amount and detail involved in reading legal texts; the texts are dense and overloaded with an unnatural style, phraseology and expressions, frequently heard in courts of Law. They experienced the jargon as intimidating. The reading overload left little time and energy for them to focus on other important aspects such as assessment techniques.

**Analysis:** The lecturer’s concerns focus heavily on the subject, syllabus and reading skills. It is clear that the lecturer is operating from an autonomous/skills model (Street 2003) of AL focusing on the surface features of texts rather than the reading practices that inform the discipline. How to read legal texts, and not just texts per se, involve rhetorical processes that the Law lecturer should but is not teaching overtly in her class, resulting in students’ inability to navigate through and negotiate meaning of the domain content (Geisler 2004).

***Theme: Language Use in Law***

**Lecturer:** Law requires specialised use of language which students (who are mainly 2nd and 3rd language speakers of English) are unable to manipulate and master for the purposes of the subject. Students were overwhelmed by the legalese.

Most of them struggle as they do not seem to be able to identify the issues and their writing is peppered with colloquial terms lacking precision and reasoning found in Law. To illustrate this point here are a few responses from students to questions on a case study:

‘Hi Graham, I feel sorry for you but I think you should sue them. You do work for them and they should pay you’.

‘Graham do not worry I’ll sort this out for you. I heard that ....’

**Students:** Students expressed their difficulty with the ‘formality’ of law, the legalese and jargon. Apart from their language use in Law, they spoke about their concerns around their proficiency in English, which was the medium of instruction. They explained that they felt doubly compromised; firstly because for many of them English was not their first language and secondly, the language of Law placed them at a serious disadvantage due to its complexity.

**Analysis:** While language is a part of AL, a distinction must be made between language as it is used by the discipline and English proficiency. Often the conflation of these two dimensions blurs the line between how language functions as a way of thinking and practising in the discipline as opposed to it being a tool for communication. Both language aspects need to be addressed, separately and together, to see how meaning is made through language. Schumann (1978) reminds us that language acquisition has a social dimension where success is easier if the target culture is similar to the culture of the learner. Given the legacy of apartheid in this country, this matching of cultures is the privilege of a minority of people. However this divide can be bridged by the discipline expert, who can provide by example and classroom practice, an approximation of this target culture in terms of the discipline.

***Theme: Motivation***

**Lecturer:** Students see Law as a filler subject and accord it secondary status ... other 'more important' subjects take precedence. They are not motivated to excel as it is not core to their choice of study. Despite the ranking order used by students, the reality is that if students did not pass Law they would not be able to graduate.

**Students:** They felt alienated by the formality of Law and the feeling of 'otherness' that was created by the secondary status afforded to Law by the other subjects. This they said did not bode well for their ability to succeed in a subject that had already placed such high academic demands on them.

**Analysis:** The secondary status of Law lowered students' motivation to do well in the subject. Their outsider status as well as not feeling part of an 'academic tribe' (Becher 1993) contribute to their lack of sense of belonging which impacts on their ability to be motivated and succeed.

**Focus Group Discussion 2**

In the second FGD, students were asked to critically analyse a typical Law assignment question (see Appendix 1). Students were asked to comment on features of the task that they found difficult, without analysing the content of the questions. In other words, students were invited to use a meta-language to critique the effectiveness of the actual task question, without being given the 'tools' to do so. The aim was to see students' capacity to interrogate their own learning. The critical discussion that followed reflected some of the challenges facing them in terms of domain content and rhetorical processes.

From the lecturer's perspective, students are expected to work on such tasks in a team, present their 'advice' orally and submit a written document pertaining to this. Students need to be concise, clear and focused on content to find the outcome of the legal question by analysing relevant facts and then citing authorities and legal rules governing the legal question.

From the students' perspective, the crucial question was the lecturer's expectation of what form the answer should take. The task requires them to

read the case study and respond but the only instruction given is ‘advise him fully’. It was apparent that it should be a written response but the question was not scaffolded in terms of style, genre, length or format that it should be presented in. For the students this was a huge problem as the structuring of the answer required certain writing practices that they felt they did not have.

Students discussed the problematic features and textual challenges in completing the task and this led to broad themes and concerns that emerged. These are framed below as students’ critical questions to provide a landscape of gaps (tacit) in their knowledge.

- What are the writing and reading practices in the genre of Business Law?
- How can these literacy practices be scaffolded?
- Is the discourse in Business Law subject specific?
- What does it mean to ‘give advice’ as required by the task?
- What ‘voice’ should the students use?
- Are cultural contexts important in Law?
- How do these cultural contexts impact on the legality and ethics of the advice given?
- Can legal jargon and phrases such as ‘fringe benefits’ and ‘the agreement is entered into’ be decoded as contextual cues for understanding of the whole?
- Could dictionaries and multilingual glossaries be made available in class, especially for Latin terminology?

Students’ responses and critique highlights that they are multi literate beings. They are able to identify domain content and rhetorical features unconsciously. From a NLS perspective, the multiple literacies that students bring to the classroom, in the rich tapestry of technical, digital, religious, cultural, traditional and indigenous literacies from their social backgrounds, which interface daily with broader social and global networks must be acknowledged. AL is one example of these literacies, arguably the most vital component for success at university. Recognising the diversity, multifacetedness and contextualism of the learning situation (Ballard & Clanchy 1988) creates a depth of experience and practice.

## **Second Interview**

The discipline expert was interviewed for the second time to gauge the understanding of the importance of embracing and embedding AL in the content domain. The lecturer was led through a process of inquiry to look critically at the domain content area of the discipline of Law. A series of questions developed by the threshold concepts advocates Meyer and Land (2003) were used to probe the lecturer's understanding of the rhetorical and tacit processes and practices governing the discipline of Law. This also served to determine the extent to which the lecturer had to shift to successfully make AL part of her own repertoire. Examples of these questions are presented below.

## **Threshold Concepts for the Lecturer**

- How is knowledge constructed in your discipline?
- What are your educational practices?
- How do your practices impact on learning?
- What do reading and writing practices involve in your discipline?
- How does your discipline use language?
- What conceptual thinking is needed in your subject?

(Adapted from Meyer & Land 2003)

Faced with the threshold concepts questions, it became apparent that this was no easy task for the content lecturer. The interview demanded that the lecturer think about the teaching of Business Law within the Management domain, interrogate her teaching methodology and theorise her practices. It became clear through the exercise that the lecturer was not able to respond effectively to many of the questions. While the discipline specialist had correctly diagnosed the problem with her students, she did not have the critical, reflexive tools to identify the ways in which her own methodology, ideology and theoretical framework might have been responsible for the learning challenges in her class. Inadvertently, she had polarised the student and the disjuncture in the perceptions of students and

lecturer indicates that students' challenges are not seen as being embedded in the discipline of Law. This confirms that the lecturer is engaging a skills-based model.

In the discussion that followed, the lecturer expressed the need to become more critical of her classroom practices, which included content, delivery, language use, power dynamics, academic discourse, learning styles and use of media. The lecturer understood that her role was to 'hold the energy' for learning to take place and provide the appropriate scaffolding to help students to succeed.

This scenario is probably true for many educators across the curriculum. For an effective shift to be made, where the lecturer can use AL as a disciplinary practice, lecturers need to be encouraged and trained to interrogate their own subjects using theoretical constructs such as the 'threshold concepts' example. This process of theorising their practices will build lecturers' capacity to scrutinise domain content knowledge and rhetorical processes in their disciplines. Some ideas around applying and incorporating this knowledge into practice could be to use integration strategies, scaffolding activities or interdisciplinary teaching. There are various, related projects in this field that could be drawn on to build lecturer capacity but the scope of this paper does not allow for an exploration thereof. A few suggested activities are offered below as ways of 'making the tacit explicit' in Law.

Examples of these and other scaffolding exercises in Law could include:

- writing questions for case studies in groups;
- explaining rubrics in practical terms;
- providing sample/ model answers;
- highlighting linguistic functions, such as analyse, deconstruct, persuade and evaluate, that are encoded in the discipline;
- analysing features of discipline texts;
- peer reading of texts; and
- outlining of task criteria.

## **Conclusion**

When one looks at what emerged from lecturer interviews and student discussions, it becomes clear that lecturer and student perceptions do not reveal a shared understanding of a common problem. There are very few areas of overlap, showing that both parties are indeed not talking to each other. The ‘tacit knowledge’ that students need to become successful at Law, such as understanding the way arguments are constructed, using critical thinking skills and persuasive language, which are specific to the discipline of Law, are not made explicit to them by the lecturer. The way tests and assignments are marked are not discussed as a meta language for navigation and success. The learning process in the Law class is not scaffolded. The status of the subject affects students’ motivation and enthusiasm for the subject; yet the lecturer is unaware of the presence and impact of these ‘softer’, ‘non-content’ issues on student learning. The meta language of the learning experience is not made explicit either, so they do not have the freedom to move in and out of cluster arrangements such as individual, pair and group work, as it suits them.

When Business Law was viewed through the students’ lens, the problems raised spoke to rhetorical processes and students, unwittingly, were able to distinguish between the domain content and rhetorical processes features to ‘expose’ the vagueness and gaps implicit in their experience. Students are in fact multilayered beings, bringing a vast range of experience, challenge and material that an educator must find a way of tapping. Student and teacher agency are therefore important considerations and a possible solution lies in the collaborative effort between the key players to bring about a lasting and sustainable change in the way students and lecturers engage with their disciplines.

The proliferation of the skills based model in HE does not promote deep, sustainable and transferable learning as evident with the Law students who revealed that they are not able to judge how their knowledge relates to the real world. Their very sterile learning environment does not provide the experience of communities of practice (Wenger 1998). As a result, the Business Law student in this study has limited voice, agency or personal identity and cannot exercise power or control over his or her own learning processes. Moreover, the assumption that students should be ‘wired’ to fit the discipline, irrespective of their multiple literacies and social contexts,

presupposes that students' identities and diversity are not important enough to contextualise learning and 'wire' the discipline to meet the students halfway.

The lecturer has to move from being an observer of the multicultural, multilingual and academic literacy challenges in her classroom to being actively involved in embracing methodologies that make disciplinary practices explicit to students. The lecturer's act of crossing the threshold, from a place of expertise to one of combined expertise and practice, is uncomfortable, rigorous, demanding and sometimes demeaning but the goal is to enable students to become academically literate in the discourse of the university as well as their specialist disciplines. In crossing the threshold, educators are obliged to re-invent themselves to fully meet the challenge of leading the teaching and learning to a place filled with enquiry and research awareness.

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### **Acknowledgement**

This paper was presented at the University of Kwazulu-Natal, Business Management Conference 2009. It has been revised since.

## APPENDIX 1

Graham is in the employ of Cricket Balls (Pty) Ltd.  
His contract of employment provides as follows:

Graham has to provide his own equipment to perform his duties as cleaner.  
Cricket Balls (Pty) Ltd provides his uniform.

He is paid a monthly income of R1 530,00 from which PAYE is deducted.  
The agreement is entered into for an unlimited time period.

Graham performs his duties according to a time schedule as determined by  
Cricket Balls (Pty) Ltd and he has to submit a daily report on the tasks  
completed.

He is allowed to work for other employers if he has completed his daily  
tasks.

He receives no fringe benefits.

Graham approaches you, the Human Resources Manager, wanting to know  
whether he is an employee of Cricket Balls (Pty) Ltd.

Advise him fully. In your answer you are expected to refer to case law and  
explain the test used by our courts.

Kasturi Behari-Leak  
Fundani CHED  
Cape Peninsula University of Technology  
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