

Under-Prepared Students: Transferring Knowledge and Skills for Tertiary Studies

By:

PJ Schwikkard

University of Cape Town, South Africa

Abstract:

Fifteen years after the transition to democracy the delivery of education in South Africa remains unequal. The majority of the population only has access to inadequate schooling. It is predominantly the elite that have access to 'good schools'. A consequence of this is that if Universities are to avoid the risk of being elitist institutions, in terms of access, they must admit under prepared students. These students are however, placed in a context in which Law Schools teach large numbers of students with a poor staff/student ratio, are insufficiently subsidised, and are used to cross-subsidise other faculties. It is in this context that the transfer of appropriate legal skills to under prepared students is constrained, despite moderate success in transferring 'knowledge' of substantive rules

Because we cannot expect a miraculous improvement in the schooling system Universities must deal pro-actively with the applicant pool that is being generated. There are many reasons why Universities are enriched by diversity. The restriction of admissions in this context would also fail to address the pressing social imperative of addressing historical disadvantage.

The Faculty of Law at the University of Cape Town together with other Law Faculties in South Africa, share similar difficulties as regards students who are under prepared for tertiary studies – and these difficulties, albeit in varying degrees, are probably shared by law schools across the world.

A brief and generalised overview of the causes of under preparedness:

The apartheid regime that only ended 15 years ago actively and explicitly pursued an agenda of unequal education. South Africans who were classified white had access to good state education and black South Africans, particularly those classified African, did not. Although after 1994 school attendance was no longer determined by racial classification the majority of black South Africans remained at the previously under resourced schools and the government in the last 15 years has not been able to close the gap between historically advantaged and disadvantaged schools. The effect of the States failure to improve school resources and equalise educational opportunity, is that the majority of school graduates remain inadequately prepared for the demands of tertiary studies at university level.

The problem is compounded by a legislated change to legal qualifications. Prior to 1999 the LLB degree was only offered as a postgraduate degree. Because this was perceived to be a barrier to the legal profession, parliament intervened by providing for an additional option to complete the LLB in a four year undergraduate programme.

Students enrolled for the four year degree have even less time to close the educational gap. Students entering the law degree as undergraduates are significantly less prepared than those who have already completed an undergraduate degree. This is further compounded by an increasing clamour from some components in the legal profession to have Universities take on greater responsibility for developing practical legal skills within the degree programme.

It is within this context that anxiety about 'standards' is frequently expressed and of course Universities must maintain the standards necessary to meet the purposes they have defined for themselves. The challenge is; how do we maintain these standards in a context of very definitely limited resources?

Broadly speaking Universities have 4 income streams: student fees, government subsidy, donors, and external contracts. In all South African Universities government subsidy is the most important source of income, followed by student fees with donors and external research contracts playing a relatively insignificant role.

If we then look at Law Faculties in particular and on their own, a slightly different picture emerges. Donors and external contracts remain insignificant – but strangely enough so does government subsidy. Why? Because Law Faculty's are seen as 'cash cows' – we are relatively cheap to run. It is possible to teach big classes and meet a minimum standard without large library holdings or expenditure on expensive equipment. In many South African Universities, Law Faculty's do not get allocated their full fee income; a portion of fee income and the entire subsidy going to cross-subsidise other parts of the University. This is fairly standard practice, and acceptable, as long as Law Faculty's are able to provide the education needed to graduate good lawyers.

In South African terms, the Faculty of Law at the University of Cape Town is relatively well resourced; it has a good library and is able to attract good staff and students. But it nevertheless shares the same generic problem – we have to use the same limited resources to deliver legal education to an increasing pool of under prepared students.

Our response mirrors that of many other institutions. We have an Academic Development Programme whose primary role is to facilitate access to the Law Faculty for students who we believe have potential despite not meeting the entrance requirements. These students enrol in an extended programme and are provided with integrated academic support. This is a resource intensive programme which can only cater for a small number of students. Many of these students are ultimately unsuccessful but the programme nevertheless makes a significant contribution to increasing the number of Law Faculty graduates from a disadvantaged schooling background.

However, under preparedness is not confined to students enrolled on the Academic Development Programme. A significant number of students' who have met the entrance requirements still fail in the mainstream programme. Clearly raising entrance requirements is not an option, this would effectively exclude the majority of black students and negate small gains already made in redressing past imbalances.

Consequently we have had to make interventions in the mainstream programme. These include increasing the opportunities for students to participate in small group lectures and tutorials; establishing a students' writing centre and encouraging lecturers to rethink the way in which they teach.

Another issue that arises in a transforming society, and which directly impacts on educational success, is an institutions ability to accommodate students who come from extremely diverse social and cultural backgrounds. Many students will be the first person in a family to have ever attended University. Many others will face extreme financial pressures. Some will have nowhere to live and some will go hungry. Many will carry a huge burden of expectation to succeed. Some would never have been in an urban area before.

Again resources restrict what can be done. Scholarships and bursaries are limited, as are places in residence and the cost of food increases at a rate that far outstrips the inflation rate. We are continually fundraising for scholarships and bursaries and have also instituted a student hardship fund – with which we hope to ensure that none of our students go hungry. Our other interventions include: an early warning system, mentoring and university subsidised health and counselling services.

What is outlined above describes fairly standard interventions which are to be found in many institutions. But I do not come with a success story – our failure rate remains high and our graduation rate amongst historically disadvantaged South Africans too low.

Why? Possibly because the educational deficit is enormous and the standard response, in the standard measures, will necessarily be insufficient and therefore will not work. If we really want to continue to produce graduates with the educational background required to be good lawyers then we need to put a lot more resources into teaching. Academics too are strained in the balance between teaching and research and a greater allocation of resources to providing more staff would also be necessary in order to maintain the excellence in both spheres of teaching and research.

Increasing resources however, does not inevitably produce solutions. However, when law faculties are unable to provide the educational support needed to ensure that under prepared students meet the requirements for graduation – then they should, at the very least, have access to the fees paid by those students.

It would be interesting to hear the following from fellow participants:

- (a) What strategies are used elsewhere to address under preparedness?
- (b) Do these strategies produce the required results?
- (c) Is there a similarity in contexts' as regards funding; length of degree; expectations from the profession?
- (d) What are the magic ingredients of the success stories?