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Mayur Suresh

Introduction

How do students and teachers in an undergraduate law programme in the England and Wales conceive of writing? What are the values and purposes associated with writing in an undergraduate law degree? How do these conceptions of writing impact upon the quality of writing in these undergraduate programmes?

These are the three main questions that I seek to address. As readers will note in section 1, I did not begin with these questions. Faced with the experience that teachers of law felt that writing by their students was of a low quality, and anxieties by students who felt that they did not know what 'good writing' in a law school meant, I misdiagnosed the problem as one of unclear criteria. That is, I felt that if I could discern what 'good writing' meant to both teachers and students of law, then everyone could know and meet the criteria for 'good writing.'

I began this research by interviewing teachers and students at the institution where I currently teach - the School of Law at SOAS, University of London. I chose my own institution purely for the sake of convenience and familiarity. I interviewed eight of my colleagues at the school of law, and twelve students who were in different years of their undergraduate LLB degree at SOAS. This was not intended to be a statistically significant survey - rather, through these interviews, I hoped to glean qualitative information about the place of writing in undergraduate law programmes in England and Wales. I have removed any identifying material from the interviews quoted in this essay. I did this mostly to draw attention to the structural issues around student writing in law schools in England and Wales¹ (which are not limited to my own institution). In the excerpts below, I have edited the interviews for clarity.

Before going further, I should clarify what I mean by 'writing'. Students undertake a number of different writing tasks in the course of their study. Apart from informal writing (such as note taking, or writing draft essays), students will submit more formal pieces of writing - most often in the form of an essay or an exam. In section 2 of the paper, I talk about the significance of the essay in a law school. For the moment let me just say that when I speak about 'writing', I mean the writing that students undertake to produce an essay. The essay provides a space for creative thinking, for building thought and as a mode of student learning. Research indicates that the essay is a better predictor for long term learning (Gibbs and Simpson 2004) and the quality of learning (Tynjälä 1998) than an exam. As such, I am interested in the relationship between conceptions of essay and the learning process, in the context of a law school.

The question of context of writing matters immensely. As I argue in section 2, the aim of law school in England and Wales is not to produce lawyers. Instead, I argue

¹ I have limited the research into the law degrees in England and Wales as they share a common regulatory regime. Other nations of the United Kingdom (i.e., Scotland and Northern Ireland) have their own regulatory bodies.

that in England and Wales, the history of legal education shows that law schools are meant to provide liberal arts education that has a focus on law. There is a dual purpose to this undergraduate programme: as a law degree a knowledge of certain areas of law and, as a liberal arts degree, the ability to think and reason through an issue. This is reflected in the diversity of modules and what modules are meant to achieve: the content of the law (legal rules, cases, statutes etc) and situating of law in policy and political contexts. Given this dual role for the undergraduate law degree, essay writing takes on greater importance as a mode of promoting learning and thinking.

In section 3, I reframe the aim of this project to settle on the research questions that form the first paragraph of this paper. Rather than taking the question of quality of writing head on (through the creation of criteria to evaluate the quality of writing), I approach the question of quality of writing, through conceptions of writing. Research shows, as I highlight in section 3, that conceptions of writing amongst teachers and students helps us understand the role, value, and utility of writing in the learning process. These conceptions, in turn, impacts the quality of writing. This research shows that if writing is conceived of as a learning process, where writers produce language to transform their own thinking process, learning is deepened and the quality of writing improves. However, where writing is thought of as a product through which transcribes knowledge, then this results in surface level learning with lower quality writing.

In subsequent sections I detail two axes along which conceptions of writing emerged in my interviews with teachers and students. The first is whether writing is conceived of as a product or a process. On this issue, both teachers and students conceived of writing as a process. However, the main area of disjuncture was what role the teacher had in the process, with students wishing that they had more opportunities to practice their writing; and teachers believing that students should do writing outside of the classroom, which led to teachers focussing on the final product. The second is whether writing is a 'knowledge telling' exercise or a 'knowledge transforming' process. Students conceived of writing to demonstrate their knowledge of the content of the modules - that is they believed that in their essays they had to list out potential arguments and information that they gleaned from the prescribed readings and the content of classes. Teachers, on the other hand, focussed much more on the transformational potential of writing - that is, through this writing, teachers hoped that students would be able to develop skills to 'think like a lawyer' and to change the ways they thought about law.

This disjuncture between students' conceptions and teachers' conceptions of essays, I suggest, leads to student learning being not as deep as it could be, to student frustrations with the writing process and ultimately to 'low quality' student writing. In the conclusion, I suggest some ways to align student conceptions and teachers conceptions of writing.

Section 1: (Not) trying to reinvent the wheel.

Initially, I based this research project on the idea that both teachers and students at the undergraduate level felt a certain frustration with writing assignments. My

colleagues felt that, by and large, writing by our undergraduate students left a lot to be desired. This feeling originated from conversations with colleagues and staff meetings where a number of thoughts about undergraduate writing was rehearsed: that students did not know how to reference; that they could not construct an argument; that they did not engage with course material; that they did not work hard enough on their essays. I should stress that colleagues, by and large, admired their students and wished that they could write better. The feeling I get from colleagues is an acknowledgement of the innate intelligence of our students, but puzzlement as to why their writing did not meet a certain standard. As one colleague, said with a sigh, in an interview with me (conducted as a part of this research): “I mean... There are fundamental problems - understanding how to communicate clearly, misunderstanding concepts or even a sentence... You know?” In this answer I sense a certain hesitancy that emerges from a desire to understand why student writing has certain foundational issues, when students are seen to have the capacity to write much better. In parallel, students have regularly complained about the lack of writing support, about a confusion about what was being asked of them in their writing, inadequate and untimely feedback and being perplexed about how to make improvements in their writing. This is reflected not just through official means such as the annual National Student Survey and student module evaluations, but also through conversations with students.

My research initially centred on the question surrounding the idea of good legal writing. Why did my colleagues perceive undergraduate writing as sub-par? What according to colleagues, was good legal writing? What did students think of their own writing and what did they conceive of as good legal writing? And was there a gap between these two conceptions? My hope was then I could produce a common lexicon, common criteria to determine what constituted good legal writing.

But as I started research for this paper, I realised that I was not the first one to have this idea about perceptions about legal writing. People have complained about the quality of legal writing for a very long time. A quick survey of scholarship on this area and policy documents highlights the quality of legal writing by ‘new lawyers’ (i.e., lawyers who have recently graduated) has been a cause for concern for some time (Winek 2020). This had led to concerns over the teaching of writing skills during legal education.

The Legal Education and Training Review (2013) of the education and training of lawyers in England and Wales, co-commissioned by the Solicitors Regulation Authority and the Bar Standards Board, found that new lawyers struggled with “poor spelling, grammar and punctuation” and noted gaps relating to “structuring of written communication [...] legal analysis skills and meeting client expectations.” The Review also found that legal research skills were not sufficiently developed during law degrees (Ibid., 44) and referenced previous studies (Hilsdon 1998) that pointed to deficiencies in writing skills relating to basic tasks such as describing; supporting a position with evidence; evaluating information; and summing up points and coming to a conclusion (41).² This is an issue not just limited to law schools, as in UK universities writing support is a limited and relatively new idea (Wingate et al 2011)

² While the report expresses a concern that written standards among new lawyers have declined, in a perceptive footnote it notes that “objective evidence of a general decline in writing [...] is difficult to obtain” and notes that research indicates an improvement between 1980 and 2004 (41).

and writing has not been foregrounded and supported in UK universities, despite the fact that it is the predominant way of assessing students (Clughen and Hardy 2012).

In the United States, similar concerns about the quality of legal writing have also been echoed for some time. US scholarship about legal writing is marked by examples of complaints about the quality of legal writing in the profession, which lead to concerns about how legal writing is taught in law schools. An article written in 1973 about the state of legal education in bemoaned law schools' neglect of legal writing (Gross 1973). A year later, an appeals court judge wrote about the "appalling" quality of legal writing by lawyers and placed the blame upon law schools for not providing sufficient "good training in legal writing." (Edwards 1993: 34). In 2003, a US-based survey found that the large majority of lawyers, judges, and legal faculty found that new lawyers struggled with basic writing tasks (Kosse and ButleRitchie 2003).

Professional bodies in the US and in England and Wales have sought, to different degrees, to improve professional legal written skills by focussing on writing in law programmes. In 1992, a report commissioned by the American Bar Association emphasised that writing skills ought to form part of law school's curriculum as lawyers found that these skills were only developed after graduation (American Bar Association 1992). In 2001, the American Bar Association mandated that all law schools require students to have "substantial legal writing instruction, including at least one rigorous writing experience in the first year and at least one additional rigorous writing experience after the first year." (American Bar Association 2001: 24)³. A report commissioned by the UK's Higher Education Academy surveyed law students and found that students felt that general writing skills did not receive enough emphasis and legal writing skills (such as drafting) received the least emphasis during the law degree (Higher Education Academy 2012). Unlike their US counterparts, however, legal professional bodies in England and Wales, did not mandate writing elements into law school's curriculum.

I was not the first to perceive that their colleagues felt that law student writing was not of a certain quality. Neither was I, it turns out, the first to try to create a common criteria for 'good legal writing.' A 2012 article, surveyed the literature and scholarship on legal writing, and created a list of criteria for good legal writing: clear, concise and engaging. (Osbeck 2012). Other scholars have added to comprehensiveness and credibility to these criteria (Keene 2014; Feldman 2016). So much for originality then.

These criteria for good legal writing broadly map onto the standardised marking criteria used by universities (including my own, see SOAS 2022) and to study guides commonly used by students in England and Wales (McBride 2018). During my interviews with students and colleagues, most of them highlighted these criteria as to what constituted good writing: coherence, structure, clarity, conciseness, demonstration of research, critical analysis, and a clear argument. Was there a point, then, in trying to recreate new criteria for what constituted 'good writing' if it merely replicated the given criteria?

Add to this the argument that marking criteria reflects a single dominant standard - and that this standard reproduces hierarchies of race, gender, and class (Inoue

³ This mandate continues in the latest guidance. See American Bar Association 2015: 16

2022). Grading, as we know, is to force students and teachers to be accountable to a single, seemingly 'objective' standard of what constitutes good writing. Inoue (2022) argues that standardised marking criteria reflect white supremacy that

seem natural, thus is normalised such that many of us cannot see it as such in our classrooms, in our disciplines, in our ways of reading and valuing student texts. We cannot see, for instance, how holding one standard of our grading practices reinforces White supremacy since all such standards have come from one racial formation not the globe. (8)

In a time when universities - including my own - is opening itself up to more diverse student populations, when institutions have responded by promoting a decolonisation agenda, did it make sense to try to recreate marking criteria to judge quality? I quickly realised that there was nothing much to be gained in trying to reinvent the wheel.

Section 2: Essay writing in context - what is a law degree for?

Through my interviews with students and colleagues, I quickly realised that they hold some implicit conceptions about writing that were being articulated. For instance, essay writing in law schools in England and Wales, often takes two forms: the problem question, where a fact matrix is presented, and students are asked to advise or decide on the legal issues presented; or the essay question, where students are asked to reflect on a policy, principle, or politics of a particular area of law. Why are these two forms of essay writing important to law schools in England and Wales? What was the role of these essays? Why did they not, like their US counterparts, teach students more 'official' forms of legal writing (such as memos, or briefs)?

This concentration on the essay form is perhaps a reflection of the idea that, in England and Wales, the law degree is not aimed at producing lawyers. Instead - according to a government appointed committee on legal education - it is aimed at producing graduates who "met certain basic standards and have acquired the knowledge and transferable skills which enable them to think, in a critical way, as creative lawyers" (Advisory Committee on Legal Education and Conduct 1996, 43). The law degree is imagined to provide graduates entry into several different professions and recommended that it not be seen as a professional training to become a lawyer. Instead, the law "degree should stand as an independent liberal education in the discipline of law, not tied to any specific vocation" (44).

This tension of what a law degree is for is reflected in a more recent survey conducted in England and Wales. This survey found that most legal professionals felt that the law degree should neither be a "liberal arts degree that looks at law in a rich cultural context" nor should it be a degree that "primarily practically focused on the skills and knowledge needed to work in the legal professions." (Legal Education and Training Review 2013, 27). Perhaps unable to decide what a law degree should be, the legal education attempts to do these two things at once: to prepare students to become lawyers and to produce critically minded graduates with a liberal education.

This dual purpose of a law degree also reflected in the way that LLBs are described

by institutions. For example, SOAS LLB's website does not mention the word "lawyer." Instead, description of the degree states that "The SOAS Law degree programme produces highly skilled, civic minded and critically engaged graduates, who can effectively contribute to their communities and societies through the knowledge and skills gained on this course."⁴

This tension between providing a degree with two aims is reflected in the types of modules in several English law schools. An LLB typically consists of compulsory undergraduate subjects (known in SOAS as modules) that are mandated by bodies that regulate the legal profession.⁵ Additionally, law schools will offer several different optional modules. The law school at SOAS offers about 21 optional modules which are open to second and third year students (with no optional modules available to first year students). These modules can be categorised (based on publicly available module descriptions) into three broad types. Some of them are 'black letter' legal modules, which might include Copyright law, Law of Commercial Arbitration, Intellectual Property Law, and Company law. These modules are aimed to give students an advanced understanding of a particular area of law. A second type of module, which may be called 'socio-legal modules', might include Law and the Atlantic Slave Trade; Environmental Law in Action; and (a module that I teach) Law, Terror and State Power. These modules are aimed at locating the law in politics and society. Some modules are aimed at both giving students conceptual legal knowledge of particular field and to understand the politics or context of particular laws. Into this third category of modules, I would include the following modules: Criminal Justice, Race and Rights; Public International Law; Asylum and Immigration Law; and Islamic Law. The breadth of modules show that the law degree is aimed at providing students with the building blocks of conceptual legal knowledge as well as a political or policy critique of law.

There are two ways in which the structure of the LLB - which aims to be a liberal arts degree in law - impacts upon the writing - both pertain to the form of writing. First, as stated earlier, students in the UK are not taught to write in a legal form.⁶ In England and Wales, most modules⁷ will have an essay that forms a part of the assessment.

⁴ This description of an LLB degree as a liberal degree that studies law is present in the description of law degrees by other institutions. For example, UCL describes its law degree as a "programme [that] provides both a general liberal education and a basis for careers not only in the legal profession but also in fields as diverse as the civil service, local government, the social services, higher education, the armed forces, business, industry, the media, finance and accountancy." (UCL 2023). Similarly, King's College London describes its LLB programme as the "first major step towards qualifying for practice as a solicitor or barrister, but also represents appropriate preliminary training for a range of other careers in which legal knowledge is an asset. The degree is suitable for students who have a general interest in law but want to find out more about it before deciding on a particular vocation." (KCL n.d.)

⁵ These are contract law, criminal law, tort law, public law, property law, equity and trusts and European Union law. SOAS has an eighth mandatory module titled Legal Systems of Asia and Africa, which aims to give students the conceptual vocabulary to understand different legal systems, mainly in the regions that SOAS has historically studied. In addition to these seven subjects, most law schools have an introductory module. SOAS has a mandatory, intensive two week non-assessed module titled Introduction to Law and Legal processes, which aims to give students the basic analytical and research skills that are necessary to study law.

⁶ In the US, law students (who have finished an undergraduate degree) will be taught to write in distinctly legal forms. For example, a student in a US law school may be trained in drafting a memo, a brief, legal pleadings, mediation statements, contracts, and wills.

⁷ At SOAS, only three modules assess students based on a distinctly legal form of writing, namely a

This suggests that the purpose of legal education is to help students build an argument, to be able to evaluate arguments and sources, and to back one's arguments with evidence. In order to build an essay, a student is expected to produce language that explores different texts in order to discover the dimensions of a particular idea. This is a form of writing that is not specific to the law.

Second, teachers imagine their modules as attempting the two goals: they would like students to good legal knowledge of their subjects and would like to introduce a critical element to the study of law; i.e., they would like their students to be aware of how law is situated in certain contexts and how any discussion of law cannot be separated from race, gender, class and other hierarchies of power. For example, one of my colleagues teaches an international law-related subject that is increasingly being taught in different law schools in the UK. My colleague teaches this module from the "perspective of the global south," which enables them to draw in implications of these laws on social justice from within different societies, but also to approach questions of what global social justice might look like.

This aim of teaching students the content of an area of law, as well as their contextual and political implications, emerges in three ways. First, some teachers try to introduce both these elements in a single module. For example, a teacher of a "politically contentious" area of law has two elements of assessment in their module - a case brief and an essay. In the case brief, for example, students are asked to prepare an 'skeleton argument' - the outline of main arguments to be presented to a court - for a client. The facts of the client's case are derived from real cases - something that the students are told. Students are expected to cite relevant precedents and legislations, and marshal the facts of the case, to present a written case for their client. In the words of my colleague, in this written element, students "have to show knowledge of practical side of things [and] also have to familiarise themselves with the concepts in [this area of] law." The aim of this assessment is then to provide students with the opportunity to show they understand the legal concepts at play, by imagining how the concepts they learn in the module might emerge in practice. They also become aware of how they must structure language to meet the formal requirements of a 'skeleton argument.' The second assessment element is an essay, which is more avowedly political. An essay topic could read something like this "Discuss how [this area of law] in the United Kingdom developed directly out of the collapse of the British empire and reflected a political drive to control radicalised and dispossessed former colonial peoples." Reflecting on this part of the assessment, my colleague said, "I think I invite the students to be reflective and critical of the politics of the [issue more broadly]" In doing so, my colleague aims to invite students to draw attention to the radicalised history of this area of law and to draw attention to how these laws impact different communities.

The second way in which some teachers try to introduce both these elements in a single module is through the essay topics. Typically, there are two types of essay topics - problem questions and 'essay' questions. In a problem question, students are presented with a fact situation that leads to a legal dispute which students are then expected to decide or advise on. Students are taught to use the IRAC method - Issue, Rule, Application, Conclusion. Students are first expected to identify the main legal question that has to be answered (Issue); then to identify the most appropriate

case brief and a policy report.

laws that will apply to this issue (Rule); explain how the laws will govern the presented fact situation (Application); and then present the reader with an outcome of the dispute (Conclusion). While this conceptualisation of legal reasoning is at best very basic,⁸ this method of ‘solving’ a legal problem is aimed at drawing students’ attention to how facts are translated into legal issues, to identify the legal concepts that might be applicable to these legal issues, and to understand how these concepts would work to answer the legal issues.

The second type of essay topics would be statements about the law, that students would have to discuss. Essay topics may range from the avowedly political (as in the example above). Or could be more policy oriented, for example “‘The rapid growth of International environmental law since the 1970s is an unqualified success. This is reflected in the effective measures to combat climate change that have been put in place.’ Discuss.” Or an essay topic could ask students to stake a claim on a particular legal concept, for example, “Discuss how the concept of *opinio juris necessitatis* is important to the formation of international custom.”

The third way in which teachers think of teaching both the law and a critique of it, is across the breadth of the degree programme. One colleague, who teaches on a first-year compulsory module and a final year module, understood these courses in two very different ways. According to them, the first-year module was about introducing students to the fundamental concepts of law: “[The first year module] I would say is much more about fundamentally understanding doctrine, precedent, various basic concepts of law.” Their other module is the place of a critique of law. In this module, law is located politically, and students engage the law’s “socio-political contexts” as well as different theoretical approaches to a specific area of law. The reason why they articulate different roles for their two modules is because “to keep it more basic as that is for first year students. I think it’s really important for them to understand the fundamentals of law prior to being able to critique it and fully grasp the more theoretical aspect.”

Section 3: Moving towards conceptions of writing

What I realised through my interviews with colleagues and students, was that as I was given details of the types of writing that was done for modules, they were providing me with different ways in which to conceptualise writing. That is students and teachers identified certain values, uses, purposes, and attributes to these various modes of writing. In the later sections, I detail some of these conceptions of writing that emerged from my interviews. But in this section, I want to think more carefully through different conceptions of writing.

In the first section of this paper, I looked at how concerns about the quality of legal writing were nothing new. In trying to find ways to help law students improve their

⁸ I am a reluctant user of the IRAC method. I understand how it might help novice law students to make sense of complex problems, but I have several discomforts with the method mostly related to the ‘Rule’ element of the method. (1) It assumes that rules are static, and that legal reasoning follows the trajectory of an algorithm. This method negates the idea that rules are about creativity of interpretation and negotiability. (2) The method assumes that there is a pre-existing rule that can merely be applied to the facts. However, in the common law system of precedent, it is not possible to separate rule from a narrative of the facts. That is, if the facts change, then the rule might change as well. For further criticisms of the IRAC method see Graham 2015.

writing, the scholarship and policy documents cited in there, implicitly conceived of writing as a finished product. And, if the completed written product bore certain markers (e.g., clarity, conciseness, engaging), then that piece could be judged as being 'good writing.' That literature was primarily concerned about how to train students to be lawyers who could produce finished written products that were clear, concise, and engaging.

Some of this literature also conceived as writing as having an instrumental purpose – as a piece of writing that could, say, help judges come to a decision, or to communicate clear advice to a client, or to make a claim against another person. In these conceptions of writing, the 'quality' of writing was determinable by the effects produced upon the reader. For example, one author argued that good legal writing is essentially writing that satisfies the needs and desires of the reading audience, and in the context of *legal* writing, this means writing that promotes the readers ability to make important decisions legal readers need to make in the course of their professional duties" (emphasis in original. Osbeck 2012, 422). Another author argues that "higher-quality writing increases the likelihood of winning" in court. (Feldman 2016, 67). Thus, in these conceptions good writing is imagined through the effects or results it produces. The focus of this scholarship is to identify what good legal writing looks like.

In contrast, in the previous section where I looked at writing in a liberal educational space that focussed on law, it appears as if writing is imagined as a way to think about law on its own terms, as well as thinking about law in specific political or policy contexts. In this context, the focus on the essay is to encourage students to be able to synthesise different materials, to evaluate different sources and arguments, and to put forward a considered argument, supported by evidence. In other words, the essay in the context of law schools in England and Wales, seems to be aimed at helping students produce language as a way of producing thought.

In this section, I want to explore the types and role of conceptions of writing amongst students and teachers. Scholarship on students' conceptions of writing argues that these conceptions influence how students learn, which in turn impacts upon the quality of student writing. Some of this literature argues that beliefs about writing "among undergraduate writers [is] consistently related to writing outcomes in a dynamic model: beliefs → strategies → outcomes." (Lavelle and Bushrow 2007, 808). For the moment, I want to briefly go through some of the taxonomy of conceptions of writing that pedagogical scholarship has produced.

One fundamental question pertains to whether writing should be seen product or a process. As I noted above, the literature cited in the first section clearly understands writing as a finished product whose quality can be assessed by objective markers (conciseness, clarity, engagement) or by the effect it produces on its readers. These conceptions of writing understand it to be produced by a "basic, ideology free skill" that a "person can learn once and not think about again." (Wardle and Addler-Kassner 2015, 16). When this conception of writing as product is situated in a pedagogic context, typically, teachers will only assess the final submission of the student. This results in teacher-centred writing, that does not highlight student learning, emphasising form over substance. It also assumes that the product is a true reflection of a student's abilities (Phelps 1986; Durako et al 1997).

Research has shown that writing is a process (Emig 1977) and a practice that is often in continuous development well into adulthood (Kellog 2008). With the introduction of writing courses, law schools in the United States have firmly moved from looking at writing as a product, to understanding writing as a process and introduced writing programmes to teach students to look behind the product to understand how finished written products come into being. (Durako et al 1997, Parker 2010). I have only found one example of a law school in England and Wales that explicitly understands legal writing as a process (Griffiths 2021). This perhaps reflects the fact that writing pedagogy in the UK has been described as being in its infancy, where students are expected to come in with developed writing skills. (Wingate et al 2011)

Building on this insight of writing-as-process, a second conception focuses on the writing process' 'epistemic function' (Mateos and Solé 2012); that is, writing activities that help students in the learning process, which helps generate ideas and connections between concepts. (Elbow 1998). As Olson (1994) argues, this conception of writing as knowledge-generating is in opposition to conceptions where writing is seen as a mode of transcribing knowledge. In these conceptions, writing is a process through which students acquire ideas, clarifying them, and testing their validity. As Mateos and Solé argue, "The effort of making things explicit required by writing [...] helps the writer to think intensely about meanings, gives rise to the use of new words and concepts, requires self-regulation and leads one to become conscious of one's own ideas [...] We can say writing is a means of *transforming* thought" (55; emphasis in original).

Research shows that students who looked at writing as a learning process put more effort into finding references, integrating their readings, building arguments and had more a more sophisticated understanding of the concepts. In contrast, students who conceived of writing as a way to demonstrate their knowledge, merely presented information, did superficial research and did not synthesise different sources. (Campbell, Smith and Booker 1998). Bereiter and Scardamalia (1987, cited in Mateos and Sole 2012) have characterised this basic division of conceptions as 'knowledge telling' versus 'knowledge transformation'. Similarly, White and Bruning (2005) have argued that students with predominantly transmissional beliefs' about writing - where writing is seen as a way of transferring information - showed poorer quality writing as compared to students with predominantly transactional beliefs - where writing is conceived as an emotional experience which involves the development of understanding as the text is built. These differences in how writing is imagined can also be seen the written products (Campbell et al 1998). Students with 'knowledge telling' beliefs often produced 'multistructural essays' where students would list different elements of an argument. Whereas students with 'knowledge transformation' conceptions, produced 'relational essays' where different elements were integrated into a single coherent argument.

Deepening this analysis further, Lavelle (1993) conducted a psychometric analysis of undergraduate students' conceptions about college level writing and identified 5 types of conceptions of writing. In subsequent research (Lavelle and Zuercher 2001; Lavelle and Guarnino 2003; Lavelle and Bushrow 2007), Lavelle and her co-researchers categorised these 5 conceptions⁹ into two broad categories - "deep

⁹ Lavelle and Bushrow 2007, identify seven conceptions amongst graduate students.

writing approach, based on taking a proactive position geared toward making a new meaning and using strategies such as complex revision, and a surface writing approach, which is primarily reproductive and involves a listing strategy and a linear outcome or an “ordered” presentation of facts.” (Lavelle and Bushrow 2007: 808).

‘Deep’ writing, which would produce ‘relational essays’ (Campbell et al 1998) includes the following conceptions of writing:

1) Elaborationist: writers here search for personal meaning in writing and invest themselves in their project. They like what they have written and understand that writing is a learning process rather than merely as a prompt for a particular assignment. As a result, they concern themselves with audience.

2) Reflective-revisionist: writers here understand writing is an intentional process aimed at supporting an argument and therefore they view writing as an iterative process, involving revision a way to clarify thinking.

“Surface’ writing, which would produce unistructural or multistructural essays (Campbell et al 1998), includes the following ideas about writing.

3) Low Self-efficacy: these writers view writing as something to be feared, and as a painful undertaking. They do not see them as in control of producing good writing and will often be reliant upon teachers for basic guidance.

4) Spontaneous - impulsive: writers here conceive of writing as a one-step process, devoid of personal meaning. They do not understand writing as a process.

5) Procedural style: writers here conceive of writing as an adherence to formal rules with minimal involvement. The approach here is technical, aimed at just answering the question. There is a surface level focus here on the mechanics of writing rather than on producing meaning. There is no personal involvement, as writing is conceived here as something that is aimed at pleasing the teacher, rather than as an opportunity for self-reflection and learning.

It is important to stress here that these are conceptions of writing, not a description of personality types. An individual student may hold both deep and surface types of conceptions towards writing. Research has shown that, generally, deeper conceptions of writing are correlated to better results in text quality, while surface level conceptions correlate to worse results in text quality. (Martinez-Fernandez et al 2016).

Where the previous discussion emphasises a focus on individual conceptions of writing, a third type of scholarship conceives of writing as a social process. This insight can be taken in two senses. In the first sense, one writes in dialogue with other texts and with an imagined audience in mind and therefore one strives to make oneself intelligible to this imagined audience. When conceived of in this way, students learn the “needs of an audience, what the audience knows and does not know, why audience members might need certain kinds of information, what the audience finds persuasive (or not), and so on.” (Roozen 2015, 17). In a second sense, writing takes place in a community: through sharing of written texts in small groups or collaborative writing exercises where students build shared knowledge of

concepts. When writing is seen as a community activity, students “recognised that the construction of plausible and shareable explanations [...] through collaborative writing is of greater value than giving the right answer. Obligated to discuss what to write [...], the students had to express their ideas more clearly and continuously negotiate meanings. Engaged in a process of meaningful learning, they constructed their own understanding of [...] concepts” (Tynjälä, Mason and Lonka 2001, 16).

In both these senses, writing is a practice that takes place in certain ‘textual communities’ (Olson 2009, 144.) These communities evolve conventions for writing, reading and interpretation of texts and different disciplines have different ways of approaching texts. Thus, while writing can be conceived as a social process, it is a process that takes place in bounded communities. Writing is not simply something that one learns at a specific period of time (say, in school) and to be deployed in different circumstances (say in the undergraduate classroom). Rather, writing can also be conceived of as a process of enculturation into specific communities of knowledge. (Olson 2009). When seen as a process of socialisation into a particular discipline, writing is not be seen as the use of a pre-learned skill that is deployed in a new context. Rather, it is seen as a way to bring students into new disciplinary communities.

In the next sections I outline two predominant axes along which students and teachers conceptualised essay writing. The first is whether writing is conceptualised as a process or product. Students, by and large, understood essay writing as a process and wished they had more opportunities to practice their writing. Teachers, also understood writing as a process, but assumed that this was something that students would do outside of the classroom and on their own. This led teachers to focus on writing as a product, with some input into understanding writing as a process.

The second axis along which teachers and students understood writing was on whether writing was a knowledge telling experience of a knowledge transforming experience. Students by and large, understood writing to be a process of listing different arguments, i.e., a knowledge telling exercise. Teachers, in contrast, hoped that student understandings of law – legal concepts and their place in the world – would be changed by the writing process.

Section 4: Is writing a product or process?

Students: writing as a process

Students largely understood writing as a *process*. This came up most starkly when I asked them to compare the experience of writing in university to what they went through in high school. In high school, students were given the opportunity to write essays several times and were given several rounds of feedback on their essays.

Reflecting on their A-level writing experience, one final-year student said, “In high school, we were given instructions on how to write – not just how to answer a question, but things like ‘one point per paragraph’, evidence and argument. It was very much practically engaged in those in those instructions – it was not just instructions, you also had to practice those instructions’.

This same student went on to detail how they engaged with the writing process in high school:

“[During the year] we would be given a topic and we would try writing an essay on that topic. Then we’d read out parts of the essay in class, get comments, and then we would re-write parts of these essays in class. We sometime worked on our essays in class, but there were also writing exercises in class that was separate from the essays. So, you would have a lot of opportunities to write, get to read your work and other classmate’s work and you’d get feedback through that process.”

This student went on to detail the writing done in class (that was not related to the essays). This included, ‘first thought’ paragraphs about particular readings; responses written in class to student-presentations; and responses to writing by other students. The student emphasised that this way of writing enabled them to practice writing constantly, and helped them clarify thoughts and ideas, and enabled them to think creatively. This constant process of writing and feedback through in-class comments, enabled them to become a better writer, and was able to develop their “own writing style.”

Other students had a more grade-oriented view of understanding writing as a process. Reflecting on their A-levels, one said

We would be given an essay title to help us practice. We would write a draft out an essay and do multiple drafts of an essay. There were so many practice questions being given, and so much feedback given. And not just feedback, but it was corrected with marks. We wrote like four or five drafts of on a single topic, and after we’d got so much feedback, we knew what exactly we were supposed to be doing. Like I know that if I submit something I’ll get a certain mark, and I know what I need to do to get a, like, a [high grade]”

As Wardle and Addler-Kassner (2015) highlight, writing here is conceptualised as something that one continues to develop and not as a static skill that a person learns once. Writing is something that is developed over a period of time, through repeated practice.

When they came to university, students often expressed a shock about the lack of opportunities to practice their writing. As one student told me,

The biggest [difference] was being completely autonomous. For the first time, you are completely on your own, which is really weird. Which is what, you know, you expect from university, but it’s still weird. You do your writing, you don’t know if you are doing it right or wrong, until you submit it. There is no way to know if I’m going on the right or wrong track, you know? And obviously, I understand, [teachers] can’t look at your work early on - there are so many of us [students] - but you are really on your own.

This feeling of suddenly being left adrift in the writing process in university contrasted with their experience in high school where students had the opportunity to practice their writing (and receive feedback on it), there were very few opportunities to do so at university.

Students appreciated the fact that their teachers gave them detailed guidance on what was expected from their written assignments (which I detail in the next section). “The problem is,” according to one student “is that we never practice writing.” Another student told me:

We’re given all this guidance, PowerPoints, and other things. This is great and really helpful - it is good to have these instructions. But – in high school you had to keep practicing these instructions – whereas at university this was not at all the case.

Students told me how they appreciated the fact that teachers gave them so much guidance. In additions to the one mentioned just now in the quote, teachers provided essays written by students in previous years; model essays (the authors of which, were not certain); in-class lectures on how to write; and written guidance on the components of a good essay in each module. However, one of the consistent responses from students about these was they were appreciated, but what they would have liked would have been opportunities to practice their writing.

This is reflected more clearly by one of the students who spoke about the ‘model essays’ that some teachers provided. These were provided by teachers to students to help students understand what a good essay looked like. When asked if they found the model essays helpful, the student replied

Yeah, I don’t know... I think most students can tell what a good essay looks like. But it’s also how to get there. And we’re not really practicing that. We don’t know the steps we have to go through to get there. And you also have to find your own style and that it takes time and practice.

One avenue that students did have to practice their writing and obtain feedback was via the mock essay that a number of teachers schedule into the term. This is an opportunity for students to do a piece of writing that does not count towards their final mark. Students appreciated the opportunity to do this piece of writing, the guidance and feedback provided - especially in one of the first-year modules - but at the same time drew attention to some of the issues with it.

First, that it was a one-off opportunity. Students felt they needed more opportunities to practice their writing. Second, where feedback was provided, they felt that it was given too late, towards the end of term when assessed assignments were due. Third, they felt that the feedback was too vague and did not provide enough guidance for improvement. According to one student, “One of the comments I got was ‘explain more’ or ‘not enough here’. But I’m like, I didn’t know what more I could say. If I knew what to say, I would have said it.’ Another student said “I got a word - ‘confusing’. But I didn’t know what was confusing about it. It really confused me.” On the question of timing and depth of feedback, most students were acknowledged the work pressures and the effect of increasing student numbers on their teachers, but still felt a bit short-changed in the process.

In my interviews with students, when the issue of mock assignments came up, I said that the vast majority of students do not do these formative essays. Most did not have an explanation for this. Some wondered if it was timed badly (for e.g. just after the winter holidays). Reflecting what Lavelle (1993) might call a ‘low self-efficacy’

conception of writing, another suggested that students were just too intimidated by the act of writing. This student said, “look we’ve never written anything in university before. I know it’s a good opportunity, the mocks, to get feedback yeah? You get to see how you are doing. But I think I was just too scared to do them.” As I pressed this student about what they were scared of, I got the sense that, even if the practical stakes in undertaking this writing assignment were nil, it was almost as if the act of writing would reveal to themselves, their own inadequacies. The implication being that students might have undertaken these mock assignments, if they had more time to engage with writing process at the university level.

There were two ways in which students were able to engage with writing as a *process*. The first way was through an ad hoc Legal Skills Lab that was set up for law students. These workshops were intended for students to develop skills to evaluate their own writing which would help them work on a particular piece of writing. In this lab students said they were shown ‘how to write’. Reflecting on these sessions, one student said

There were examples [essays] on PDF. We weren’t given the examples to copy them – of course not. But we were able to see what an essay might look like. And then we were given time to practice these essays. Like we could see ‘oh this doesn’t work’ or ‘this is how you do this’ or ‘this the method you should use to do this.

What is evident here, is the idea that students valued writing as a process. According to another student “It really helped me read my own writing and figure out what was going on. It gave you the chance to understand what was good or bad about your writing. And then I got to realise how I could revise my answer.” What the students valued here, was not so much the feedback that was provided in these workshops, but rather the act of writing and rewriting as a way of improving their submissions.

The second way was through peer support from their classmates and students in the higher years, and so doing explored writing as a *social process*. Perhaps to counter the feeling of being left alone to write, students sometimes organised themselves into study groups, where they would come prepared with written answers to particular questions and provide each other with feedback. According to one student “this was really good, we could maybe see if this argument was developed enough or not or see if there was a problem where something was just being summarised, or if something was not clear.” Some students did this after they received their marks on their assessed writing:

After the marks came out in [one subject] a lot of us just got together and discussed our feedback. We read each other’s essays, discussed the feedback we got and kind of tried to put together how to make our writing work.

This understanding of writing as a social process was also inherent in a more formalised peer mentoring system set up by the institution, where intermediate and final year students help first year students: “she was amazing and a huge support, like she really explained to you how to write essays and would read my essay and give me feedback on structure, clearness, and things like how to make an essay plan.”

What is explicit in these narratives of the writing process is a conception of writing as a repetitive process. That is, students wrote and wrote again. What students paid less attention to but remains an equally important part of the writing process is the feedback they received from their teachers and their peers, and the ability to revise their work. What remained implicit in these narratives is a recognition of what they were doing in this process of writing, and revising - the idea that they were learning about the content of the ideas in their essays and learning about how best to express their ideas.

Teachers: Acknowledging process, but focus on product

Teachers were also mindful of the idea that writing is a process. As academics and writers themselves, they all articulated the idea that one must write, read one's writing, and rewrite. This conception of writing as process came up in different ways. When asked what advice they would give students about writing, one teacher told me, "The most important element is time. They need to make time to read and to write. And then to reflect on their writing. And then edit their writing."

The main idea that emerges here is an acknowledgement that through writing a student comes to ideas, and that the student can – and ought to – refine and evaluate these ideas in their writing, through a process of revision.

The main point of divergence from the student conception of writing as a process was in how much the teacher – at the university level – should be involved in the process. Most teachers understood that writing was a process of drafting, revising and re-drafting, and that writing took constant practice – but they understood it as happening outside of the classroom and hoped that students would write in their own time. For instance, one teacher said that she expected her students to come with written answers, or at least notes towards answering the tutorial questions.

I guess we assume, expect and hope that they're going to write answers to the tutorial questions. But it's not like we ever collect them, check, and give feedback. We just don't have the time for that.

This teacher similarly articulated the idea that writing is a process – but that it was something that happened on the students' own time, outside of the classroom. Because teachers conceived of writing as a process that happened elsewhere, they often provided detailed guidance about what they expected from their written assignments.

In several modules the teachers provided in-class guidance about what is expected from student assignments. They focus on building arguments, research and sources, structure, and stylistic requirements (such as citation and formatting style). Additionally, teachers provide links to online videos and other sources to help students with things like how to go about research, how to structure an essay, or what 'critical analysis' looks like. In acknowledging that writing at the university-level is seen as difficult, teachers, in providing these resources, are trying to provide as much guidance to students through their writing process.

The guidance in some modules can be quite detailed. For example, the assignment in one module was a to write an official report on a particular area of law. The

guidance on the module website as well as slides shown in class were clear on what was expected from the assignment, including pointing to particular real-world examples of what this form of legal writing looks like. The teacher then offered to provide feedback and guidance on a “skeleton report” (i.e., an outline of the final report):

I actually explained to them what reports are and I give them examples of reports something about different ones about parliamentary reports and so on. And I say that there isn't a single format, but there are certain rules which apply across the board, and I try to explain how to how to approach this. And even if only half of the students send in a skeleton, those that send you the skeleton reports produce astonishingly good work.

There is also an awareness here that writing is a process of drafting and redrafting and that students need to give time to this drawn-out process of writing.

The people who think they can write it in the last 24 hours, but because if they do, they do a terrible piece of work and that's what the main issue is.

In this teacher's conception of the writing process, students needed to understand what the assignment was about, should have understood the detailed guidance and examples provided, should have submitted an outline for feedback, should have revised their drafts considering the feedback, and should give themselves enough time to write and revise their drafts. While guidance for writing was given in class, the writing itself and feedback for writing was done outside of the classroom.

Teachers perceived a good written submission was a product of time taken to go through the writing process, of writing, of thinking about one's own writing and rewriting. But the focus of teachers was on the final product, i.e., the submission made by the student, as that was the piece of writing that was assessed. For the most part, the process of writing was seen – as essential as it was – as something that students must do on their own, in their own time.

Section 5: Are essays meant to be ‘knowledge telling’ or ‘knowledge transforming’?

Students: writing as a knowledge telling product

Another axis along which writing was conceptualised by teacher and students was whether writing was a ‘knowledge telling’ or ‘knowledge transforming’. As a ‘knowledge transforming’, the writing process serves an epistemic function, where writing is seen as a learning process. Whereas as a ‘knowledge telling’ process, writing is seen as a way to present information and arguments. As highlighted earlier, ‘deep’ conceptions of writing understand the writing process as a way to develop and transform one's knowledge, whereas more ‘surface’ conceptions of writing understand it to be a process of reproducing or transcribing knowledge.

This idea of writing as ‘knowledge telling’, as noted by Mateos and Solé (2012), dominates most student conceptions of writing. That is, most students conceived of essays as listing information obtained from the module about a certain topic. This idea comes across strongly in the interviews I conducted with students. For instance,

when I asked one student what the purpose of essay writing was in her undergraduate law degree, she gave me a frank answer

For lack of better word, regurgitating what was it in the lectures or in the tutorials and using the very same words or rewording the arguments made in the suggested reading... That's what I understood as being what was wanted through the essay - but maybe that's not what was wanted by the lecturers - but that's what it felt like.

While other some other students did not use such stark language to describe the purpose of essays they were, in effect, communicating the same idea that writing was about repeating the content of classes and readings. This idea is present during moments in my interviews with students, where students stated that the purpose of the essay was to prepare for the final examination. According to one student, "I think essays are meant to help us to see if we are understanding the law right. It's kind of like a heads up on how we are doing before the exams." And according to another, "It's sort of practice for the exams. It helps teachers to tell us if we are on the right track. And if you mess up in your essays, you can know the wrong answer and you can correct that in the exam." In these conceptions of essays – especially since essays were thought of as preparation for exams – writing is meant to enable the teacher to check if students have presented what was learned in the module and if they have presented the 'wrong' answer, the teacher can correct it in time for the exams.

This idea of essays as 'knowledge telling' is present in some students' conceptions of essays that were in the style of 'problem questions.' When I asked one student why they were given these types of essays, they replied "to make sure we know the law" that they were taught in class. They continued:

I make notes in lectures about the cases. So those obviously are the important ones that I should include in my answer. If there is anything that comes up in tutorials, I make a note of that too. And when I begin writing the essays I know what to reference and write about.

Here the essay is conceived of as a citational practice, where concepts, cases and rules mentioned in class are referred to in the essay.

What is also evident in the previous quotations from students, is a very thin conception of law. What is missing from them, is an understanding of how to understand how certain facts are translated into legal issues, how to find a rule, how to understand the limits of a concept and how concepts can be creatively employed. Rather than understand the law as a discursive field where multiple arguments are possible, and where different archives of legal rules may be brought into play, the law here is conceived of as a set of rules that operate in an almost mechanical manner.

Students felt that these types of 'problem question' essays were meant to reflect 'real world scenarios' that they would be presented with if they went on to practice law. That is, they had to know when a particular concept was relevant, and what the limits of that concept was. But the way they went about answering these questions was less about finding applicable rules and understanding how to create an argument,

but more about demonstrating knowledge about different potential arguments for different parties in the fact matrix. I asked one student how they approached these problem questions.

I think a problem question is more on application of whether you've understood the law or understood the technicalities. It's not so much on how much you've read or how much you've like like it's it like to me. To show how much you've understood the law. You know the rules. You know the case law. You know the statute. The problem question is like like to show you know how you apply the law.

I have left this quote unedited as it shows an uncertainty of the purpose of the problem question. This student ultimately understands the problem question showing the teacher that they know the cases, statutes, rules and the extent to which a concept is applicable. In order to do so, students would present arguments for all sides to the legal dispute present in the fact matrix, and then arrive at a conclusion. This is what Campbell et al (1998) would refer to a 'multistructural essay' where "in which several relevant independent elements are used in sequence." (Ibid, 450). In this form of knowledge telling, students present a serial listing of different elements of an argument. In the context of problem style questions, in this serial listing of different arguments in the context of a fact matrix, students shows some reconstruction of information.

This idea of the essay as transcribing knowledge, albeit in a 'multistructural' way, extends to conceptions about 'essay type' questions as well. Students understood the aim of this type of writing was to enable them to consider policy or political implications of certain laws. Students, by and large approached this in a manner similar to the way in which they approached problem questions. That is, they listed arguments for and against a particular idea, and then came to a conclusion. Some students felt that they only had to list arguments that were contained in classes and readings. That it is, they were not meant to show research or evaluation of these sources, but to be able to list and evaluate pre-given arguments contained in the module material.

I thought when I came to uni[versity] I would have to do a lot of my own research you know and be autonomous, you know, to write my essays. I was really scared. I mean it would be challenging and I wanted to do it, but, to be honest I was scared. But when I got here, I tried to do it. But I didn't feel I was encouraged to, you know, to do my own research or sort of evaluate sources, and sort of determine the value of certain sources and then write an essay based on based off my evaluation of a bunch of sources.

Instead, according to this student, the purpose of the essay type question was to show the teacher that the student understood the different arguments presented through the module, on a given issue and was able to evaluate those arguments. This comes across more explicitly when another student told me "I think lecturers just want us to focus on the readings given in class, lectures and tutorials." They continue

They want us to show that we know different arguments about different issues. When answering a question like "This law is not needed. Discuss". We have to show we know the arguments for, and the cons and come to a conclusion.

To some other students, the essay was understood as a way to show a breadth of research and reading. According to one student the purpose of the essay question was for the student “to show how much you’ve read in terms of like a journals and academic commentary on certain issues.” Similarly, according to another student “the most important thing is to do your own research and incorporate that into your arguments.” When pressed on how to ‘incorporate’ this research into your arguments, the student said they would rely on materials provided in the module and then cite additional material. Thus, there were a pre-given set of arguments that could be made, they found material to back these arguments, they listed different arguments, and then came to their own conclusion.

The idea that the essay as a ‘knowledge telling’ exercise also comes through in what students’ understandings of what a good essay looks like. Reflecting what Lavelle (1993) called a procedural style of writing, here there was a focus on the mechanical elements of writing, on referencing formats, on how to show the structure of an argument. This suggests that students have ‘professor-centred’ (Edelman et al 1997: 721) approach to writing, which encourages them to “imitate writing styles [...and] generate writing that is replete with run-on sentences, multi-syllabic words, obscure latin phrases, and jargon that they may not understand.” (Ibid). When asked what they thought good writing looked like some students answered that it could include things like sophisticated writing or writing at a ‘university level’ (examples provided were ‘do not write I’, ie not in the first person; ‘you shouldn’t write ‘don’t’. You should write ‘do not’); formatting (examples given “things like font, margins and paragraphs”); and “right lingo” or writing in a “legal sort of way.” Here, instead of a focus on finding the best ways of expressing oneself, there is an imitation of surface level, sometimes cosmetic, characteristics of what writing is imagined to be.

Some students however, thought of writing as a process of ‘knowledge transformation’ and students understand epistemic function of the writing process. Reflecting what Lavelle and their co-authors might consider a ‘deep writing’ approach, students represent the process of writing, to themselves as “simultaneously in terms of a problem of what they want to say, and the problem of finding the most suitable way to say it” which then leads students to “enter a dynamic that may lead them to modify both their initial knowledge about the topic and their discursive knowledge” (Mateos and Solé 2012: 56). For instance, when asked how one student approached writing, they replied,

You need to find out what kind of angle you want and how you want to answer the question. You need to do some reading and see if you can find things to support your argument. You may need to change your angle.

This student also highlighted the way in which they went about their research for their essays - initial argument, notes on readings, revise argument, finding examples to support argument, considering counter examples, revise argument. They also highlighted aspects of writing like ‘finding your own style of writing’ ‘so that you can be as clear and concise as possible’. The same student said that they preferred ‘essay style’ questions to ‘problem style’ questions. Their reason for this is that, according to this student, was that there was little scope for creativity and building through in a problem question. The trajectory of a problem question was set by the problem, and the student’s job was to apply the rule, in a step by stem manner,

almost like an algorithm or flowchart. According to the student the 'IRAC method was not flexible', but the 'essay type' question was more 'flexible' as it allowed the student to explore their own interests and learning.

Teachers: writing as a knowledge transforming process

In contrast to student conceptions of writing as presenting information or listing arguments, teachers understood writing as an exercise in 'knowledge transformation' and hoped students would provide what Campbell et al (1998) would call 'relational writing'. That is, unlike multistructural writing (as seen in the previous section) where students listed out aspects of different arguments, relational writing involves the integration of these multiple elements into a single coherent argument. A relational essay reflects a deeper learning, where students' knowledge is developed during the process of research, writing, and revising. This type of writing involves the reprocessing of knowledge and finding ways to express this. Teachers expect students to go through a process of writing, reading, and rewriting to help them transform their own thoughts and modes of thinking. That is, teachers understand the writing process as a way of enabling students to process their own thoughts about an idea.

Many essays assigned by teachers reflected this imagination of writing. For example, in one module, students were asked to analyse a judgment from the vantage point of a particular theory. Students are free to choose the case (in a particular area of law) as well as their theoretical perspective. The written guidance on the module's website asks students to think about how to reconstruct the decision – the context, the arguments presented and the judgment – through the chosen theoretical perspective. The aim here is to get the students to think through how a different vantage point can highlight something new about a case. According to one of the teachers on this module, through this assignment, they hope that students are able to see judgements as not just 'law' but as a discursive field: that there may be rhetorical steps in a judgement that implicitly rely upon certain understandings hierarchy in society; or that a judgment may have different real-world impacts. In asking students to undertake this exercise, the teacher hopes that students will be able to simultaneously widen and deepen their perspective of how law and society interact with one another.

In another module, the first essay revolves around a single foundational text, which describes a method of legal analysis particular to that field of law. Students are asked to write a response to this article, and according to the teacher, it is aimed at helping students to understand how this method of reasoning is different from methods in other fields of law. The second assignment in this module, builds on this first assignment, by asking students to think about this method of reasoning, while writing about a legal issue. The aim of the two assignments according to the teacher, is to "get the students to think differently. They have never thought like this in this method." The first assignment is meant to help students think and reflect on what is particular about this method of law and the second is meant to help students think through a particular issue, through this method of reasoning.

Similarly, another teacher assigned essay titles and students could choose one to write on. In writing their essays students were guided into framing their essays through one or more of the readings assigned during the module. The aim, according

to the teacher was to allow students to think through a particular issue with reference to an idea contained in the readings. In effect, the issue that students will have to grapple with according to the teacher is how “to understand the reading, how to translate the reading into a particular context, and how to translate this understanding into their own writing.”

While in the students’ mind, ‘knowledge telling’ is most associated with the problem question, teachers understand this type of writing also as a form of knowledge transformation. The basic aim of the problem question, according to one teacher, is to help students rethink about everyday experiences into legal questions. To paraphrase one teacher, the basic skill in a problem question is to help students see that daily life is replete with legal questions: is clicking ‘I accept’ on a website a form of a contract? If I trip and fall on an uneven pavement, has someone been negligent? The basic skill involved in problem questions is to reframe real world events into legal issues.

In doing so, students can understand the content and limits of legal concepts. According to one teacher, while another basic aim of the problem question is to “check how students have understood certain legal principles and apply to certain facts”, the more important point is to see how they are able to “work through their understanding of concepts” when they are presented with a fact matrix. That is, the teacher hoped that students would be able to understand how “facts and concepts interacted with one another.”

What is evident from this discussion is that teachers understood writing to be a process of knowledge transformation. That is – when speaking about ‘problem questions’ – they understood that looking at a set of facts and discerning legal issues shows a development of legal thinking, and the ability to understand how facts and concepts influenced each other, showed the ability to ‘think like a lawyer.’ When thinking about essay questions, teachers understood these forms of essays as enabling students to think through political, conceptual or policy issues around specific areas of law. Thus, writing here was thought of as a way for students to bring together their thoughts and produce language about a particular topic.

Conclusion

During my interviews, there were other conceptions of writing that students and teachers both articulated, but I could not elaborate on in the limited space of this essay. For example, some students expressed a certain sense of joy and accomplishment in their writing. One student said that they felt a real sense of accomplishment when, during the process of writing, they “finally got it. I finally realised what my argument was.” Another student said they felt “really satisfied about my [assignment]”, when they produced an essay on a topic that they were really invested in. On the teacher side, teachers expressed a sense of pride when students produced a good piece of writing. One teacher said “some of the work is so attractive, and has such nuanced legal arguments.” Here is another quote, “some of the writing is so good. You really get a boost as a teacher.”

Another significant theme is that writing was a burden or something to be feared. There are hints of this that come through the interviews from students and teachers that I have quoted in this paper. Students felt intimidated by writing at the university

level, by the alien language of law, by the formal requirements of writing (such as referencing and formatting). Teachers also felt that student writing was a burden - but mostly because of a drastic increase in the number of students in undergraduate classes. One teacher noted that in 2019 their module may have had 40 to 50 students. This year, according to the teacher there are around 150 students. Another teacher said that in previous years they had “30 students take [their module], the problem is that last year I had 80 students and this year I have 92. So that has led to a set of challenges.” These challenges not only meant that there was an expansion in the sheer number of essays that needed evaluation, but also that teachers were not able to give enough attention to providing adequate feedback.

Notwithstanding these large structural problems, I want to spend the concluding section thinking about ways to address some of the issues brought up in this article. That is: how can we address students’ desires to practice writing? And how do we encourage transformational understandings of writing amongst students? And how do we shift students’ conceptions of writing, from looking at it as a knowledge telling practice to understanding it as a process of creating thought. Given that the law school in England and Wales is conceived of as a liberal arts degree with additional focus on law, how do we ensure that the academic essay becomes a way for students to think through an issue and produce language to advance an argument. Further, given concerns around Large Language Models such as ChatGPT, how do we ensure that student writing helps students in their learning process?

One answer is to focus less on the product and more on the process. While grading systems like labour-based grading may not be feasible in contexts with class sizes numbering in the hundreds, a focus on the process of writing may encourage students to engage with writing as a learning process, with the result of improving the quality of their written products. There are several writing-to-learn techniques that have been widely used in classroom settings in the US which can be used in UK classrooms. Research in UK undergraduate class-settings indicates that these techniques can be used to improve student learning, their writing, and their satisfaction with the module (Wingate et al 2011).

These techniques are often in-class teaching methods that are embedded in the teaching of individual modules. These may include: free writing at the start of every class; process writing to help students conceptualise ‘what just happened’ in classrooms; or more guided techniques such as dialectical notebooks which encourages students to respond to each other’s writing; ‘writing in the zones’ or ‘loop writing’, both of which enable students to approach an issue from different angles; ‘believing and doubting’ which can help students evaluate arguments. Using these techniques in the classroom may be one way to enhance writing and learning, as they will encourage students to write in class, rather than rely on them to do so outside of the classroom. More importantly, writing in the classroom promotes social and collaborative knowledge building (Tyjnala, Mason and Lonka 2001, 16). Teachers may want to undertake other writing-based activities to move students from these in-class informal writing to more formal written pieces, such as essays for submission.

While these writing to learn practices may help students with their writing, the issue of feedback to students remains a pressing one. Students, in my interviews with them, were quite nuanced in differentiating between writing as a process and their

desire for feedback. While they understood that teachers, overburdened with large student numbers could not provide feedback on every piece of writing, they still desired the opportunity to practice their writing. Writing-to-learn techniques are helpful to address students' desire to practice their writing, and as they engage in collaborative knowledge building through sharing writing with each other, they are also able to work on their writing skills. If these processes are guided by teachers, feedback from teachers in the form of written comments may become less relevant.

Research at UK universities suggests that writing support at universities is idiosyncratic and ad hoc, in addition to being extra-curricular and generic (Wingate 2011). Generic writing support, that is conducted outside the classroom assumes a dichotomy between content (that is taught by specialist teachers) and form (that is, writing taught by generalist writing teachers). However, research suggests that writing should be taught by teachers in the discipline as they are "insiders of the discourse community, are in the best position to induct students into relevant literacy practices" (ibid., 70). The idea that an 'insider' perspective is needed is borne out by my interviews with students who said that they did not turn to the general writing support provided by the institution, because the advice and support was too general. Further, ad hoc initiatives such as writing workshops or writing boot-camps (such as the one mentioned earlier in this article), while laudable, are disadvantageous because students often do not use them as they do not bear credits and students only turn to them just before submission. Embedding writing-based-teaching practices in the classroom will help students to develop writing skills while thinking and learning about the law.

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