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*Writing Workshops for First Year Law: my contribution as an applied linguist*

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## **Writing workshops for first year Law: my contribution as an Applied Linguist**

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### **Writing Workshops for First Year Law<sup>1</sup>**

An assessment item within a unit of study requiring a written response will assess your ability to communicate in writing, even if this is not explicitly stated anywhere in the instructions or assessment criteria rubric<sup>2</sup>. In order to support you with first year written assessment requirements Weekly workshops will be offered in Semester I. The workshops have been designed to assist in developing critical reading skills and improving your academic writing style. By analysing the form and function of legal texts, you will gain an understanding of the writing conventions for different genres, and develop control over your academic writing. To complement face-to-face teaching, all workshop materials and slides are uploaded to VU Collaborate allowing you to preview resources prior to the workshop. Please join us if you are interested in learning how to identify the different language elements and features in the following texts:

- i) A court report
- ii) A research essay
- iii) An annotated bibliography

NB. The workshops have not been designed for any remedial cohort; if you are a student who wants to build competence and confidence in your academic professional writing, a very important skill for any Law student, then these workshops are relevant to you! Let's face it, writing is a skill that everyone can improve!

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<sup>1</sup> This was the description of WWFYL uploaded to the First Year Law Website to advertise the program to students and staff.

<sup>2</sup> N. Corbett-Jarvis and B. Grigg, *Effective Legal Writing: A Practical Guide* (Chatswood, NSW: LexisNexis Butterworths, 2014), 92.

## Writing workshops for first year Law: my contribution as an Applied Linguist

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### Introduction

“Law schools should focus more on teaching writing — not some Procrustean monstrosity called ‘legal writing,’ but the ordinary techniques of constructing a sentence and telling a story”<sup>4</sup>. Threshold Learning Outcome 5 requires Australian Law graduates to be able “to communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences...”<sup>5</sup>. We also know that embedding learning outcomes or graduate attributes throughout a program encourages progressive learning.<sup>6</sup> Furthermore, the whole of degree curriculum design undertaken from a shared perspective “... has been found to better meet the needs of industry and students, in comparison with focussing on what occurs in individual subjects”<sup>7</sup>. In the absence of any whole of degree curriculum, the semester long series of Writing Workshops for First Year Law (WWFYL) was created. Building on the success of past collaboration (Curró and Longo)<sup>8</sup> WWFYL reflect a move away from a solitary, silent teaching culture to open sharing of practice. The widening participation and skills agendas remind us of the need to focus on the integration of academic literacies into Law. If Law is language, can Applied Linguistics make a contribution to the literacy needs of students from diverse linguistic backgrounds? As an applied linguist, my objective is to raise awareness of the elements and features of legal writing and demystify the specialized discourse and textual features. In this paper I present the theoretical framework underpinning WWFYL. My intellectual contribution is borrowed from socio-constructivist and social theories, focussing on how students learn specific subject matter in particular contexts “... a teaching and learning process that makes transparent the practices and discourses of the subject area.”<sup>9</sup> Intersecting classroom social practices, therefore, is genre pedagogy, in order to demystifies specific styles of writing and provides students with useful linguistic tools. To this end, I present two snapshots of classroom discourse demonstrating the practical application of my teaching, as well as evaluation data supporting my approach.

According to Lea and Street<sup>10</sup> writing and learning are “issues at the level of epistemology and identities... An academic literacies approach views the institutions in which academic practices take place as constituted in, and as sites of, discourse and power. It sees the literacy demands of the curriculum as involving a variety of communicative practices, including genres, fields and disciplines.” In relation to classroom practices, the field of Applied

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<sup>4</sup> From a review by Kermit Roosevelt of *Divergent Paths: The Academy and the Judiciary* (Richard A. Posner, 2016) Harvard University Press. <http://www.nytimes.com/2016/01/31/books/review/richard-a-posners-divergent-paths-the-academy-and-the-judiciary.html>

<sup>5</sup> N. Corbett-Jarvis and B. Grigg, *Effective Legal Writing: A Practical Guide* (Chatswood, NSW: LexisNexis Butterworths, 2014), 5.

<sup>6</sup> R. Lawson, T. Taylor, E. French, E. Fallshaw, C. Hall, S. Kinash and J. Summers, “Hunting and gathering: new imperatives in mapping and collecting student learning data to assure quality outcomes,” (2015) 34 *Higher Education Research & Development*, 581.

<sup>7</sup> Ibid.

<sup>8</sup> Curró, G. and Longo, M. (2014) Educating Humpty Dumpty: statutory interpretation in the first year of Australian law, *The Law Teacher*, 48:3, 321-345, DOI: 10.1080/03069400.2014.965953 (published online at: <http://dx.doi.org/10.1080/03069400.2014.965953>)

<sup>9</sup> D. Warren, “Curriculum design in a Context of Widening Participation in Higher Education,” (2002) 1 *Arts and Humanities in Higher Education*, 88.

<sup>10</sup> M. Lea and B. Street, “Student writing in higher education: an academic literacies approach”, (1998) 23 *Studies in Higher Education* 159, DOI: [10.1080/030757079812331380364](https://doi.org/10.1080/030757079812331380364)

Linguistics has made a huge contribution to understanding the complex relationships between learning and teaching in adult post-compulsory educational settings.<sup>11</sup> This view of learning focuses on the “discipline-specific interest of the characteristics of classroom discourse.” By interrogating classroom practice teachers begin to understand more about “the active role of the learner in learning”.

Like Ivanič and Tseng, I approach legal writing by privileging learning processes and practice (how) over knowledge (that)<sup>12</sup>. It is important to have an “understanding of learning as a prerequisite to making recommendations about effective teaching”. Ivanič has put forward six views of writing and learning to write: skills, creativity, process, genre, social practices and socio-political discourses<sup>13</sup>. She argues that teachers of writing must understand the pedagogic practices associated with the six discourses and be able to recognise which discourse(s) they operate in. Operating in Ivanič’s genre discourse of writing<sup>14</sup>, I view writing as a set of text-types, shaped by social context. I believe that learning to write involves learning the characteristics of different types of writing, which serve specific purposes in specific contexts. In the multilayered view of language I focus on the writing event, and my approach to teaching of writing is the genre approach (explicit teaching of textual features). “Text type, context and purpose for writing” matter most in my teaching design and delivery of writing workshops. For example, in the first workshop broad distinctions among text types required in first year assessments - narrative, descriptive, analytical and critical texts – are taught explicitly. Students are guided to specific language items which signal to the reader a certain text type or genre.

### **Integrating academic literacies into assessment tasks**

Educationists have known for some times now that formative assessment drives learning<sup>15</sup>. I knew that the workshop program needed to be directly relevant to attract busy Law students, so written assessment tasks became my focus. I aligned the workshops to specific assessment, and scaffolded the instructions of first year tasks, so students understood the expectations of writing different genres in first year units. To justify to staff and to students the importance of writing for Law assessment, I used the following quote on the first year website and also in the first workshop: “An assessment item in a unit of study requiring a written response will assess the student’s ability to communicate in writing, even if this is not explicitly stated anywhere in the instructions or assessment criteria rubric”<sup>16</sup>. Based on that argument, authentic assessment tasks became the organizing framework for the workshop design. In order for students to be able to identify the legal writing style required for a specific assessment task, the differences among the genres of legal writing needed to be made as explicit as possible. The learning outcomes, assessment tasks and rubrics for each first year unit were studied carefully. From reading the unit of study guides, the following writing styles - reflective, descriptive, critical and analytical texts – were identified as the genres

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<sup>11</sup> R. Ivanič and M. Tseng February 2005 Research Report National Research and Development Centre for adult literacy and numeracy

<sup>12</sup> R. Ivanič and M. Tseng February 2005 Research Report National Research and Development Centre for adult literacy and numeracy, 6.

<sup>13</sup> R. Ivanič (2004) Discourses of Writing and Learning to Write, *Language and Education*, 18:3, 220-245.

<sup>14</sup> Ibid., 225.

<sup>15</sup> John Biggs (1998) Assessment and Classroom Learning: a role for summative assessment? *Assessment in Education: Principles, Policy & Practice*, 5:1, 103-110, DOI: 10.1080/0969595980050106 <http://dx.doi.org/10.1080/0969595980050106>

<sup>16</sup> N. Corbett-Jarvis and B. Grigg, *Effective Legal Writing: A Practical Guide* (Chatswood, NSW: LexisNexis Butterworths, 2014), 92.

students were expected to be produced in the assessment tasks. Those writing genres became the targeted genres in my design the curriculum for WWFYL. For example, in the introductory workshop students are shown how to analyse sample texts, by highlighting the elements and features of reflective, descriptive, critical and analytical texts. Context, purpose and readership matter as much as language and grammar. My goal is to inspire curiosity and interest in how language functions in legal texts, by guiding them to the legal writing genre most appropriate to the assessment task. The initial slide of each workshop presented the desired learning outcome to students, (see below).

*Workshop 1: Identifying the type of legal writing required for an assessment task*

**Learning outcome**

On completion of this workshop you will be able to identify some of the language elements and features of the following texts:

- a. descriptive
- b. analytical
- c. reflective
- d. persuasive/analytical or critical or argumentative

**Snapshot of classroom discourse (1)**

Setting up the conditions for a safe learning environment in the interests of dialogic and constructivist approaches I ask students to self-select their workgroups, after which I introduce myself, telling them my background and the aims of the workshops. I engage with students about their backgrounds and experience and what motivated them to study Law. Next I move to their background of experience in writing. Once they begin to describe different types of writing e.g. reports, essays, emails, letters, creative writing, I ask them to tell me about the style of writing those documents require. Next I ask them to take a guess about what type of writing they might expect to see in a reflective report or a research essay for Law. As soon as I have elicited a few responses, I introduce the idea of written assessment borrowing from Corbett-Jarvis and Grigg: “An assessment item within a unit of study requiring a written response will assess your ability to communicate in writing, even if this is not explicitly stated anywhere in the instructions or assessment criteria rubric.” I ask them if they have read the unit of study guides for assessment in first year Law, and if they have any ideas about the types (genres) of writing expected of the assessment tasks. Next I show them the following written assessment task from Victoria University’s VCE Legal Studies Revision Lecture (2014).

I ask students to take a guess about the writing genre they might be expected to produce for the above question. I guide them by asking what they think the word, *explain*, (process or directive) means for them, the writers of the assessment task? Further questions follow, for example: Can you identify the direction/s this question will lead you in. Individual students report back on type of writing expected for this question.

**Both description and analysis/critique**

**Academic writing is never purely descriptive. It demonstrates analysis and critical thinking by 1. Asking and answering questions 2. Explaining and interpreting the facts rather than merely stating them, and 3. Presenting a position or point of view which is supported by a reasoned argument**

Next I present another group activity asking students to read the text in order to guess the text/writing genre (the converse of the above task).

Section 128 of the Constitution refers to the process of changing the words of the Constitution. **One strength** of this process is that it is a complex one. Not only must it first be passed by both houses, but it requires a double majority (a majority of voters in Australia, and a majority of voters in a majority of states) to be passed. This strict formula ensures that the Constitution is very well protected and cannot be changed easily. **Another strength** of the process is that it protects the smaller states. Because the double majority requires the majority of voters in a majority of states, as well as a majority of Australia, to vote *yes*, it ensures that larger states such as New South Wales and Victoria do not control whether or not the referendum is passed. **One weakness** of the process is that public conservatism means that a change to the Constitution is unlikely. Many voters often distrust the process and are far less willing to vote *yes*. **Another weakness** is that often the timing of the referendum – normally at the same time as an election – means that voters pay less attention to it, and as a result do not understand it, and vote *no*. Overall, the process has **weaknesses** but its **strengths** act as a safeguard so that only the most important changes to the Constitution are made.

I pose further questions to guide students: what is happening in the text? Can you pick out any key terms or ideas? Can you find, then highlight the words, phrases or sentences that signal the author is describing, analysing or evaluating? How many times are specific words repeated? Why does the author do this? What is the effect on the reader? (on the slide, I highlight the evaluative language as shown, once this has been elicited from them). As soon as students are discussing the function of language, as opposed to the legal ideas and principles, I ask them to take a guess regarding the topic question.

**Topic: Evaluate the process of changing the Constitution as outlined in Section 128.**  
**Writing style required: Description plus evaluation**

In Legal Research Methods students must evaluate/assess secondary sources; this is fairly robust assessment for first year students in the first few weeks of the semester. I teach critical reading and text analysis to assist students in developing confidence to read and understand Law texts, not only while at university, but also later in their future legal careers. In a first year context, "...curriculum should be designed to mediate and support transition as a process that occurs over time... the first year curriculum will enable successful student transition into first year, through first year, into later years and ultimately out into the world of work, professional practice and career attainment"<sup>17</sup>. WWFYL were specifically designed to support students in the transition to first year and beyond. The aim of the workshops is to assist in developing critical reading skills and improving academic writing style. By analysing the form and function of legal texts, students gain an understanding of the writing conventions for different genres, thereby developing control over their academic writing.

Below is an outline of the WWFYL program showing the writing themes aligned to particular first year Law assessment tasks.

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<sup>17</sup> S. Kift, "Articulating a transition pedagogy to scaffold and to enhance the first year learning experience in Australian higher education", *Final Report for ALTC Senior Fellowship Program, Australian Learning and Teaching Council* (2009) (published online at: <http://www.altc.edu.au/system/files/resources/Kift%2C%20Sally%20ALTC%20Senior%20Fellowship%20Report%20Sep%202009.pdf>), 1.



**Table 1: Writing workshops for first year Law Semester Program**

WRITING WORKSHOPS FOR FIRST YEAR LAW			Semester I, 2015
Week	Week starting	Relevant to assessment task	Writing theme
1	Feb 23		No workshops
2	March 02	Relevant to all first year units of study	Types of academic legal writing required in first year Reflective - Descriptive - Analytical – Persuasive - Critical
3	March 09	LEGAL RESEARCH METHODS - Task 1	Critical analysis: writing about claims and using evidence in support of your claims
4	March 16	AUSTRALIAN LEGAL SYSTEM IN CONTEXT - VCAT Part C INTRODUCTION TO PUBLIC LAW - ESSAY	Introduction to essays, including templates (headings)
5	March 23	AUSTRALIAN LEGAL SYSTEM IN CONTEXT - VCAT task Parts A and B	Summarising and paraphrasing The elements and features of a sentence
6	March 30	INTRODUCTION TO PUBLIC LAW – ESSAY + VCAT Part C	Developing your argument
		<b>TEACHING</b>	<b>BREAK</b>
7	April 13	INTRODUCTION TO PUBLIC LAW - ESSAY	Reviewing Introductions and conclusions Editing for thematic consistency, logic and readability
8	April 20	LEGAL RESEARCH METHODS - Task 2	The language of reporting and workplace observation
9	April 27	LEGAL RESEARCH METHODS - Task 3	Theoretical essay: language elements and features
10	May 04	Your first year assessments with feedback comments	Reviewing feedback from lecturers
11	May 11	First year units of study holding exams	Exam technique <ul style="list-style-type: none"> <li>• Short essays</li> <li>• Open book exams</li> <li>• Reviewing past papers</li> </ul>
12	May 18	<ul style="list-style-type: none"> <li>• INTRODUCTION TO PUBLIC LAW</li> <li>• AUSTRALIAN LEGAL SYSTEM IN CONTEXT</li> </ul>	
13	May 25	SWOT VAC DROP-IN SESSIONS	Individual consultations

### **Legal literacy in first year units of study**

The challenges of writing clearly about the principles of Law, or other legal discourse, can seem overwhelming to commencing students. In relation to academic legal writing “...the content must be constructed carefully with the nature and purpose of the task in mind. Failing to acknowledge the inextricable link of a specific task to the contents of a document will result in a poor outcome. In the context of legal studies, this may result in students not fulfilling their grade expectations for a particular assignment or it may even impact on their overall grade in a subject.”<sup>18</sup> The first year Law student who writes well, understands that context, purpose and readership are just as important as language and grammar matters. The WWFYL represent an example of scaffolded literacy learning with the goal of improving student writing outcomes in three first year units of study. “The ability to communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences is one of the Threshold Learning Outcomes for Australian Law graduates”<sup>19</sup>. Threshold Learning Outcome Five, devoted to communication and collaboration “... provides that graduates of each course will be able to a) communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences; and b) collaborate effectively”<sup>20</sup>. In the literature on transition pedagogy Kift talks about “intentional curriculum focus to engage commencing students holistically to their learning... to inculcate a critical sense of academic and social belonging”<sup>21</sup> Embedding learning outcomes or graduate attributes throughout a program because it encourages progressive learning.<sup>22</sup> The whole of degree curriculum design undertaken from a shared perspective “... has been found to better meet the needs of industry and students, in comparison with focussing on what occurs in individual subjects.”<sup>23</sup>

In the absence of any whole of degree curriculum design, academic developers and first year coordinators collaborated on this project. In Semester I 2014, a series of writing workshops designed to support written assessment genres in three first year units of study - Legal Research Methods (LRM), Australian Legal System in Context (ALSIC) and Torts - were introduced as a pilot initiative on two campuses<sup>24</sup>. The model demanded a rigorous peer review cycle moving back and forth between ASD and CLJ staff teaching first year units of study<sup>25</sup>. Individual consultations and drop-in sessions were offered to complement the workshops, with appointments taken up by students who identified as likely to be at-risk of failing. Based on the success of the pilot, the workshops were evaluated in 2015, integrating academic literacies into revised LRM, ALSIC and new unit of study, Introduction to Public Law (IPL). All students

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<sup>18</sup> N. Corbett-Jarvis and B. Grigg, *Effective Legal Writing: A Practical Guide* (Chatswood, NSW: LexisNexis Butterworths, 2014), 91.

<sup>19</sup> *Ibid.*, 5.

<sup>20</sup> *Ibid.*

<sup>21</sup> ISSOTL Panel Discussion (30 October, 2015). Sally Kift, David Boud, Keithia Wilson, Romy Lawson and Nicolette Lee. Whole of Degree Curriculum Design: Transitioning Students Into, Through and Out of Higher Education. <http://transitionpedagogy.com/>

<sup>22</sup> R. Lawson, T. Taylor, E. French, E. Fallshaw, C. Hall, S. Kinash and J. Summers, “Hunting and gathering: new imperatives in mapping and collecting student learning data to assure quality outcomes,” (2015) 34 *Higher Education Research & Development*, 581.

<sup>23</sup> *Ibid.*, p. 583.

<sup>24</sup> I would like to acknowledge Dr Matt Harvey for attaching WWFYL to LRM, positioning them within the course. (prior to 2014, they were offered as an external service).

<sup>25</sup> I would like to acknowledge Dr Jennifer O’Reilly, Ms Su Robertson, Ms Vivi Tan and Mr Darren Parker.

enrolled in first year units were invited to attend one of the 16 sessions offered over the week (some outside of working hours also, to suit their schedule). To complement face to face delivery a multi-unit online space was created in *VU Collaborate* to ensure every first year student was able to access the materials. Consistent with good teaching principles of online blended learning, the workshop materials, together with teaching notes and resources were uploaded each Friday, before the start of the new workshop week.

As an applied linguist, my objective is to raise awareness of the elements and features of legal writing and of the "... complex cognitive processes of discovering and mastering the knowledge-making rules and practices, the values and roles that characterise the disciplinary cultures..."<sup>26</sup> of Law. By providing students with practical tools to develop control and mastery over their writing, tacit knowledge about writing is made more explicit. The longer term goals of the initiative are improved academic outcomes for students and more rewarding teaching and learning experiences for staff. One of the assumptions underlying this approach is that writing is a skill that everyone can improve! The writing workshops have not been designed for any remedial cohort; if a student wants to build competence and confidence in his or her academic professional writing, a very important skill for any Law student, then these workshops are relevant. In this academic literacies intervention student writing progress is viewed as developmental and ongoing allowing them to build their academic literacies over time. In this paper the reader learns about collaboration, legal research assessment tasks, theoretical frameworks and scaffolded literacy integration, all complemented by student evaluation.

### **The relationship between content and form**

The widening participation and skills agenda remind us of the need to focus on the development of critical skills, especially in relation to legal language and literacy. If the ability to understand and write academic texts, among other things, relies on contextual knowledge, then the relationship between content and the form and function of language needs interrogating. By making the form and function of language transparent, that is, how disciplinary specific discourse operates within the discipline, connections between law content and the linguistic precision required for communicating this can be made. Drawing explicit attention to the textual features of discourse in a research essay, for example, helps demystify the complex processes behind critical analysis. In his work on relational perspectives, Ramsden<sup>27</sup> argues for the specific type of research into student learning which leads to improved professional practice of teaching. "Those who adopt a relational view would prefer to maintain that thinking skills are inseparably linked to the learner's understanding of content and the context in which the skills are deployed."<sup>28</sup>

Using the relational view, I argue that only by concurrent analysis of specialist concept theories, and critical engagement with discourse, methods of enquiry and writing conventions, can

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<sup>26</sup> D. Warren, "Curriculum design in a Context of Widening Participation in Higher Education," (2002) 1 *Arts and Humanities in Higher Education*, 87.

<sup>27</sup> P. Ramsden, "Improving teaching and learning in higher education: The case for a relational perspective" (1987) 12 *Studies in Higher Education* 3.

<sup>28</sup> *Ibid.*, p. 279.

discipline specific writing skills be developed. The relational view of teaching and learning has direct application, especially for first year Law, with its carefully designed and rigorous assessment. The ability to write critically was identified as a particular challenge for first year Law students by the first year coordinators<sup>29</sup>. An excerpt from the unit of study guide on assessment for Legal Research Methods is presented below.

Task	Word limit	Writing style	%	Total
1. Assessment of secondary sources - Part A - Part B	1250 – 1500 words		20 10	30%
2. Court report	1250 words		30	30%
3. Part A: Assessment of Primary Sources 4. Part B: Essay Statutory Interpretation	1500 words		16 24	40%

The first assessment task in Legal Research Methods challenges students to read critically and evaluate four secondary texts by Week 5 (see below).

*Excerpt of the first Legal Research Methods (LRM) assessment task*

Assessment of secondary sources Parts A and B.

The students had to locate four appropriate secondary sources that were relevant to the topic. At least 2 sources had to be peer-reviewed journal articles. The assessment rubric stated they had to demonstrate outstanding ability to reflect in an insightful way on the usefulness of all articles to the research topic. They must critically analyse each article, including cogent, relevant and insightful discussion of reliability, level of evidence to support author's claims, and whether logical connections are made by each author. Furthermore, they were being assessed on their ability to structure a clear, well focussed discussion about the relevance of the four articles to the topic, and the ways in which the articles assisted them to develop a position, arguments or perspectives. This assessment task (1500 words) due in week 5 was worth 30% of the total grade for LRM.

Therefore, an early workshop (number 2) features critical analysis - writing about claims and using evidence in support of your claims (learning how to write a critique); in this workshop students identify specific language features used in evaluative discourse.

Learning outcome

On completion of this workshop you will be able to identify the specific language features for critiquing journal articles and other secondary sources.

<sup>29</sup> I would like to acknowledge the valuable contribution of Ms Nance Frawley, not only as a critical friend, but also as the First Year Champion. Without Nance's keen support and promotion of the workshops from the outset, this initiative would not have been possible.

However, the assessment task requires students to read a background assertion, statement and choose their research focus, prior to beginning their searching for two peer reviewed articles. The challenge is complicated because students must not only find and evaluate the secondary sources, they must also understand and interpret the background assertion and statement and choose a research focus (see below).

*LRM Assessment – background assertion, statement and research focus*

The rule of law operates on principles which are known or readily discoverable and hence do not change erratically without notice; which are reasonable clear; which apply uniformly and generally, not in a discriminatory way; which apply prospectively, not retroactively; and which are in force through public trials operating on rational procedural rules before judges who are independent of the state and of all parties. All parties are treated as intrinsically important, however unequal in strength and however lacking in popularity or virtue they may be. The more ineffective a state's laws are against private coercion or anarchy or government power, the less they can be described as representing the rule of law. The purpose of the rule of law is to remove both the reality of injustice and the sense of injustice. It exists not merely because of the actual remedies it provides for damages, injunctions and other specific remedies, and criminal sanctions. It exists also to prevent a damaging release of uncontrollable forces of disorder and primal urges towards private revenge against wrongdoers by assuaging the affront to human dignity experienced by the victims of wrongdoers... The rule of law channels potentially destructive energies into orderly courses. Most disputes are settled without the parties ever going to a trial before a judge. However, what happens in the resolution of trials is of vital importance to the rule of law... If trials are slow and uncertain, and are not seen as objectively just, the chances of peaceful settlement of disputes are reduced and the temptation to violent self-help increases... A key factor in the speedy and just resolution of disputes is the disinterested application by the judge of known law drawn from existing and discoverable legal sources independently of the personal beliefs of the judge... The more the courts freely change the law, the more the public will come to view their function as political; the more they would rightly be open to vigorous and direct public attack on political grounds; and the greater will be the demand for public hearings into the politics of judicial candidates before appointment and greater control over judicial behaviour after appointment<sup>30</sup>.

Statement: What the courts do and the impression they leave matter as much as what they say, and in some ways more.

Choose one of the following areas as your research focus

- Differing views on the role of judges
- The requirements of the rule of law
- The nature of justice
- The role of the judge in statutory interpretation
- Judicial activism

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<sup>30</sup> Excerpt from D. Heydon, "Judicial Activism and the Death of the Rule of Law" (2003) 47 *Quadrant* 9, 10, 22.

Based on the assessment criteria for LRM Task 1 – critical analysis of secondary sources – the following sample text (see below) was chosen to demonstrate the language of critique (evaluative language) and text items where the writer comments on reliability, level of evidence to support author’s claims, and whether logical connections are made by the author of the article (LRM assessment rubric).

*Sample text used to demonstrate how to write about author claims and evidence*

In this article Richards<sup>31</sup> explores the dichotomy between juvenile and adult criminogenic factors, as well as biological, social and psychological differences. Australia’s international obligations are also linked to the necessity and appropriateness of specialised courts for juveniles, making this article critically relevant to my research topic. Richards’ research is robust in that she acknowledges **weaknesses** in the availability of data. She highlights differences between the ‘accounting’ procedures **deficiencies** of the States and Territories and the influence this difference has on her analysis. Furthermore, she puts forward a **persuasive argument** in favour of a juvenile justice system distinct from that of adults. Richards utilises ABS data, (though incomplete) and State Police Statistics. She makes reference to studies in the area of psychosocial development such as, Fagan & Western (2005); Gatti, Tremblay & Vitaro (2009) and Najman et al. (2009). **However**, the use of a study by Farrington and his ‘age-crime curve’ is of concern in that it dates back to **1986**. Her conclusions, derived from the data, can be questioned based on the admitted **deficiencies**. Nonetheless, she demonstrates that a large body of scientific literature exists to support the contention that juveniles should be treated differently from adult offenders.

**Snapshot of classroom discourse (2)**

Initially in small groups, then as a class students are asked about the type of writing required for the first LRM assessment task (descriptive and critical analysis). I ask them to highlight sentences that are well structured and clear for the reader, then evaluate the text overall, according to the assessment criteria. They are free to discuss the evaluations in small groups, analysing the text in more detail, isolating elements and features of the language of critique (where the writer of the text claims that the article assisted her to develop a position, arguments or perspectives). Class discussion and debate is encouraged in order to engage students as much as possible with the text.

Next the students are asked to read and identify in the text where the writer has met the following subtasks, and award marks accordingly. This activity is directly relevant because it gives students insight into how their own writing will be assessed. It is a clear reminder to read and review the assessment criteria and rubric when writing their drafts. As a class the students debate the marks awarded providing rationale according to the assessment criteria below.

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<sup>31</sup> K. Richards, “What Makes Juvenile Offenders Different from Adult Offenders?” (2011) 409 *Trends and Issues in Crime and Criminal Justice* 1.

## Assessment criteria and grades for LRM Assessment Task 1 (Secondary Sources)

Is the source relevant to topic (juvenile cases heard in adult courts)?	<b>4 marks for 4 secondary sources</b> (2 must be peer reviewed)
Critical analysis: in relation to reliability what does the writer tell her readers? Does the writer use evidence to support her claims? Comment on the structure and logical connections. Ask students what they think about concluding sentence; is this a well written summary of her critique?	<b>12 marks</b>
Quotation embedded in context? AGLC footnotes? Error-free, clear structure, well phrased language? Language appropriate to legal context?	<b>4 marks</b>
Reflection on the usefulness of the 4 articles to the research topic	<b>10 marks</b>

### Relational perspectives

“A relational perspective conceptualizes the teaching and learning process holistically. It involves inquiry into and reflection on how students learn specific subject matter in particular contexts. The results are used to amend teaching and assessment”<sup>32</sup>. Aligning the teaching/learning context is a complex process in which “... objectives express the kinds of understanding that we want from students, the teaching context encourages students to undertake the learning activities likely to achieve those understandings, and the assessment task tells students what activities are required of them, and tells us how well the objectives have been met.”<sup>33</sup> This framework for teaching and learning design shifts the focus away from locating one grand theory of learning to attending to highly specific domains or contexts in which people learn. It acknowledges that the relationship between students, lecturers, and the learning and teaching context is dynamic and relies on conceptual change and the creation of deep learning approaches in students. Thinking about learning this way gives useful insight into how students learn and understand the disciplinary specific subject matter being taught (see also Ivanic and Tseng).

When educational developers design workshops which focus explicitly on the form and function of language for written assessment, students learn how disciplinary specific discourse operates in the context of the first year units. They make connections between the linguistic elements and features needed to write about legal principles and other content. As mentioned earlier, if there is a close link between thinking skills and our understanding of the specific content and the

<sup>32</sup> P. Ramsden, “Improving teaching and learning in higher education: The case for a relational perspective” (1987) 12 *Studies in Higher Education*.

<sup>33</sup> *Ibid.*, p. 279.

context in which the thinking takes place<sup>34</sup>, then this link must be taken into consideration when integrating academic literacy initiatives into Law. Using genre pedagogy to integrate academic literacies into first year units of study provides students with the linguistic tools or keys, for unlocking the academic writing expectations or requirements.

Ideally genre pedagogy approaches to reading texts have the potential to develop confidence to read, understand and write legal documents of all types, not only while at university, but beyond assessment, into the future legal careers of students. Interestingly, some of the respondents who participated in the Week four survey commented on this. In addition to the survey, attendance at each workshop was recorded and overall performance data in LRM was collected. The data were used to compare the performance of students who attended more than four workshops with those who did not attend at all. These data were collected by ASD staff teaching WWFYL in Semester I, 2015 for the Academic Support and Development internal report<sup>35</sup>.

### **Evaluation data**

In the final 10 minutes of class in Week 4 the students were invited to provide early feedback about the workshops they had attended to date, on the understanding that their comments and suggestions would be used for future workshop design. This survey revealed strong support and enthusiasm for the workshops with student perceptions about developing control over language, confidence and application of learning, not only to other first year units, but to future areas of study. The survey questions below were presented on a sheet of A5 paper with spaces after each question for a few brief responses:

1. What have you found most useful?
2. What have you found least useful?
3. How have you applied the learning to your own writing?

Question 1 was responded to by 90 students and the following themes emerged: writing in general, specific writing styles, writing linked to assessment, critical analysis, esp. text examples and class discussion and engagement. 50 responses were recorded for Question 2 and the themes were categorised as follows: only one hour/more time for workshops (6 responses), class discussion and engagement and interestingly, there were 14 positive comments in response to this question. Students commented as follows: “nothing was unhelpful”, “so far everything has been useful”, “everything is in detail” and “this was such a great experience”, “would highly recommend to 1st year students”, “no negatives”, “everything is useful”, “nothing”. Also there were six comments about length of workshops: more time was requested and surprisingly the next positive comment was also made in response to what was least useful: “The most important thing is that the workshops are building my confidence for research and writing.” Question 3 attracted 86 responses which fell into the following themes: writing and language awareness, confidence, assessment, future application, writing techniques. Some of the examples which report confidence and future application were as follows: “the workshops have

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<sup>34</sup> P. Ramsden, “Improving teaching and learning in higher education: The case for a relational perspective” (1987) 12 *Studies in Higher Education* 275.

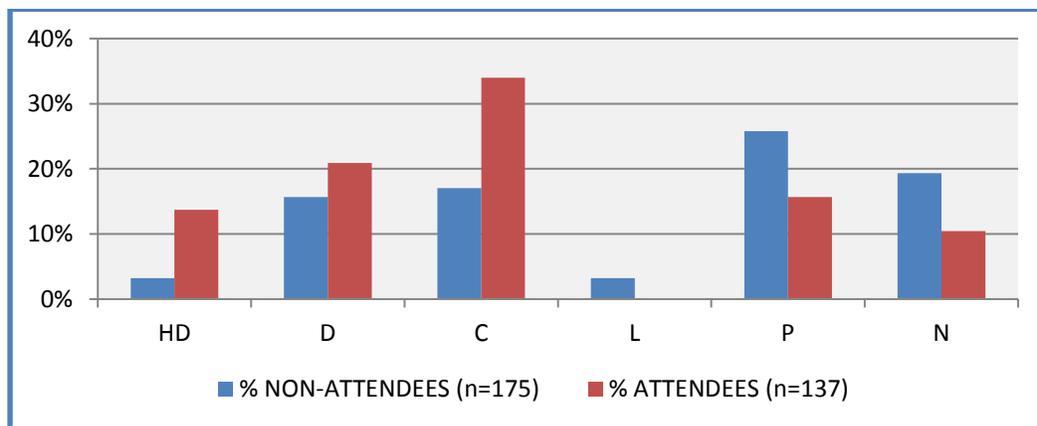
<sup>35</sup> ASD Internal report. I would like to acknowledge Renata Sestak for her valuable role in collating the evaluation data.

given me more confidence in structuring my writing”, “now that I feel more confident about writing assessment tasks...,” and “analytical/descriptive/critical will help me in future”.

### Attendance compared with overall performance in Legal Research Methods (LRM)<sup>36</sup>

Figure 1 below shows the distribution of grades in LRM, contrasting the performance of students who attended (red) with those who did not attend (blue). The ratings of students who attended the workshops - High Distinction (HD), Distinction (D) and Credit (C) - are consistently higher than those who did not attend: HD 14% (attendees) compared with 3% (non-attendees), D 21% (attendees) compared with 16% (non-attendees), and C 34% (attendees) compared with 17% (non-attendees). This means that 11% more students achieved High Distinctions, 4% more students achieved Distinctions and 17% more students achieved Credits (in comparison to students who did not attend).

**Figure 1: BLB 1114 LRM - Comparison of grades (attendees and non-attendees)**



Interestingly, those students who did not attend workshops do not appear to perform as well in the upper grade distribution. There is consistency in the data, because not only do students who attend WWFYL perform better, they also appear to fail less (10% attendees compared with 20% non-attendees). Further investigation would need to be undertaken in order to establish whether other factors played a role in this relationship between attendance and performance. Is it possible, for example, that those students who achieved HD, D and C in LRM are naturally more intrinsically motivated, which explains why they attend workshops even though they are not compulsory? And could attendance at workshops develop student confidence, as they attempt first year Law assessment tasks, especially writing critical analysis? It could be said that workshop attendance seems to have a positive impact on academic performance, because of the students who attended workshops, fewer have failed LRM. Finally, in comparison to other units of study, which were part of the WWFYL program in Semester I, 2015 (Introduction to Public Law and the revised Australian Legal System in Context), student performance in LRM was stronger.

<sup>36</sup> Once again I acknowledge Renata Sestak for her valuable role in collating the performance data.

## Conclusion

Perhaps the statistics for LRM demonstrate much more than effective alignment of integration of academic literacies to assessment tasks. Is it possible they tell the story of a relational perspective that began more than four years ago, between an open minded, experienced teacher and Law professor<sup>37</sup> and an enthusiastic applied linguist, working together to improve academic literacies in first year students? Those early and successful co-operative relationships cultivated with CLJ colleagues are indispensable. In summary, my theoretical contribution to the WWFYL has been influenced by socio-constructivist and social theories, Applied Linguistics and genre pedagogy. Without a successful theoretical framework for effecting measurable changes in student academic legal literacy, learning outcomes will always be limited. Furthermore, without a robust applied academic literacies intervention, trust and confidence in the academic developer's expertise may be compromised.

The LRM student performance data tells a positive story. It seems that students who attended the writing workshops outperformed their peers who did not attend. However, feedback about the perceived social benefits of attending the *Writing Workshops for First Year Law* was not captured in this intervention. It would be useful to document details about regular participation in the WWFYL leading to the development of informal study groups and how that peer support might contribute to student success. Are students aware of changes in writing confidence with respect to a newly discovered academic self-identity? In addition, do the social benefits of WWFYL constitute a separate study in their own right for future investigation? Bearing in mind the notion of tribalism and territoriality in the educational development world<sup>38</sup>, how can we develop a stronger sense of shared ownership in relation to legal literacies?

Inspiring first year students to continue to study/complete their undergraduate programs and enter the legal profession (or embark on higher degree programs), needs to become a consolidated collegial goal. It has been argued that drawing on relational perspectives and viewing the learning and teaching process holistically has merit. Inquiry into and reflection on, how students learn specific subject matter in particular contexts is a requisite for first year students to experience the success of deep learning. The success of deep learning relies on applying Ramsden's principles in our classroom practices: acknowledge that the relationship between the learning and teaching context, students and lecturers is dynamic, and set up conditions for conceptual change. Complementing Ramsden's principles is the contribution which Applied Linguistics can make towards learning and teaching, by promoting practices which involve the active role of the learner in learning, and by valuing learning processes and practice over knowledge<sup>39</sup>.

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<sup>37</sup> I would like to acknowledge Associate Professor Michael Longo for his ongoing support, intellectual commitment and ethical leadership since Semester II, 2011, when I began working in the College of Law and Justice.

<sup>38</sup> P. Blackmore, J. Chambers, L. Huxley and B. Thackwray, "Tribalism and territoriality in the staff and educational development world," (2010) 34 *Journal of Further and Higher Education* 105. DOI: [10.1080/03098770903477144](https://doi.org/10.1080/03098770903477144)

<sup>39</sup> R. Ivanič and M. Tseng February 2005 Research Report National Research and Development Centre for adult literacy and numeracy.