

Jurisprudence students as critical thinkers in a remote teaching and learning environment

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Context

The focus of this project was to explore how teaching and assessment of Jurisprudence can be adapted to improve the critical thinking skills of students in an online learning environment. The project focused on final (4th) year LLB students at the North-West University. Critical thinking is regarded as an essential skill for any university graduate.¹ Critical thinking is specifically important to law students as they are required to solve complex legal problems and understand legal doctrine.² The report of the Council for Higher Education, during a review of LLB programmes, noted that half of Law faculties had deficiencies relating to a lack of encouragement to initiate critical class discussions, students struggling to adapt to robust class discussions and assessments focused on rote learning rather than critical thinking.³ During the Covid-19 pandemic remote online teaching had been used at most universities. Most classes were pre-recorded, and assessments took place online. Jurisprudence and Ethics at the North-West University had been one of the final year modules that focused on the development of higher order thinking and critical thinking skills of law students. In a pre-covid time, class debates and presentations would be used, in addition to written assignments, to enhance the critical thinking skills of students. It was specifically important for final year law students to be exposed to this type of presentation as they would be required to present arguments in practice in writing and orally. With the advent of Covid-19 and the move to a remote online learning mode it was imperative to investigate ways to continue to develop the critical thinking skills of students.

Aims

Against the above-mentioned background, the specific aims of the project included the following:

- To determine what constitutes critical thinking for Jurisprudence students.
- To determine what Jurisprudence students' needs are in terms of critical thinking skills.
- To implement the needed teaching and learning strategies to improve critical thinking.
- To evaluate the efficacy of the strategies implemented.

Theoretical framework

The first part of the project was to determine what constitutes critical thinking for Jurisprudence students. Nwosu and Vorster⁴ state that critical thinking can generally be understood as the analysis, evaluation and drawing of conclusions about problems. Authors distinguish between critical thinking in a psychological, philosophical, and educational sense.⁵

¹ James and Burton 2017 "Legal Education Review" 1. Ontong and Bruwer 2020 "South African Journal of Higher Education" 177.

² James and Burton 2017 "Legal Education Review" 1.

³ Council on Higher Education "The State of the Provision of the Bachelor of Laws (LLB) Qualification in South Africa" 34

⁴ Nwosu and Vorster 2021 "International Journal of Financial Research" 226.

⁵ Lai "Critical thinking: A literature review." *Pearson's Research Reports* 6.1 (2011): 40-41. Caceres *et al* "Integrating critical thinking into the classroom: A teacher's perspective" 2.

Bloom's Taxonomy groups knowledge into different levels ranging from lower order thinking (comprehension, recollection and application) to higher order thinking (analysis, evaluation and application). From a review of literature, it becomes apparent that legal scholars prefer an understanding of critical thinking in terms of Bloom's taxonomy.⁶

The theoretical framework set out by James and Burton was the most suited for Jurisprudence students. James and Burton⁷ have identified four stages for critical thinking about law. The first phase of the process involves the interpretation of the object.⁸ The object could include a statement, claim or legal issue.⁹ The first part of the critical thinking process emphasises the importance of doctrinal knowledge of one's discipline before an evaluation of such knowledge can take place. During this phase student needs to make sure that they understand concepts and ideas correctly. During the first stage it is important that students ascertain the accuracy of a statement of claim as it will later influence their evaluation that they will make.¹⁰ The second phase that James and Burton identify is the analysis phase.¹¹ During this phase students will try to uncover the assumptions underlying a statement or claim.¹² These assumptions are usually hidden.¹³ The assessment criteria suggested by James and Burton includes thoroughness and perceptiveness.¹⁴ The third phase consists of the evaluation of the object.¹⁵ During this phase the student evaluates a statement against certain explicit criteria.¹⁶ In more doctrinal subjects, the criteria for evaluation will be determined by the subject area. However, in Jurisprudence modules students could consider various legal-ethical standards that are not necessarily encapsulated in the legal position at the time. During this phase the student should also consider several perspectives. The assessment criteria suggested by Burton and James include appropriateness of the criteria, rigorous engagement with the criteria as well as a balance of criteria.¹⁷

The fourth and final phase of critical thinking consists of synthesis. The student must consider the interpretation, analysis and evaluation of a statement and adds their own substantive opinion. James and Burton¹⁸ note that it does not need to be an entirely novel argument, but it should be clear that it is a result of student's own efforts.

Methods

Having determined the most suitable theoretical framework, I designed a group assessment that would specifically assess the different aspects set out by James and Burton, mentioned above in an online setting. Weekly online group sessions were held with students where they

⁶ Snyman-Van Deventer 2019 *Journal for Juridical Science* 82-83. Kalinowski 2018 *Legal Writing: The Journal of the Legal Writing Institute* 110-111.

⁷ James and Burton 2017 *Legal Education Review* 6.

⁸ James and Burton 2017 *Legal Education Review* 7.

⁹ James and Burton 2017 *Legal Education Review* 7.

¹⁰ James and Burton 2017 *Legal Education Review* 7.

¹¹ James and Burton 2017 *Legal Education Review* 7.

¹² James and Burton 2017 *Legal Education Review* 7.

¹³ James and Burton 2017 *Legal Education Review* 7.

¹⁴ James and Burton 2017 *Legal Education Review* 7.

¹⁵ James and Burton 2017 *Legal Education Review* 8.

¹⁶ James and Burton 2017 *Legal Education Review* 8.

¹⁷ James and Burton 2017 *Legal Education Review* 8.

¹⁸ James and Burton 2017 *Legal Education Review* 9.

had to present an argument on a specific question relating to Jurisprudence and Ethics. Examples of topics included: should euthanasia be legalised; should animals have constitutionally protected rights; should citizens have the right to protest government. Students had to attend all sessions, but each group was assessed once throughout the semester. Students were divided into groups of 7-10. Groups were allowed 20 min for a pre-recorded presentation whereafter the lecturer and other students were allowed to ask questions and give feedback based on the assessment criteria. The presentation was submitted beforehand. The online class time was devoted to the more critical discussions. The assessment criteria that were designed, aligned with the phases set out by James and Burton. The assessment grid included the following: the relevance and accuracy of theory and facts relied upon, contextualisation of issues, the logic of arguments and the conclusion of the argument. Below is the assignment grid presented to the students beforehand:

Group assignment – IURI 423

Each group will be assigned a question. The group should formulate an argument and make a recording no longer than 20 min. The following rubric will be used to grade the recording. A question and discussion session will follow in the class based on the group's presentations.

	1(very poor)	2 (poor)	3 (satisfactory)	4 (good)	5 (excellent)
Theory (Are the theory and facts relied on relevant and accurate?)					
Introduction of argument (Are the issues sufficiently contextualised and is it clear what the argument will be?)					
Development of argument (Are the arguments set out logically and concisely?)					
Conclusion of argument (Have the points of the argument been tied together and brought to a logical conclusion?)					

Outcomes

Students were generally anxious to take part in the assignment. Some of the objections by students included not knowing their peers, anxiety for speaking in front of people and not being able to choose their own group members. Some of the fears came from being confined to a remote online teaching method and some hesitance came from fear of speaking in front of peers and the lecturer in real live time.

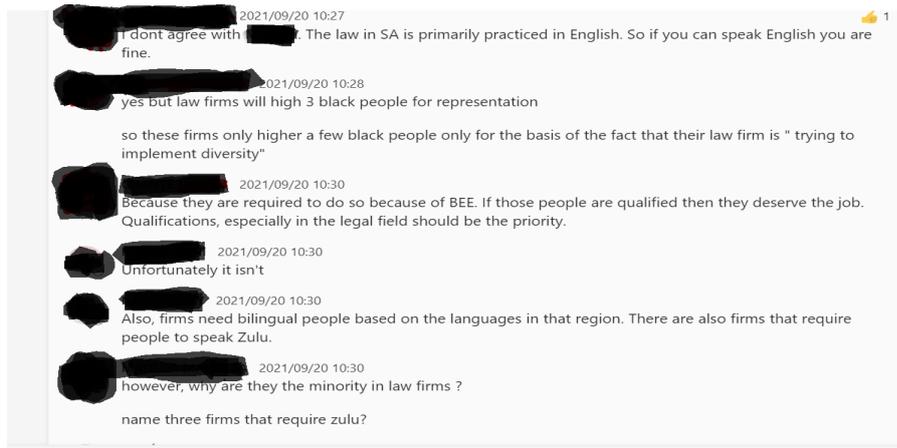
I gave students the option of choosing their own group members and after this decision they were less anxious. The students seemed committed to their presentation. The presentations offered by the students presented the opportunity for peers and the lecturer to evaluate their argument based on the criteria set out above.

Most students passed the assignment. To my mind, the ‘intervention’ added to the learning experience of the students for the following reasons: the assessment took place in a smaller group and students could get direct feedback; the students were exposed to different viewpoints from their peers (evaluating different perspectives is an important part of

developing critical thinking), students were required to defend arguments in real time (this is something they would need to do in practice as legal practitioners), students were made aware of specific weak points in their arguments as opposed to generic feedback.

The assessment criteria were focused on formulating an argument and stimulating critical thinking. A great deal of the process came out during the Teams sessions. Students had the opportunity to discuss their arguments. Students had to be ready to answer questions on facts and authority relied on as well as counterarguments on their arguments.

Below is an example of a chat discussion and interaction on race and discrimination during the online sessions:



Various students had good feedback which they gave at the end of their presentations in the class:

“It is good that we are doing this as we have to stand in practice one day and have mostly only done written assignments”.

“I like that our classmates asked questions that we didn’t even think about as it gives us more to reflect on when we think about our work”.

The next part of the project will investigate how specific sessions on the principles of critical thinking set out by James and Burton above can be useful for improving critical thinking skills of Jurisprudence students. This part of the project will concentrate on critical thinking skills away from the doctrinal aspects of Jurisprudence. Focus groups consisting of final year LLB students will be used.

References

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