RESEARCH ARTICLE

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USING PEER TUTORS TO IMPROVE THE LEGAL WRITING SKILLS OF FIRST-YEAR LAW STUDENTS AT UNIVERSITY OF KWAZULU-NATAL, HOWARD COLLEGE SCHOOL OF LAW

SUMMARY

Over the past few decades, the University of KwaZulu-Natal's Howard College School of Law (UKZN School of Law) has paid considerable attention to improving the legal writing skills of its first-year law (LLB) students. In its quest to improve these skills, the School of Law has implemented a number of writing interventions, which have focussed on finding a creative solution to the problem of balancing the need for time-intensive student support and the lack of staff capacity to provide it. This article argues that one such solution could be to use senior Law School students acting in the capacity of peer writing tutors. The article begins by discussing the concept of using peer tutors to teach persuasive legal writing to first-year LLB students within the context of a collaborative and social constructivist teaching and learning paradigm. It proceeds to discuss the substantial benefits of using senior law students as peer tutors and the training that must be provided to them. This tutor training is essential, since many of the peer tutors, despite being senior law students, lack experience in teaching persuasive writing and therefore must still develop these skills. Thus, the article explores the significance of the training aspect of using senior law students to tutor persuasive writing to first-year law students, including the theoretical underpinnings of this training as well as its practical application. In this discussion, two models of peer tutor development are examined – "participatory peer-tutor development" and "peer-tutor development sequencing" – before discussing the practical (and necessary) application of both of these models in the module Teaching Legal Skills ("TLS") at the UKZN School of Law. Finally, the article makes recommendations that could inform the design of a viable, cost-effective, energy-efficient future legal writing programme, and suggests possible ways of overcoming or avoiding the challenges identified.

1.   INTRODUCTION

Every year over 200 students gain acceptance to the first-year LLB modules — Introduction to South African Law and Foundations of South African Law — at the

Howard College School of Law, University of KwaZulu-Natal ("UKZN School of Law"), hopeful that they will be successful in their academic endeavours in the LLB programme. However, it is an unfortunate reality that, despite a generally optimistic outlook and positive work ethic, many of these young students find themselves struggling to produce written work of an acceptable standard in their first year of study. First-year university students will often base their expectations of university life on their academic experiences at high school and thus may have an unrealistic idea of the standard of work required at university, making them unable to cope with the academic environment.[1] Rote learning and regurgitation of class notes will no longer guarantee them a pass because law students are expected to write in a professional style, using sound arguments supported by legal authority.[2]

The poor legal writing skills that many of these first-year law students demonstrate may be attributed to several factors. Some of these include the poor primary and secondary education that they might have received;[3] the fact that they may be conversing and writing in a language other than their mother tongue (UKZN being an English-medium institution in a province of primarily isiZulu speakers);[4] the fact that these students might be overwhelmed by the vast amount of new substantive legal knowledge that they are required to absorb, as well as the critical thinking and analytical skills that they must assimilate and master at this stage in order to progress in their studies; and the fact that they are entering into a legal community defined by a unique, complex discourse which is completely foreign to most first-year law students — even those proficient in English.[5] Against this background, it is clear that active steps need to be taken to ensure that these students not only survive the four years of arduous study that form part of the LLB curriculum, but that they will master the art of writing like a lawyer.[6]

Over the past few decades, several interventions have been implemented at UKZN's School of Law in an attempt to improve the legal writing skills of its first-year LLB students.[7] A review of the challenges encountered during the implementation of each of these interventions revealed, amongst other things, that the inherently labour-intensive structure of these legal writing programmes posed a serious challenge.[8] It is an unfortunate reality that School of Law staff are already thinly stretched by teaching, supervision, research, and the PhD credentialing requirement. Staff members are simply not in a position to take on additional time-consuming small-group teaching, and provide written

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1   Hill 1995:10–21, Jacklin & Robinson 2007:114–123 and Loots 2009:211–235, cited in Spark et al. 2017:76.
2   Foster 2016:ix.
3   Swanepoel & Snyman-Van Deventer 2012:123.
4   Greenbaum 2004:4.
5   This is discussed in some detail in Crocker 2018:8.
6   Crocker 2020:3.
7   The details of two of these legal writing interventions — the Concise Writing Programme and the Integrated Skills in Context Programme — are set out in Crocker 2018:1–27. Details of a third writing intervention —the WiLL legal writing programme — are discussed in Crocker 2020:3 and Crocker 2021:1.
8   Crocker 2018:18.

and oral feedback on numerous drafts, both of which are needed to motivate students to engage deeply and critically with the legal writing process in order to improve their legal writing skills.

Faced with this conundrum of the need for time-intensive student support and a lack of staff capacity to provide it, this article argues that a creative solution to this problem — at the UKZN School of Law — could be found in the form of the use of senior Law School students as peer tutors. Drawing on the findings from a previous study undertaken by the author investigating the successes and challenges of the Write it Like a Lawyer legal writing programme [WiLL],[9] this article critically discusses the use of peer tutors as a solution to the challenges of providing the intensive learning experience required in a successful legal writing programme.

The article begins by unpacking the concept of peer tutoring within the context of a collaborative and social constructivist teaching and learning paradigm. The fact that peer tutoring lends itself to a collaborative-learning classroom environment has significant benefits for learners making the leap from a secondary to a tertiary learning environment. The substantial benefits of using senior law students as peer tutors — in both an academic and non-academic capacity — to teach persuasive legal writing to first-year LLB students are thus discussed in some detail. However, despite the benefits that emerge from this discussion, it must not be forgotten that peer tutors are senior law students, many of whom lack experience in teaching and will therefore require these skills to be developed or enhanced. The theoretical underpinnings of the importance of developing peer tutors, using participatory peer-tutor development and peer-tutor development sequencing, are thus explored before moving on to the practical application of these principles in the Teaching Legal Skills module ("TLS") at the UKZN School of Law.

TLS, which is a final-year LLB elective module, employs the services of the students who participate in the module, as peer tutors. The module was first implemented by Prof. Lesley Greenbaum, who is an expert in the field of legal education and was employed as an associate professor at UKZN, Howard College until 2010.[10] As part of their course requirements for the TLS module, the senior student tutors participating in the module are tasked with facilitating tutorials on the substantive law content of two first-year LLB modules — Introduction to South African Law and Foundations of South African Law — as well as with improving the legal writing skills of these first-year law students. Thus, the TLS module serves, in part, as a legal writing intervention for first-year law students, as well as a vehicle to teach senior students how to teach within an academic environment. The article critically discusses the use of peer tutors in the TLS module — in the process identifying the challenges that emerged during the running of the programme.

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9   WiLL is a legal writing intervention that was implemented in 2019 in a second-year LLB module at the UKZN School of Law. The details of this legal writing intervention are discussed in Crocker 2020:3 and Crocker 2021:1.

10   Greenbaum 2001.

The article concludes with a number of recommendations that could inform the design of a viable, cost-effective, energy-efficient future legal writing programme, and suggests possible ways of overcoming or avoiding the challenges identified.

2.   UNPACKING THE CONCEPT OF PEER TUTORING

Peer tutors are defined by Colvin as "those of the same societal group or social standing educating one another when one peer has more expertise or knowledge".[11] Colvin also points out that the services that peer tutors are able to provide are not only academic but also non-academic in nature, ranging from "providing support for other students by being counselors or advisors to being trainers where previous experience lends itself to helping others, to being expert instructors in a tutoring situation".[12]

The process of peer tutoring is described by Trimbur as the system of teaching and learning that "replaces the hierarchical model of teachers and students with a collaborative model of co-learners engaged in the shared activity of intellectual work".[13] He goes on to explain how the very nature of teaching and learning has evolved from the traditional mode of limited interaction between lecturer and learner to a more interactive learning environment, and suggests that collaboration in the classroom "redefines learning as an event produced by the social interaction of the learners — and not a body of information passed down from an expert to a novice".[14]

This idea of using classroom peer collaboration to assist in the writing process sits firmly within a social constructivist teaching paradigm, where writing is viewed as a social process rather than as an individual activity. This theory is premised on the idea that writing is enhanced by social collaboration and negotiation.[15] The process of writing in collaboration with colleagues has particular relevance within the legal profession, where attorneys, junior and senior advocates, and legal advisors often work closely together to devise lines of argument to be included in court pleadings. As the title of this teaching framework suggests, constructivist teaching requires a focus on constructing knowledge through the sharing of ideas.[16] This has profound implications for educators who, when considering the constructive alignment of their modules during the design phase, must carefully select teaching techniques that will further this premise. In this regard, Quinot and Greenbaum argue that teaching and learning within a constructivist paradigm is a non-linear process that requires more than a simple transmission of information from the educator to the student.[17] They argue that:

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11   Colvin 2007:66.
12   Colvin 2007:167.
13   Bruffee 1978, cited in Trimbur 1987:23.
14   Trimbur 1987:23.
15   Murray 2010:10–11.
16   Clarence 2018:58.
17   Quinot & Greenbaum 2015:36.

> Constructivism tells us that we learn by assimilating new experiences
> into our existing knowledge framework. The statement perhaps best
> captures the core of constructivism: "knowledge is not found, but
> made". This implies that one cannot transmit discrete bits of information
> to another person, which that person can simply absorb, amounting to
> ostensible "learning".[18]

Given this concept of learning being interactive, peer tutors become particularly
important. Specifically with respect to peer assessment and feedback, Liu
and Carless believe that "examining the work of peers offers meaningful
opportunities for articulating discipline-specific knowledge, as well as criteria
and standards. Once students are at ease with making their work public, we
could create conditions under which social learning might be facilitated".[19]

Thus, peer tutors who are assigned small groups of students are perfectly
placed to facilitate this social engagement and to construct knowledge or
develop writing skills within a collaborative learning environment.

3.   THE BENEFITS OF PEER TUTORING AND MENTORING IN TEACHING PERSUASIVE LEGAL WRITING

The benefits of using senior law student peer tutors to teach persuasive legal
writing to first-year law students are substantial,[20] with a number of parties
potentially benefiting from their services, including the first-year law students
receiving the tutoring, the peer tutors providing the service, and the School of
Law itself.

3.1   Benefits accruing to first-year law students

Peer tutors are in the unique position of being able to provide practical
academic help to first-year law students, and in so doing enable them to
quickly acclimatise to the new university academic environment. For example,
new students can gain self-confidence and the motivation to learn by having
regular contact with senior peers who are well versed in legal discourse;[21]
new students can be absorbed into a student community where symbiotic
relationships are likely to be formed to ease study pressures; senior peer
tutors can contextualise the learning materials and situate the lessons learnt
within the real world so that students can visualise their career path and
form goals for their future; and peer tutors can provide practical advice on
how to navigate institutional issues such as university transport services,
accommodation, time management, study and test tips.[22]

A further benefit of using peer tutors to provide additional legal writing
support is that the extra staffing resources that these tutors provide create

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18   Fosnot 2005:ix, Pelech & Pieper 2010:8 and von Glasersfeld 1998:23–27, cited in
      Quinot & Greenbaum 2015:35.
19   Liu & Carless 2006:281.
20   See a discussion on persuasive legal writing in Crocker 2020:3.
21   Lotkowski, Robbins & Noeth 2004, cited by Spark et al. 2017:79.
22   Karp 2011, Loots 2009 & Wilmer 2008, cited in Spark et al. 2017:79.

opportunities for large law classes to be split into smaller, more manageable groups. While it would be impossible for one lecturer to dedicate the amount of time and energy necessary to run multiple small tutorial groups, a single lecturer could develop and manage a team of peer tutors who, in turn, could facilitate the small-group tutorials. Burke mentions six advantages associated with peer learning in small groups:[23]

1. Working in a group allows participants access to an increased knowledge base stemming from the greater diversity of "backgrounds and experiences" which is inherent in a group of participants.

2. Group activities allow for creative conversations to develop and to aid in problem solving.

3. Group discussion aids in comprehension and memory retention.

4. The collaboration inherent in group problem solving enables students to take ownership of the decisions reached in problem-solving activities and group discussions. This increases the overall motivation of the group as well as the satisfaction of group participants in the outcome of the group work.

5. Group work also gives students the space to develop their interpersonal skills when being exposed to the positive and negative aspects of working in a peer-learning situation. Participants who are part of a safe team-learning environment are able to receive candid feedback on their interactions with the group from their fellow peers, which encourages deep, active learning.

6. Strong interpersonal skills and the ability to work effectively in a team are traits that are valued in the workplace.

The implementation of small-group teaching methodologies is also an integral part of any legal writing programme. Thus, in addition to providing general academic guidance, peer tutors are specifically well placed to teach new law students how to write persuasively — as a lawyer should. This is because persuasive legal writing is a process that not only requires students to think critically, but also requires constant, guided writing practice, with continuous feedback on written drafts.[24] It is essential that a "conversation in writing" is established with novice legal writers by giving them an opportunity to respond to feedback comments, thereby creating a dynamic conversation around their writing. This process can be ongoing by introducing feedback on multiple drafts of written work so that students can get a chance to implement the suggestions for improvement given in feedback, and thereby begin the process of monitoring the meaning of their own writing. Peer tutors of small student groups are easily able to facilitate this process with a quick turnaround time for feedback on multiple drafts of legal writing and have free time to meet individually with students to provide oral feedback on written work effectively, thus continuing the conversation in feedback.

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23   Burke 2011:88.
24   Kok et al. 2003:119.

In addition to this, the importance of providing ongoing feedback on student legal writing is emphasised by Greenbaum, who states that students should be led through the composing, drafting and revising stages of legal writing until they begin to "develop their own valid professional and personal voices to 'engage in the ongoing conversation of law'".[25] Liu and Carless agree with this, maintaining that "there is evidence that peer feedback enhances student learning as students are actively engaged in articulating evolving understandings of subject matter".[26]

This conversation in feedback also provides a social context for the material as students exchange ideas with their peer tutors in a flowing written conversation. In fact, Kress makes the point that all reading occurs within a social context, as everyone approaches a text according to their own background and social position and, as such, no text is ever absorbed passively.[27] Writing in a dynamic environment such as this, therefore, makes it easier for the student writers to apply their minds to a critical justification for their argument.[28]

More specifically, with respect to using senior law student peer tutors to improve the legal writing skills of first-year law students, Murray mentions the benefits of using peer tutors within legal writing centres:

> There are two main pedagogical benefits to the creation of a law school writing center. First, writing centers can offer an opportunity for an increase in the amount of individualized instruction that legal writing programs can offer. Second, writing tutors can serve as a non-judging audience, outside the traditional hierarchy in which writing in [a] law school takes place.[29]

Boughey also alludes to the benefits of having conversations in feedback in a non-judgmental environment as having a "critical friend" supporting the writing process.[30]

At this point it must be noted, however, that new students' ability to produce creative, persuasive legal writing can be adversely affected by more than just a lack of legal knowledge or good legal writing skills, and these students often benefit from non-academic advice. Personal challenges can pose very real blocks to students' confidence and to their motivation to put in the time and effort required to improve their legal writing skills.[31] For this reason, peer tutors often find themselves in the position of peer mentors, offering non-academic as well as academic advice and support. Spark points out that students are often drawn to peer mentors and feel comfortable sharing their learning and personal challenges with them because of the unique attributes that these peer mentors possess, such as "approachability, relatability with a marginal

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25   Phelps 1986, cited by Greenbaum 2004:14.
26   Falchikov 2001, cited by Liu & Carless 2006:281.
27   Kress 1989:42.
28   Bruffee 1984:642, cited in Murray 2010:11.
29   Murray 2010:13.
30   Brumfit 1980 and Resnick 1990, cited by Boughey 2012:54.
31   See Crocker 2020:3.

age difference, contextual insight and understanding, an awareness of what it means to be in the student's shoes, experience succeeding at university, and an appreciation for the value of student support".[32] In this way, peer tutors operating within a structured mentoring programme are well placed to assist first-year students to become a member of the university community and to familiarise themselves with the academic framework and support services that the community offers.[33]

3.2   Benefits accruing to the peer tutors

It is not only the first-year law students who benefit from this tutoring and mentoring relationship. The peer tutors themselves derive benefit from their interactions with junior students. Peer tutors who are performing their tutoring duties as part of an official final-year LLB module will qualify with their LLB degree on the successful completion of this module, along with their other outstanding LLB modules. In addition to this, Greenbaum speaks of pedagogical alliances that form between peer tutors and their students, which "function to establish a strong mentoring network"[34] and which offer benefits to both parties. The first-year students benefit from receiving valuable practical academic and non-academic advice from their peer tutors, and the tutors gain valuable practical skills from their role as peer tutors.

In particular, with respect to the peer tutors' role in providing formative assessment on their students' written work, Liu and Carless maintain that "by commenting on the work of peers, students develop objectivity in relation to standards which can then be transferred to their own work".[35]

The value of engaging in tutoring activities, to the peer tutors themselves, is illustrated by the reflective comments of peer tutors taking part in the final-year elective module — Teaching Legal Skills — at the UKZN School of Law over the last few years. Some of these comments were recorded in the module reports to the internal moderator and external examiner.[36] One such student's comment, when reflecting on their year of tutoring and taking part in the TLS

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32   Loots 2009, Maitland & Lemmer 2011 and Walsh, Larsen & Parry 2009, cited by Spark et al. 2017:76.
33   Nelson, Humphreys & Harper 2006, cited by Townsend et al. 2011:45.
34   Greenbaum 2004:20.
35   Nicol & MacFarlane-Dick 2006, cited by Liu & Carless 2006:281.
36   Ethical clearance for the publication of student reflections on the module was obtained as follows: firstly, this journal article will be included in the author's PhD thesis for which ethical approval, with the reference number HSS/2018/017D, was obtained; secondly, although specific ethics approval to undertake each class evaluation was not obtained, it is the UKZN policy that ethical approval is not required for a module evaluation. This is in line with national practices regarding evaluations of programmes; thirdly, there is no legal obligation to obtain ethical approval for an evaluation as it does not fall within the ambit of "health research" in terms of the National Health Act, 2003; and finally, ethical practices were nonetheless followed when undertaking the module evaluations as it was made clear that the evaluations were voluntary and that it was up to each individual student to decide if they wanted to participate, that they were anonymous and there would be no negative consequences for any person not participating.

module, captured the reciprocal learning that takes place when involved in peer tutoring:

> TLS as a module was by far, one of the most enjoyable and rewarding modules I have done in my years at university. The ability to help others and teach is a truly great and rewarding experience. Initially I went into the module with the misconception that it would only be the students I teach that would be learning but in every TLS seminar, without fail, I would learn something new about myself and the tutor I would like to be.[37]

Many peer tutors remarked on the personal and social development skills, such as leadership, time management and the ability to discipline their peers, which they acquired during their time as tutors, both from their interaction with their fellow tutors and from their teaching experiences. One tutor commented:

> TLS has also given me the opportunity to develop various skills. Some of the most important being leadership … practical information (such as handling people academically, professionally, and personally), how to deal with difficult situations (from simply maintaining a person's interest in a topic to the complex task of how to discipline our kids in the most effective and practical manner), and most importantly time management. That is, teaching a tutorial can't be deferred, we have to be prepared with our lesson plans, slides and the knowledge of the work regardless of whatever else was happening that week. This also led to me learning how to prioritise better. For TLS, it is the relationship with my fellow tutors that I will miss the most. I loved that we were able to support each other both in and out of our Wednesday seminars, and develop close bonds with each other. I appreciated that each one was comfortable enough to be able to share their personal difficulties, which, as future lawyers we tend to hide due to fear as being seen as weak.[38]

Tutors also spoke of their communication skills that had been finely tuned during their time tutoring. A tutor commented:

> With regards to TLS as a module … I have dealt myself a really good hand by choosing TLS … I have also improved my communication skills and public speaking significantly. I am able to think on my feet and I've also developed skills which I think I can extend to my work as a candidate attorney next.[39]

Many students spoke of their intellectual development, as well as the awareness that they had gained of values that are important to them:

> Where do I even start? I am a better person now. I am more compassionate. I listen and focus better. I am more confident then I was in the beginning. Critical thinking and writing skills have improved incalculably. I actually have had to sit down and draft a set of values that have brought me to this point, I know myself better now. I manage time

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37   TLS lecturer report to external examiner 2019.
38   TLS lecturer report to external examiner 2019.
39   TLS lecturer report to external examiner 2019.

better and am more organised now. *Tjo*, I have grown so much because of this module. I want to go on and on but I will stop here.[40]

TLS students remarked on how the importance of behaving in a professional manner was highlighted during their tutoring experience:

> Tutoring has provided me with an opportunity to develop intellectually, psychologically, and personally. Throughout this whole process I have developed the ability to get along with others by gaining skills of communication, mediation and negotiation. Even if I might not ultimately work in any of the fields I have tutored in, I will feel more comfortable about working in a professional setting as a result of my tutoring experience.[41]

Many tutors spoke of diversity and learning to appreciate differences in their students and fellow tutors:

> Our class of 2016 is rooted in ethics, diverse personalities and different opinion; critically engages with material before it; is updated with the recent happenings in society and brings this to their work; are hardworking and enthusiastic and finally are some of the best people I have met through my degree and who have become my friends. Even though I was the tutor, I can see how much this experience has taught me. From learning how to deal with a class to learning how to deal with different individuals one-on-one, this experience has definitely developed my people skills. Meeting students from such diverse and different backgrounds has been so refreshing and these situations have made me aware of so many different opinions and the validity of these different opinions. More so, this experience has given me such great hope for the future of our country. I can see vast potential in so many of the students and know that the next generation is filled with leaders who will have insight, wisdom and who are hard workers.[42]

Tutors also mentioned that they had learnt invaluable life lessons from fellow tutors. One tutor commented thus:

> They taught me that a true leader collaborates and makes a meaningful impact staying close to the realities of others; he does not dictate and position herself/himself far from those he leads. They taught me to think on my feet and to work under immense pressure. I hope to continue making an impact in their careers as I have encouraged them to keep in touch should they need advice in the future … You also gave me a chance to make such an important and meaningful impact in other people's lives, something I thought I could effectively do only once I became an attorney. I intend to extend the same impact you have had on me to all those I shall meet in the future.[43]

Tutors mentioned that they had learnt how to accept constructive criticism gracefully and how to use it to grow as a tutor:

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40   TLS lecturer report to external examiner 2018.
41   TLS lecturer report to external examiner 2017.
42   TLS lecturer report to internal moderator 2016.
43   TLS lecturer report to internal moderator 2016.

> [The lecturer (Ms Crocker)] gave us weekly critiques of our lesson plans and other submissions, at first I honestly did not read them. [This was mainly] because I was afraid of criticism and being told that I had not done things correctly. But each semester we had to do presentations in front of our peers and stand in front of our students weekly, this exposed me to all kinds of criticism, some lovely and some not so pleasing. However, this taught me that criticism and comments on one's work are vital for a long and healthy career as they make you a better version of yourself. You get confirmation on the things you are really good at and help to bring awareness on the things you still need to work on. You become self-aware and are able to grow.[44]

TLS students also mentioned how their own legal writing skills had improved through teaching these skills to their classes:

> I never thought that through teaching others, I would learn so much myself. Marking the [tutorial] prep of other students opened my eyes to what it's really like to be an examiner and I noticed such a change in my own work (test and exam answers) when I became more aware of structuring my answers in a way that would make sense to an examiner reading the answer for the first time, not knowing what my thought process was at the time of answering the question and having to make the structure of an answer very clear for an outsider to understand it on a first reading.[45]

3.3   Benefits accruing to the School of Law

Aside from receiving the benefits that come from enhancing the learning experience of its learners mentioned above, the School of Law will also benefit financially from the practice of using peer tutors. Colvin points out that "when departmental faculties are asked to teach more and more students with no increase in funding for additional instructors, peers can provide support in overenrolled classes".[46]

School of Law staff who make use of peer tutors can also be released from some of the more time-consuming lecturing duties such as answering general student queries or providing formative feedback on multiple drafts of students' written work. This time can be used by lecturers in any number of productive ways, such as in developing innovative teaching techniques or in providing additional consultations for students in need of remedial interventions.

Senior law student peer tutors and mentors, armed with the legal writing skills that they have developed over three years in the LLB programme, are thus well placed to engage in the contextualised sharing of ideas with the first-year law students and begin the process of constructing knowledge around what it is "to think and write like a lawyer". However, although the peer tutors may be senior law students with an impressive amount of legal knowledge, skills and values under their collective belts, it is still imperative

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44   TLS lecturer report to external examiner 2015.
45   TLS lecturer report to external examiner 2014.
46   Colvin 2007:166.

that they be sufficiently developed to enable them to offer a relevant, efficient, and engaging peer-tutoring service to their students.

4. DEVELOPING THE SKILLS OF PEER TUTORS TO TEACH PERSUASIVE LEGAL WRITING

Trimbur makes that point that peer tutors frequently begin their tutoring experience feeling insecure about their ability to facilitate a collaborative learning environment in which their students' persuasive legal writing skills could be improved.[47] These insecurities could stem from the fact that the tutors are not familiar with working within a small-class, co-operative learning environment. They themselves might have mainly experienced large classes in which information is disseminated by the lecturer to the student in a traditional vertical learning style, often with little or no student participation or engagement, and with assessments taking the form of tests and examinations that focus on rote learning.

Peer tutors might also feel conflicted about embracing the idea of knowledge construction within a cooperative learning environment, when they thrived and achieved excellent grades in a very different teaching environment. Despite an intellectual understanding of why collaborative learning is important to teach students how to think and write critically — like a lawyer — they may have internalised, and therefore feel loyalty towards a traditional teaching style, rather than a less familiar peer-learning experience.[48]

In addition to this, newly appointed peer tutors might be unsure of the form of guidance that they will be providing to their classes and need to understand the role that they will be playing as peer tutors. Colvin comments that, "[h]elping students become peer tutors involves much more than teaching them tutoring techniques — it also involves training them to understand the position they will occupy".[49] This point has been confirmed in the reflections of the peer tutors above.

Therefore, if senior law students are to provide effective, professional legal writing peer-tutoring services, their knowledge and teaching abilities must be developed in a number of areas. For example, tutors must learn to create a collaborative learning environment by facilitating small-group discussions and activities; to provide eloquent, confident impromptu answers to legal questions; to encourage critical thinking; and to encourage class participation. In addition to these important skills, peer tutors must learn to provide a reliable assessment of student legal writing and establish peer-tutor conversations in feedback. In this respect, peer assessment should be more than simply awarding a grade on a student paper and should involve engagement on an intellectual level with the assessment process itself. This is an essential teaching skill that involves the close consideration of learning outcomes,

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47   Trimbur 1987:22.
48   Trimbur 1987:23.
49   Colvin 2007:175.

marking criteria and standards of consistency across groups of students and among peer tutors. Liu and Carless maintain that:

> This intellectual engagement with outcomes, criteria and standards is at the heart of student involvement in assessment and can lead to greater clarity about the nature of high quality performance. Engaging learners in thinking about achieving outcomes to certain agreed standards is a learning process and giving marks or grades is only part of that process.[50]

4.1 Peer-tutor development strategies

The ongoing development of peer tutors is an essential part of the peer-tutoring process and careful attention needs to be paid to the tutor development strategies employed during this time. Clarence points out that the ability to provide effective collaborative learning strategies is no easy task:

> [T]o provide these kinds of learning opportunities for students, tutors themselves need to be confident facilitators, able to step back and let students guide the discussions, and be able to fully value students' contributions to knowledge-making while also being able to correct misunderstandings and answer questions. This is no mean feat, especially — if one considers that peer tutors are themselves students — usually postgraduate but in some cases also senior undergraduate students.[51]

Two models of peer tutor development — the "participatory peer-tutoring model" and the "peer-tutor developmental sequence" model will now be discussed.

4.1.1 The participatory peer-tutoring model

Developing the tutoring skills of senior law students using a participatory peer-tutoring development model calls for ongoing tutor training that models teaching and learning in a collaborative learning environment — that is, "participatory, peer-focused tutoring environments that will enable student-led, independent learning".[52] Thus the tutor training itself must incorporate teaching techniques that support co-operative teaching and that fall within a social constructivist teaching framework. During their training, tutors must engage in the learning process with their lecturer and with their peers alike, in order to construct the relevant knowledge, in much the same way as they would be expected to conduct their own tutorials. As Clarence states: "[i]n other words, training should not be 'done unto' tutors, or come in the form of mini-lectures; rather, the knowledge should come from the tutors' themselves, and consolidate and extend what already exists".[53]

    This style of tutor development, in addition to enabling tutors to become effective group facilitators, has the benefit of enabling the peer tutor group

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50   Liu & Carless 2006:280.
51   Underhill & McDonald 2010, cited by Clarence 2018:60.
52   Bruffee 1984, cited by Clarence 2018:59.
53   Clarence 2018:61.

to form strong collegial bonds. These bonds will enable the peer group to support each other in times of need by sharing materials, experiences and lessons learnt through the year.[54]

The value of learning through experience and modelling, in a scaffolded learning environment, is supported by the renowned Russian psychologist Vygotsky's theory of the Zone of Proximal Development, which can be expressed as "the distance between the actual development level as determined by independent problem solving and the level of potential development as determined through problem solving under adult guidance or in collaboration with more capable peers",[55] and is reiterated by his thoughts on the role of imitation in learning:

> [H]uman learning presupposes a specific social nature and a process by which children grow into the intellectual life of those around them. Children can imitate a variety of actions that go well beyond the limits of their own capabilities. Using imitation, children are capable of doing much more in collective activity or under the guidance of adults.[56]

However, it is argued that in addition to participatory peer-tutor development, training facilitators must simultaneously follow a developmental sequence, which will afford the peer tutors time to gradually develop into their newfound roles.

4.1.2 The peer-tutor developmental sequence model

Trimbur makes the valid point that inexperienced peer tutors might initially have difficulty in making sense of the dichotomy of the term "peer tutor". How can one be both a peer and a tutor? This apparent contradiction in terms might cause a newly appointed final-year law student tutor to question their commitment to the Law School in the face of their three-year allegiance to their peers. Trimbur thus advocates the gradual development of peer tutors, using a developmental sequence of tutor training that changes incrementally from co-learner mode to apprentice mode as tutors gain experience and confidence in their tutoring abilities.

The co-learner mode "emphasize[s] collaboration and experiential learning" and views peer tutoring "as a semi-autonomous activity that contributes to the formation of a student culture that takes writing seriously".[57] This mode will have two purposes: first, it will enable tutors to develop confidence in their ability to tutor as they collaborate with their students to improve their legal writing skills; and secondly, it will allow tutors to refocus their energy from an individualised, competitive way of learning to one that embraces collaboration with peers within the social constructivist paradigm. In the words of Trimbur:

> They need, in effect, to relinquish some of their dependence on faculty authority and conventional measures of success … and to experience

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54   Clarence 2018:62.
55   Vygotsky 1978:86.
56   Vygotsky 1978:88.
57   Trimbur 1987:26.

> instead the authority co-learners invest in each other as they forge a common language to solve the problems writers face … The point of tutor training at this stage is to resocialize tutors as collaborative learners within student culture.[58]

Then, as tutors gain expertise from their collaborative teaching and learning experiences, the development strategy can evolve into apprentice mode, which will focus on constructing knowledge of the theory of teaching legal writing. In the process, tutors will be pulled "toward the professional community that generates and authorizes such knowledge".[59]

Thus, peer tutor development will begin with the lecturer modelling a collaborative co-learner environment using teaching techniques commensurate with a social constructivist paradigm as part of a participatory peer-tutor development model. The lecturer will then gradually advance to include more theory of teaching, commensurate with a peer-tutor developmental sequence model, moving from co-learner mode to apprentice mode — thus enabling tutors to marry the concepts of peer and tutor.

The details of how these development models were applied in the Teaching Legal Skills module at the UKZN School of Law are discussed below.

5. THE TEACHING LEGAL SKILLS (TLS) MODULE PROGRAMME

5.1 Structure of the module

The TLS module is a final-year LLB Public Interest Law elective module, which is offered at the UKZN School of Law, and was originally developed by Greenbaum in 1999. She explains the history of the TLS module as follows:

> [A] tutor-training course, Teaching Legal Skills, was introduced at Natal University in 1999. Inspired and assisted by the ideas and visits of eminent legal writing expert, Professor Brook Baker, Director of the Legal Practice Programme at Northeastern University School of Law, in Boston, the course aimed to train tutors to critique writing, amongst other teaching functions. The impetus arose out of a need to increase teaching resources, and indirectly to build capacity. The design of the course was largely modelled on a similar course taught at Northeastern University. Materials from Georgetown University Law School also provided helpful guidelines for the tutor training. The aim of Teaching Legal Skills was to assist in and facilitate the teaching of legal writing to first year students.[60]

Since its inception, the module has retained a similar structure, although it has evolved in certain respects. The current structure of the TLS module is discussed in some detail below.

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58   Trimbur 1987:26–27.
59   Trimbur 1987:27.
60   Greenbaum 2001:10.

TLS is a 16-credit, year-long module which is only offered at the University of KwaZulu-Natal, Howard College Campus. The module is assessed entirely by means of continuous assessment and TLS students do not have to complete any formal tests or year-end examination. The primary duty of the students who participate in this module is to facilitate a 45-minute tutorial each week for the first-year Introduction to South African Law and Foundations of South African Law modules. The students are prepared for this by means of a weekly double-period seminar. The teaching philosophy adopted in the TLS module is a focus on values-based education with an emphasis on deep learning in general, and critical thinking in particular, in order to prepare the tutors for a goal-orientated, competitive, diverse workplace in which they will often be required to perform effectively in teams. Lovat explains the focus of values education as follows:

> It is to ensure that the evidence of facts and figures, as well as of human interactions and conversations, is of the broadest and most challenging kind. Ultimately, its task is to push student learning towards self-reflectivity, that knowing of self that allows one to step out of the shadow of one's upbringing and cultural heritage, to challenge not only the preconceived beliefs and behaviours of this upbringing and heritage but, more painfully, one's own deep seated comfort zone of beliefs and behaviours. The task, in other words, is to transform.[61]

There is a stringent selection process for the TLS module. At the end of each year — on a voluntary basis — a group of students from the outgoing TLS class run an informal information and question-and-answer session for all third-year LLB students who might be interested in taking the module in their fourth year. Tutors who are involved in this presentation are urged to be as candid as possible about the heavy workload and extensive duties of students participating in the module. All interested students are then invited to make written application for the module. In their application, students must explain why they are interested in enrolling for this Public Interest Law module in particular, and list any previous teaching or leadership experience that they might have had. They are also required to write a short paragraph on the topic "Good tutors are born and not made" in order to demonstrate their writing skills and to attach a copy of their academic record.

When shortlisting and interviewing potential candidates, the qualities that are looked for are commitment, motivation and enthusiasm for teaching in general, as well as an ability to manage time. Also, very importantly, candidates must have a strong academic background, particularly in the topic areas that are to form part of the first-year law modules that they will be tutoring — Introduction to South African Law and Foundations of South African Law. Although the applicants are 4th-year law students, who will be tutoring at a first-year level, it is essential that they have a sound grounding in the substantive materials in order to become effective tutors.

During their training, it is made clear to the TLS peer tutors that, in addition to teaching substantive materials, they are also tasked with introducing the

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61   Lovat 2006:4.

first-year students to the art of persuasive legal writing. In this respect then, one of their central responsibilities is to encourage students to engage on a deep, critical level with the subject and focus of their writing. This ability to engage deeply and critically with the legal materials informing written work, and with the writing process in general, is essential when forming logical, cogent written legal arguments.

The specific outcomes of the module as communicated to the students in the module outline are:

Teaching — [mark allocation 35%]

Students participating in the TLS module will fulfil the role of peer tutor and mentor to a class of approximately 15 first-year Introduction to South African Law students in the first semester and approximately 15 first-year Foundations of South African Law students in the second semester. This involves the effective planning and teaching of a one-period tutorial each week.

Feedback — [mark allocation 30%]

Tutors must give detailed feedback on first-year written tutorial preparation both through written comments and in one-on-one conferences with their students.

Participation — [mark allocation 20%]

Tutors must prepare a role-play, lead a themed discussion on an issue of teaching and learning and participate in all discussions held during the TLS seminars. Readings are made available to the TLS class on each discussion theme prior to the discussion so that the discussion leader and the rest of the TLS students can participate in an informed manner in the discussion. Discussion leaders are also expected to do more reading around the topic so that they can provide further insights into discussion points raised on the day. Tutors are assessed according to the extent of their preparation and the depth of their contributions to the role-plays, themed discussions and general class participation.

Reflective journal — [mark allocation 15%]

The reflective journal that the tutors are required to submit on a weekly basis is intended as a personal, reflective document, recording their growth and observations as a tutor. It is not intended merely to be a record of the module, covering the substantive content of the materials. Thus, students must reflect on issues of teaching and learning, as well as on multicultural, gender and diversity issues that are noticed in their tutorial groups, in the TLS class and in the curriculum in general.

During TLS seminars, tutors receive guidance from the lecturer and engage in peer discussions and debates on all aspects of small-group tutorial facilitation, beginning with basic teaching techniques and then moving on to values-based teaching topics. TLS students must submit a weekly online portfolio of documents demonstrating proficiency in the four outcome areas: teaching; feedback on students' written work; participation and preparation;

and a reflective journal entry. A provisional mark is awarded in June and a final mark in November. (This method was chosen, as opposed to taking an average of the two semesters' marks, because it is important that the students view their proficiency in teaching as a work in progress. They must appreciate that their skills are dynamic and that through reflection and adaptation they can improve consistently throughout the year. This will ensure that the tutors reflect honestly on both the successes and failures that they experience).

5.2   The development of peer tutors in the TLS module

The design of the TLS module allows for the simultaneous application of the participatory peer-tutor development and peer-tutor developmental sequence models discussed earlier. That is, both models are implemented from the commencement of the TLS module lectures. At the outset, tutors are told that they will be performing role-plays and leading themed discussions in the TLS class during the course of the semester. However, the first role-play of the module is modelled for the class by a top TLS student from the previous year, and a critique of this role-play is provided by the TLS lecturer. Likewise, the first themed discussion of the module is modelled by the TLS lecturer and the tutors are encouraged to take part in a discussion on selected teaching and learning concepts.

After watching and participating in the first role-play, the tutors are now in a position to run their first tutorial in the second week of the term, which focuses less on legal writing or substantive law concepts and more on getting to know the students in their tutorial class. There is also comprehensive academic support for the tutors — each tutorial has a detailed written tutor guide, and each week the first-year law module lecturer attends the TLS seminar briefly, to answer any questions that the tutors might have on the upcoming tutorial. During the TLS seminar immediately following the first tutorial, tutors are encouraged to collaborate with their fellow tutors by sharing details of their first encounters with the first-year students in a general discussion led by the lecturer. Then, after a few weeks, the peer tutors themselves begin to run the role-plays and lead the discussions, thereby modelling these tasks to the rest of the class. The small class size of the TLS module — limited to a maximum of 18 students — lends itself to a participatory class environment.

The introduction of a series of themed discussions, which are run throughout the year, is intended to model the use of discussion and debate to encourage critical thinking, which is essential to persuasive writing. Every week tutors participate in these discussions, which, although led by a fellow tutor, are mindfully guided by the TLS lecturer. In the process, they get to witness first-hand how a small-group discussion should be facilitated in order to maximise opportunities to encourage critical thinking with the class. It is imperative that the TLS lecturer makes a point of raising awareness of opportunities to teach critical thinking with the class, as and when these opportunities arise during the discussion. Themed discussions introduced during the year cover topics such as facilitating discussion on the first-year module's substantive legal materials, facilitating an effective tutorial using lesson plans and group work, the stages of group development, teaching professionalism, the lawyer as counsellor,

creating significant learning experiences, and honing public speaking and team management skills. All the tutors are provided with pertinent readings on these discussion topics before taking part in the themed discussions so that comments made during these discussions are informed and insightful.

In addition to guiding the themed discussion to a certain extent, prior to the TLS seminar the lecturer meets with the tutor tasked with leading the discussion in order to engage in a conversation around the material upon which the discussion is based. During this consultation the lecturer interrogates the questions that the tutor intends posing during the upcoming themed discussion to spark debate, and further alerts the tutors to potential opportunities to encourage and model critical thinking during the class discussion.

The conversations that are started in these discussions are ongoing and dynamic, with tutors required to think further on the topic and to write up their thoughts in a reflective journal entry. These journal entries receive critical comment by the TLS lecturer, who poses follow-up questions to encourage deep learning and thoughtful responses from the tutors, effectively modelling the process of establishing a conversation in feedback.

The concept of giving effective written feedback and establishing a conversation in feedback is introduced early on in the first semester in a TLS feedback workshop. During this workshop, tutors are split into groups of three or four and asked to critique the feedback given by lecturers on previous first-year student legal writing. The workshop is designed to model both the facilitation of group work activities as well as to demonstrate how to give detailed, directive feedback on written work to first-year students in an ongoing conversation in feedback. During this workshop, the importance of using participatory teaching methodologies when teaching legal writing is emphasised, as well as the need for students to become part of a practical legal writing experience. In an article detailing a previous legal writing intervention at the UKZN School of Law, I describe how students must be led "incrementally through the legal problem-solving process, allowing them to build their legal writing muscles gradually, until they [are] strong enough to produce well-rounded, persuasive pieces of writing on their own".[62]

In addition to showing how conversations in feedback are established during the feedback workshop, feedback on the tutors' own work is provided by the TLS lecturer on a weekly basis throughout the year. It takes the form of both written and oral feedback. During the first semester there is an emphasis on providing online detailed written feedback on reflective journals, lesson plans, visual aids and student feedback, as well as providing oral feedback on class participation, role-plays and themed discussions. Then, in accordance with a peer-tutor developmental sequence, the focus of the feedback shifts slightly in the second semester from lesson plans, student feedback and visual aids, to more critical written feedback on reflective journals. This encourages students to engage critically with their teaching and the application of teaching and learning strategies gleaned from module prescribed readings.

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62   Crocker 2018:12.

Thus, throughout the year the lecturer ensures that certain essential constructivist teaching principles — constructive alignment, peer participation and peer tutor conversations in feedback — are consistently modelled.

The peer tutors are therefore initially immersed in a co-learning mode, with a pedagogical alliance being created between the TLS lecturer and tutors in the TLS class, as well as between the tutors and their own students in the Introduction to South African Law tutorials, which they run. Thereafter, there is a gradual development in the sequence of tutor training, with the responsibility of modelling the relevant tasks moving from the lecturer to the peer tutors. As the first semester continues and tutors gain expertise in tutorial facilitation this, in turn, leads to a shift from co-learner mode to apprentice mode, with the gradual introduction of theory-based themed discussions in TLS lectures.

Peer tutor development continues in the second semester, when TLS students move on to tutor students in the Foundations of South African Law module. During the second half of the year, TLS students are encouraged to show increased creativity when planning their tutorials and to experiment with innovative teaching techniques to draw in the diverse learning styles of their students. They are also expected to engage on a critical level with challenging activities during TLS seminars, such as participation in a mock TLS academic conference. Three TLS students (chosen at random) are selected to form part of the conference panel. These students are each given an article covering a challenging pedagogical concept to study. They are then required, in the style of an academic conference, to present key ideas that they have gleaned from these articles to the rest of the TLS class. The remaining TLS students, who represent the conference delegates, will then ask questions of each of the panelists to clarify points that were unclear during the presentations. Over the years, the annual TLS conference has proved to be a welcome departure from the usual TLS seminar format and an interesting, innovative way to continue tutor development and encourage deep learning.

6. CHALLENGES ENCOUNTERED IN THE TEACHING LEGAL SKILLS MODULE

The benefits of using peer tutors to facilitate learning in aspects of substantive law, as well as the acquisition of legal writing skills, mentioned in the general discussion above, mirror the strengths of the TLS module. These benefits are reiterated in the practical examples given by TLS students over the years, while reflecting on their learning experiences when peer tutoring in the TLS module.

However, despite these benefits, much has been written on the challenges of using peer tutors to improve the skills of first-year students, in particular the legal writing skills of these students. In fact, Trimbur remarks that there is often opposition as "faculty traditionalists" believe that "peer tutoring doesn't make much sense. If anything, peer tutoring looks like a case of the 'blind leading the blind'".[63]

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63   Trimbur 1987:22.

Greenbaum also points out that using student tutors to provide feedback on first-year written work is not without its challenges. However, she maintains that a number of practices can be incorporated into the development of these peer tutors in order to improve the efficacy of the feedback given by these students.[64] Thus, following an investigation carried out by Greenbaum in 2001, on whether the written feedback of senior LLB students taking part in the TLS module could help to improve first-year students' legal writing, it was concluded that these student tutors could indeed provide an effective, inexpensive marking service for the assessment of first-year written work. The investigation took the form of a fairly extensive review of the TLS tutor class of 2000 and the nature and quality of their feedback on first-year student writing. Greenbaum explains the study as follows:

In this study, eighteen pieces of writing: three different examples of first year law students' writing, on which six tutors had each written feedback comments, were analysed. The number, accuracy and type of comments were tabulated, and the tone and quality of the responses were evaluated against the theoretical frameworks reviewed above. A descriptive, qualitative interpretation of their commenting practice develops a detailed sense of their successes and deficiencies.[65]

On completion of the study, Greenbaum concluded that the empirical data collected verified that peer tutors are capable of providing valuable, intensive supplemental instruction on legal writing.[66] Liu and Carless agree with Greenbaum in respect of the effectiveness of using peer tutors as assessors to provide feedback on student work, stating that, "[w]hilst acknowledging that establishing the reliability of student judgements is an important issue, we feel that it is now well-recognized that students are reasonably reliable assessors".[67]

The main challenges encountered in the current TLS module fall into two broad categories: first, challenges encountered by the peer tutors themselves in providing formative and summative feedback on student legal writing; and secondly, challenges encountered by the TLS lecturer in developing the ability of the peer tutors to provide effective feedback on students' written work. These challenges, and how they have been, or could be, addressed, are discussed in more detail below.

6.1 Challenges encountered by peer tutors in the provision of written formative and summative feedback on student legal writing

A number of problems can surface when inexperienced markers are tasked with providing formative and summative feedback on students' written work. For example, new peer tutors might initially provide inappropriate amounts of feedback, be unable to articulate the reason for grammatical errors, or be

64   Greenbaum 2001:81–83.
65   Greenbaum 2001:iii.
66   Greenbaum 2001:iii.
67   Liu & Carless 2006:282.

inconsistent with their feedback comments or mark allocations. However, these pitfalls can be minimised with the introduction of practical training workshops, formal peer-tutor discussion groups and the dissemination of information on the practical application of educational theory. In this vein, the current TLS module has incorporated a feedback workshop and introduced specific themed discussion groups and theoretical readings to combat potential pitfalls.

6.1.1 Inappropriate amount of feedback

New peer tutors are often found to provide inappropriate amounts of feedback — either correcting every grammatical and spelling error as they go along or not including enough detailed directive feedback to make the exercise meaningful. This can cause some students to lose motivation. Greenbaum notes that this "preoccupation with correcting every mistake detected as they read through the paper, is grounded in a traditional view of teacher as 'arbiter of "right" answers'".[68] She recommends that to overcome this, tutors must develop a theoretical knowledge of the feedback process to enable them to make informed choices about how to identify and provide a deeper analysis or diagnosis of many first-year legal writing problems. In this regard, Bean makes the point that a revision-orientated philosophy towards marking student work should be adopted, as opposed to an editing-orientated philosophy. Adopting a revision-orientated approach when providing feedback focuses on structure, argument and ideas rather than grammar and spelling, and has the goal of encouraging the student to produce work of increasing complexity and sophistication.[69] Giving revision-orientated feedback will thus also focus on the persuasiveness of the legal writing. Calleros maintains that the subtle art of writing persuasively employs a writing style that uses "strong, but not exaggerated, language" and "effective emphasis through sentence structure, specificity, and vivid, concrete language." Thus, peer tutors can be provided with explicit instruction not only on the identification of common language errors, but also on the development of a persuasive writing style.[70]

6.1.2 Insufficient knowledge of language errors

Many new peer tutors are able to identify that there is a language error in the student writing. However, in their feedback, they are unable to articulate

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68   Greenbaum 2001:79.
69   Bean 1996:68.
70   Calleros 2014:376. Greenbaum suggests introducing this theoretical aspect of the tutor training by implementing Ramsfield's "three-step system of training". First, brainstorm with tutors to create a list of feedback comments that were helpful in their own studies as well as a list of those that were not. Then refine this list using theoretical readings. As tutors' expertise develops, introduce commenting terminology in margin and endnotes. Secondly, develop the list started in step one by studying a "library of comments". Thirdly, tutors comment on a "sample critique", which is subjected to peer review, followed by discussion. Then tutors comment on further papers, which are reviewed and commented upon by the lecturer and peers. (See Greenbaum 2001:81, citing Ramsfield 2001).

why this particular error is recurring. It is often the case that second-language speakers produce similar language errors with the root of the error emanating from the student's home language construction. Making tutors aware of those errors that might be common to second-language speakers would enable them to identify the errors more easily and to give more useful guidance on how to correct them.[71]

6.1.3 Inconsistency in marking

Inconsistency in marking is a common problem when a group of 18 or so tutors are individually applying their minds to the grading of legal writing, which can also be a subjective exercise. Consistency in marking refers not only to consistency in the feedback comments given (e.g. number of comments, tone, focus, endnotes), but also to consistency in the assessment grades awarded. Thus, before beginning the marking process, peer tutors must meet to discuss the importance of consistency in marking. The specific marking requirements of each assignment must be made explicit as well as the possible ambiguities or discrepancies that might arise while marking. Markers must be issued with a detailed marking rubric, as well as a detailed set of grading criteria to increase the consistency of the marking as much as possible. Greenbaum also suggests that a system of feedback peer reviews can be implemented among the peer tutors. The benefits of a peer-review system are twofold: first, the collaboration amongst the tutors encourages mindful engagement with the aims of the feedback being given as well as engagement with the materials being marked; and secondly, it serves as a way of moderating the student tutors' feedback — thereby lightening the module lecturer's supervisory load.[72]

Greenbaum also recommends a system of peer-review checklists to enhance the consistency of peer-tutor marking by establishing a formalistic standard of marking. These checklists could require student markers to follow certain minimum criteria, such as the inclusion of a balanced endnote indicating the main aspects of the assessment that were performed well and those that need revision. Peer tutors could also be required to complete a self-check list after having marked a particular assessment, giving an indication of the number and type of feedback comments that they included in their feedback. This would enable their supervisor to monitor both the usefulness and style of the comments as well as develop the tutors' ability to self-assess.[73]

All of the aforementioned challenges are addressed in the current TLS module with the implementation of a feedback workshop, which is held during the first few weeks of the semester. During this workshop, particular attention is paid to the issues of spelling and grammar, and typical second-language errors. The feedback workshop adopts a constructivist teaching style, leaving space for peer-tutor discussion around their experiences regarding the provision of feedback on second-language speakers' work and, where

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71   Greenbaum 2001:80.
72   Greenbaum 2001:83.
73   Greenbaum 2001:82.

relevant, with their own experiences in terms of receiving feedback during the course of their studies.

In addition, the feedback process is firmly embedded within the TLS module itself. TLS peer tutors are actively involved in providing feedback on students' written work on a weekly basis throughout the year, as well as in a continued conversation in feedback with the TLS lecturer on their own work. Every week feedback strategies are then discussed with the peer tutors and the TLS lecturer, to address any of the pitfalls of peer assessment mentioned above. This continual engagement with the feedback process is an important part of the peer-tutor development.[74]

6.2 Challenges encountered by the TLS lecturer in developing the ability of peer tutors to provide effective feedback on students' written work

A significant positive aspect of the TLS module is the consistent provision of formative feedback on the peer tutors' submissions on a weekly basis. This immediate feedback allows the tutors to make incremental changes in order to correct errors and answer questions as and when they arise. This aids in the reflective process and provides the best service possible for their student classes. It also allows a meaningful conversation in feedback to take place, thus adding depth to the learning process. However, the main challenge faced by the TLS lecturer in providing this feedback is the sheer volume of work that is submitted on a weekly basis. Every week, each TLS tutor submits a lesson plan, visual aids, examples of written feedback given on their student work and a reflective journal entry. The current TLS module has incorporated a peer-review process to alleviate this intense workload by using the services of a master's student engaged in the School of Law Graduate Teaching Assistant programme[75] to provide formative feedback on selected TLS submissions throughout the year. This Graduate Teaching Assistant is carefully chosen from the ranks of top students, having participated in the TLS module the previous year and who is also participating in the programme.

7. CONCLUSION

The benefits of using tutors to relieve the labour-intensive nature of legal writing programmes are substantial, as are the many other benefits of using peer tutors in a collaborative learning environment. The TLS peer tutors are a dedicated, motivated well-developed group who are perfectly placed to provide formative as well as summative feedback on first-year students' written work. Since the tutoring duties form part of the academic assessment for the module, these tutors are open to being coached on the theory and

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74   Boud 2000, cited in Liu & Carless 2006:288.
75   A drawback of this Graduate Teaching Assistant programme is that it utilises School of Law funds to pay the students participating in the programme for services rendered. Every year it becomes more and more difficult for the School of Law to procure funds for this programme.

practice of providing effective written formative feedback on the first-year students' legal writing assignments and are prepared to spend long hours carrying out their duties. Horizontal peer-learning collaboration also allows for the social construction of knowledge by contextualising materials.

Although first-year law students are expected to assimilate a vast amount of substantive law knowledge during the first year of the LLB degree, as well as to master an array of critical thinking and analytical skills, it is possible for peer tutors to make a difference to these students' first-year learning experience. This peer tutor model has proved to be very successful in providing the additional capacity to run intensive legal writing support programmes at the UKZN School of Law, despite the limited expertise and resources available.

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