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## **SUBMISSIONS ON THE LL.B DEGREE PROGRAMME**

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### **1. Main purpose of the LL.B programme:**

The main purpose of the LL.B programme can be summarised as follows:

Firstly, to provide graduates with substantial in-depth knowledge and understanding of:

- The principles, concepts, values and substantive rules of the South African legal system.
- The main legal institutions and procedures of the South African legal system.

Secondly, to provide graduates with skills and abilities necessary to practise law either in the public or private sector, and include Public Prosecution.

### **2. Skills and abilities needed by LL.B graduates.**

The LL.B programme should equip graduates with at least the following skills and abilities:

*(This list does not include characteristics as knowledge of the law, courtroom presence, innovation or integrity).*

- Communication skills.  
Jurists interact with a large variety of people; therefore they must demonstrate excellent communication skills (Oral and writing).
- Observational skills.  
Jurists spend a lot of time in court observing witnesses, reading case materials etc. which requires keen attention to detail.

- Analytical Skills

Jurists must have probing analytical skills in order to develop their arguments.

- Memorisation Skills

Jurists must have a working knowledge of Common law, Case law, Statutory law etc.

3. **Extent to which the 4-year undergraduate LL.B programme permit the acquisition of the mentioned skills and abilities.**

The current 4-year undergraduate LL.B programme is academic in nature. It concentrates only on 'knowledge of the law' and neither on the acquirement nor enhancement of the other vital skills and abilities.

4. **Challenges and difficulties facing universities in adequately preparing LL.B graduates for the different professional career paths.**

Teaching law has more than one function; it provides the knowledge in first instance but it also trains the mind to think analytical, it grooms the mind to be precise and meticulous and in this manner matures the kind of mind and the kind of thinking process that is indispensable for a legal career and finally contributes wholesomely to the legal world. The four year curriculum is evidently too short to obtain this result. It is not long enough to groom people mentally and emotionally to be ready to practice a career of law. A four year LL.B reminds of a "quick fix", it is rather a compromise than a preparation for a very serious career that inevitably influences the lives of people. The changes brought about by introducing the 4 year curriculum of necessity results in either curtailing the ambit of certain necessary study material or excluding it completely.

It is evident through experience in class that the standards of the various institutions are not the same; Attention should be given to this aspect of education. Examples of graduates lacking the necessary and fundamental knowledge to perform are the following:

Aspirant Prosecutors who have recently completed their LL.B degrees, are ignorant of certain terminology for instance '*dolus directus, dolus eventualis, novus actus interveniens* and non pathological incapacity (including the cases of Campher, Wiid, Eadie). Some indicated that they never heard of '*novus actus interveniens* or non pathological incapacity'. This terminology can be found in all the textbooks on law. Some denied that they have ever been taught or lectured to on these topics at University. This surely reflects on the quality of lecturing and the difference in standards at certain Universities.

One must also bear in mind that academic knowledge (of the law) alone is not sufficient. A student needs to be skilled on the practical application of the knowledge taught, the application thereof in practice.

Universities should be wary not to award degrees where it is not deserved, for instance by raising marks in order to maintain a certain passing rate. If a student was not able to perform to such a standard that deserves a passing by acquiring the minimum mark to pass an examination, then that student cannot pass because the same student would surely not be capable of performing duties as could be expected from a knowledgeable, skilled and learned practitioner of law in the private or public sector, because he or she is not sufficiently knowledgeable or skilled! To pass such a student would be misleading to the corporate and public employer relative to the skills of that particular student.

Attention should be given to this aspect to ensure that we do not create an “instant” lawyer lacking the basic and necessary skills and capacity to function as a dignified and respected lawyer that has reason to be proud of himself and which his peers, his seniors and the public respects.

Language in general and in particular court language, seems to be regarded as an “anything will do, as long as I speak”. Time should be spent on developing the skill of communicating sensibly through the art and proper command of language;

Specific attention should be given to the skill of analytical thinking;

The institutions should establish whether their lecturers are properly skilled to teach; having the knowledge is unfortunately not enough. The quality of lecturing and the methods used whilst lecturing at the Universities is foundational to quality education. This implies the following:

- Does the lecturer know his field of law?
- Does the lecturer have the necessary skills to transfer his knowledge to students?
- Does the lecturer merely transfer academic knowledge or are students taught and skills transferred pertaining to the practical application of the academic knowledge acquired?

The standard of lecturing runs concurrently with the standards applied when drafting test and examination papers and the marking thereof. The questions that should be raised here are as follows:

- Does the test or examination paper merely test ‘common’ academic knowledge?
- Does it test academic knowledge coupled with insight? (thus the application of the academic knowledge of the law on a set of facts)?

- Is the allocation of marks per question reasonable or over lenient if one looks at what the question entails?
- Are marks awarded according to answers that are deserving of those marks or are marks awarded blindly?
- When calculating the percentage of students who passed a test or examination, is a quota system applied which entails the raising of marks in order to let more students pass the test or examination?

5. **Challenges and difficulties facing students enrolled in the LL.B programme, which might impede their development of the necessary knowledge, skills and abilities.**

Faculties of Law are faced with students who are not yet equipped for tertiary education. The gap between secondary school education and university training is bridged with programmes structured for this purpose. A further challenge is the large number of enrolments at the various Faculties of law – this inevitably results in minimum individual training and consequential failure.

In my view the following challenges and difficulties are facing the students: (Definitely not a closed list!)

- Educational standards (secondary school education) is seriously declining.
- Students cannot speak, read or write properly – not to mention spelling.
- Insufficient basic numeracy skills.
- General attitude problems ‘I am here – it is your responsibility to keep me entertained and to make sure that I successfully complete my studies.’
- The questioning of the independence of the judiciary by members of the public.
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6. **Recommendations to address the issues above.**

Practical training (working in Magistrates Offices, working in law firms etc.) should form part of the LL.B curriculum. The NPA is addressing the above issues with continuous Skills enhancement programmes such as the Internship Programme and Aspirant Prosecutor Programme. This Programme successfully bridge the gap(s) between the LL.B programme and eventual appointment as a full-fledged Prosecutor.

The four year LL.B degree is not even enjoying merit from the international community. If the LL.B degree programmes reverts back to a “post graduate” qualification like it use to be, there may be justification for a three year B.luris degree and other pre LL.B entry degrees provided that they are of a high standard and not just a method to get students into a legal career. Then there may be justification for different pre LL.B degrees tailored for different careers.