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Law students' descriptions of legal reasoning

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ABSTRACT

This study is an exploration of bachelor-level law students' descriptions of legal reasoning in a large multidisciplinary university in Finland. Thirty students participated in this qualitative study. The participants comprised three student groups: first-year students (n = 10), second-year students (n = 10) and third-year students (n = 10). The data were first collected via semi-structured interviews and then analysed by using qualitative content analysis. The results revealed variation in students' descriptions of legal reasoning. Most shared the view that legal reasoning comprised legal knowledge. However, some students emphasised the view that legal reasoning includes both skills and a certain mindset to use legal knowledge. The students' descriptions of legal reasoning varied between the student groups. The third-year students were more often able to provide detailed and coherent perceptions of their legal reasoning than the first- and second-year students. The conceptions bear consequences for the learning processes. Thus, the results imply that the development of legal reasoning needs to be facilitated systematically during university studies.

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KEYWORDS Legal reasoning; teaching of legal reasoning; law students

Introduction

One of the required main competencies for legal professionals is legal reasoning skills. It is also emphasised as a central aim in legal education.¹ However, previous research has shown that learning legal reasoning is challenging for students.² Especially at the beginning of studies, legal reasoning has been found to be a difficult skill to learn because the students have not yet acquired a large knowledge base of the legal domain. Some students also struggle to apply this kind of knowledge in practice, such as in problem solving.³ Previous research has found that first-year students often see justice as a black-or-white process in

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¹Larry O Natt Gantt II, "Deconstructing Thinking Like a Lawyer: Analyzing the Cognitive Components of the Analytical Mind" (2007) 29 *Campbell Law Review* 413, 414–15; Cheryl Preston, Penee Stewart and Louise Moulding, "Teaching 'Thinking Like a Lawyer': Metacognition and Law Students" (2014) 5 *BYU Law Review* 1053, 1074–75.

²Stefan Krieger, "The Development of Legal Reasoning Skills in Law Students: An Empirical Study" (2006) 56 *Legal Education* 332, 352–53.

³Fleurie Nievelstein and others, "Effects of Conceptual Knowledge and Availability of Information Sources on Law Students' Legal Reasoning" (2010) 38 *Instructional Science* 23, 23.

which only one correct solution can be obtained from the existing legal system.⁴ In addition, students often expect the teachers to teach them a clear method or model of how to solve legal problems that leads to one correct solution, and when teachers point out that the case includes a variety of factors that can lead to alternative solutions, students can find this confusing. However, legal reasoning has been defined as a complex cognitive skill that is expected of members of the legal profession.⁵ In this article, legal reasoning, as defined below in more detail, is understood as a special mode of operation of the legal system that defines the preconditions of the legal system.⁶

The Finnish legal system is mostly based on the civil law system in which jurisdiction is based on the application of rules and doctrines, and legal problems are analysed in the light of generally accepted rules from which solutions can be deduced, albeit the Finnish legal system more accurately can be said to belong to Nordic law, which to some extent differs from the traditional civil law system. It could also be noted that the relevance of case law as a source of law is relatively strong, and precedents are also regularly used in legal education.⁷ The legal system gives a foundation to legal education. In Finnish legal education, the curriculum is commonly based on theory and focuses on domain knowledge that students are expected to acquire to solve legal problems. Traditional lectures can be seen as quite teacher-centred in nature and do not support the task of problem solving very well, nor do they help students to construct their own understanding of the subject matter.⁸ Although learning legal reasoning is experienced as the core competency of the legal profession,⁹ pedagogical research on this issue is limited. One reason might be that teaching legal reasoning in law schools is not easy, since compared to the foundations of substantive disciplines of law, legal reasoning is something less concrete and clearly not statute- or case-based.¹⁰ Some scholars have also indicated that this is perhaps because legal reasoning is not taught explicitly in legal education.¹¹ Thus, it is important to explore how students perceive legal reasoning because it might have serious consequences for their learning and later working as legal professionals.

Defining legal reasoning

Legal reasoning is a commonly used concept in the field. A useful definition can be found in Steven Burton's book *An Introduction to Law and Legal Reasoning*, in which legal reasoning is described as a process of using legal reasons in legal arguments.¹²

⁴Krieger (n 2) 352.

⁵James Stratman, "When Law Students Read Cases: Exploring Relations between Professional Legal Reasoning Roles and Problem Detection" (2002) 34 *Discourse Processes* 57, 58–60.

⁶Niklas Luhmann, "Legal Argumentation: An Analysis of Its Form" (1995) 58 *Modern Law Review* 285, 286–87.

⁷In the Nordic legal systems, the lack of extensive private law codifications, for example, is one of the main differences from civil law. See Jaakko Husa, "Panorama of World's Legal System – Focusing on Finland" in Kimmo Nuotio, Sakari Melander and Merita Huomo-Kettunen (eds), *Introduction to Finnish Law and Legal Culture* (Publications of the Faculty of Law, University of Helsinki 2012) 8.

⁸Donald Bligh, *What's the Use of Lectures?* (Jossey-Bass 2000) 8–10.

⁹Anna Bager-Elsborgh, "Discipline Context Shapes Meaningful Teaching: A Case Study of Academic Law" (2019) 43 *Journal of Further and Higher Education* 508, 517.

¹⁰Chloë Wallace, "The Pedagogy of Legal Reasoning: Democracy, Discourse and Community" (2018) 52 *The Law Teacher* 260, 261–62.

¹¹Alex Steel, "Succeed, Question, Repeat: Threshold Concepts and Variation Theory in Understanding How Law Students Build Competency" (2019) 53 *The Law Teacher* 231, 234.

¹²Steven Burton, *An Introduction to Law and Legal Reasoning* (2nd edn, Little, Brown and Company 1995) 1. Burton describes legal reasons thus: "They [judges] should apply the law to the facts of a case to yield *legal reasons*, which are reasons for actions by law-abiding people."

Basing her definition on Twining's and Mier's descriptions,¹³ Wallace characterises legal thinking as "a process of interpretation and application of legal rules and principles".¹⁴ As both these definitions show, legal reasoning has been connected to many aspects that are relevant to legal professionals. On the one hand, legal reasoning requires a large knowledge base of the legal order, such as legal rules and statutes.¹⁵ On the other hand, legal reasoning can be seen as a variety of skills that are required in the law profession, such as analysing legal principles, organising data into legal categories, and evaluating ethical principles.¹⁶ Especially strongly associated with legal reasoning is the process of legal problem solving in which lawyers identify relevant rules, critically apply the rules to the facts of a problem, and predict probable results with a convincing conclusion.¹⁷ Taking these perspectives together, legal reasoning involves not only a strong knowledge base concerning the legal order but also a variety of skills and a disposition to use these skills to analyse and use that knowledge in reaching well-reasoned conclusions and solutions to legal questions and problems in a way that distinguishes legal reasoning from reasoning used in other domains, as we will demonstrate below.

The various definitions of legal reasoning are also closely related to general definitions of competencies. Competencies can be defined as the capacity to use specific combinations of knowledge, skills and attitudes in appropriate contexts.¹⁸ Furthermore, a holistic model of competencies includes conceptual competencies and social competencies. It also includes meta-competencies such as the ability to reflect and learning to learn.¹⁹ In addition, legal reasoning is equated with the conception or expression "to think like a lawyer" and it is commonly used to describe how lawyers, notably judges, approach and solve legal problems but also as a style of thinking which is analytical and logical in nature.²⁰ In addition, "thinking like a good lawyer" is related to a morally neutral and value-free approach to legal problems.²¹ The nature of legal reasoning and the problem-solving process has been seen as communal and coherent with the legal system, which means that lawyers are able to locate relevant authorities and use inductive reasoning to evaluate relevant authorities.²² Thus, legal reasoning in this study is seen as the approach and behaviour that are required of legal professionals. These lawyers understand how things work in the domain of law, they have a coherent

¹³William Twining and David Miers, *How to Do Things with Rules* (5th edn, CUP 2010) 337–38.

¹⁴Wallace (n 10) 261.

¹⁵Twining and Miers (n 13) 337–38.

¹⁶Nancy Schultz, "How Do Lawyers Really Think?" (1992) 42 *J Legal Educ* 57, 60. See also Preston, Stewart and Moulding (n 1) 1074–75.

¹⁷Fleurie Nievelstein and others, "The Worked Example and Expertise Reversal Effect in Less Structured Tasks: Learning to Reason about Legal Cases" (2013) 38 *Contemporary Educational Psychology* 118, 118–19; Melissa Weresh, "Stargate: Malleability as a Threshold Concept in Legal Education" (2014) 63 *J Legal Educ* 689, 689; Twining and Miers (n 13) 337.

¹⁸Liesbeth Baartman and Lotte Ruijs, "Comparing Students' Perceived and Actual Competence in Higher Vocational Education" (2011) 36 *Assessment & Evaluation in Higher Education* 385, 387.

¹⁹Françoise Delamare Le Deist and Jonathan Winterton, "What Is Competence?" (2005) 8 *Human Resource Development International* 27, 39.

²⁰Stephen Wizner, "Is Learning to 'Think like a Lawyer' Enough?" (1998) 17 *Yale L & Pol'y Rev* 583, 587; Weresh (n 17) 705.

²¹Wizner (n 20) 587–88.

²²Twining and Miers (n 13) 338.

framework, and they see how various aspects of the domain and experience fit that framework.²³ It is a reasoning process that relies on legal knowledge, the application of legal rules and principles, and it is communicative in nature.²⁴

In addition, one might question the relevance of distinguishing legal reasoning from other types of reasoning relevant in other disciplines and connections. It could be stated that there is nothing special in legal reasoning compared to reasoning and reasoning skills in general or in other domains. However, legal reasoning is a special kind of professional knowledge employed within a system that is vast and complex but also systematic and coherent. With the means of legal science, when legal order is constructed into a systematic legal system, a special kind of reasoning and argumentation knowledge is needed to understand the logic of such a system comprehensively.²⁵ Therefore, legal reasoning is a special mode of operation of a legal system that defines the preconditions of the legal system.²⁶ This mode of operation, for example, requires that only certain sources in reasoning are used in order to construct the argument to fulfil the requirements of a legal argument. Legal sources also need to be interpreted in a certain manner and the varieties of interpretation are limited. This makes legal reasoning special in relation to other kinds of reasoning skills. Law students need to understand the significance of legal reasoning as a part of their studies.

Developing legal reasoning in legal education

Transition to studying law at university might be difficult for students because, depending on the curricula of different countries, the opportunity to study law at upper secondary school varies. For example, in Finland, upper secondary education offers only one short elective course in law to pupils. Students' conception about law might be naive and they can see law as a set of rules that provides only one possible solution to a legal problem. In general, first-year students' knowledge about domain knowledge might be fragmented and the possible schemas are quite general.²⁷ In his study, Krieger²⁸ examined the development of legal reasoning during the bachelor's degree by using a think-aloud method in the legal problem-solving process. Krieger found that for novice law students reasoning processes relied on common sense and it was typical of them to use fewer relevant legal facts than the second-year students.²⁹ However, the second-year law students' reasoning processes still relied on their own experiences, and they had difficulties in identifying relevant from irrelevant rules. In the third-year students' reasoning processes, the use of common experience decreased whereas they employed legal facts more precisely and professionally than the first- and second-year students.³⁰ On the other hand, they recalled fewer facts than the students of the

²³Kai Hakkarainen and others, *Communities of Networked Expertise: Professional and Educational Perspectives* (Emerald Advances in Learning and Instruction Series, Emerald Publishing Limited 2004) 21; Gloria Dall'Alba, "Learning Professional Ways of Being: Ambiguities of Becoming" (2009) 41 *Educational Philosophy and Theory* 34, 37.

²⁴Twining and Miers (n 13) 337–38; Wallace (n 10) 261.

²⁵Neil Komesar, "The Logic of the Law: The Analytical Foundations of Methodology" in Rob van Gestel, Hans-W Micklitz and Edward L Rubin, *Rethinking Legal Scholarship: A Transatlantic Dialogue* (Cambridge University Press 2017) 401.

²⁶Luhmann (n 6) 286–87.

²⁷Krieger (n 2) 342–52.

²⁸Krieger (n 2) 332.

²⁹Krieger (n 2) 352.

³⁰Krieger (n 2) 352.

previous year's cohort.³¹ This study gives an example of how the changes and development in legal reasoning happen slowly and how it is a long, possibly a lifelong, process, that requires metacognitive skills³² from students to regulate and be aware of their own learning processes and ability to monitor and reflect on their learning and thinking.³³

Aim

The aim of this study is to explore bachelor-level law students' descriptions of their legal reasoning and types of variation in legal reasoning that can be detected among first-, second- and third-year students.

Method

Context

Students in the Faculty of Law at a large public and multidisciplinary university in Finland are selected through a discipline-specific entrance examination or on the basis of their National Matriculation Examination grades. Each year 250 new law students begin to study, representing fewer than 10% of applicants.³⁴ These students have the right to complete both the lower and higher academic degrees, and there are no tuition fees. The target duration of law is five years: three years for the bachelor's degree and an additional two years for the master's degree. Although Finnish universities follow the Bologna model, university students in Finland have generally had more freedom regarding the length of time of study than students in many other countries. The Finnish system enables the prolongation of studies and students are not forced to follow the year cohorts study plan (60 ECTS³⁵ per year), thus the students' study credits can vary without negative consequences for students' right to study at the university for up to seven years to complete their degrees.³⁶ On the other hand, it is possible to graduate very quickly, in less than two years.³⁷ According to the university's student register the average study time at the Faculty of Law has varied from six years to six and a half years. While studying law, the bachelor-level students participate in traditional content-driven lectures offered to the whole year cohort, and

³¹Krieger (n 2) 252.

³²Metacognition refers to the process of thinking about one's own thinking and learning, see more John H Flavell, "Metacognition and Cognitive Monitoring: A New Area of Cognitive-Developmental Inquiry" (1979) 34 *American Psychologist* 906.

³³Preston, Stewart and Moulding (n 1) 1057–58.

³⁴Statistics on Student Admissions <www.helsinki.fi/en/admissions-and-education/apply-bachelors-and-masters-programmes/statistics-student-admissions> accessed 21 October 2021.

³⁵The European Credit Transfer and Accumulation System (ECTS) for higher education is used across the European Union and other collaborating European countries. One academic year corresponds to 60 ECTS credits, which are equivalent to 1500 hours of total workload.

³⁶The Finnish higher education system is explained more in Jani Ursin, "Higher Education Reforms in Finland: From a Ponderous to a More Agile System?" in Bruno Broucker and others (eds), *Higher Education System Reform: An International Comparison after Twenty Years of Bologna* (Brill 2019) 67–77.

³⁷Data from University Register <<http://www.helsinki.fi/rapo>> accessed 9 November 2021 (available from the corresponding author on reasonable request). See also Vipunen, Education Statistics Finland <<https://vipunen.fi/en-gb/>>.

written examinations have been the most common method of assessment. The bachelor's degree is mainly based on independent work, and practical exercises such as legal problem solving in smaller groups are very seldom available due to the low teacher–student ratio.³⁸

Participants

This study was conducted with 30 law students who represented a random sample of first-year ($n = 10$), second-year ($n = 10$) and third-year ($n = 10$) students in a research-intensive university in Finland. The target population consisted of all first-, second- and third-year law students at this particular university. The aim was to recruit 10 participants for each cohort. First, we selected 15 students at random from each cohort and invited them to participate in our study. Then another 15 students from each cohort were selected and invited to participate, to have a sufficient number of representatives. Finally, a suitable number of students was selected and invited to take part in the study. Ten out of 53 first-year students, 10 out of 41 second-year students and 10 out of 62 third-year students volunteered. Twenty-one of the students were female and nine were male. This is in line with the average distribution by gender within the Faculty. The students' age varied from 20 to 36 years, the mean age being 24.5 years. The first-year students' study credits varied from 30 to 132 (mean 64.6 ECTS). The second-year students earned from 22 to 172 study credits (mean 109.7 ECTS, mean per year 54.85). The third-year students had gathered the most study credits, varying from 127 to 248 ECTS (mean 167.8 ECTS, mean per year 55.93). All students came from a homogeneous cultural background and were enrolled in the same bachelor's study programme. The participants gave their informed consent, and their anonymity was ensured in the research process. We are aware that the sample size is too small for generalisation. However, the purpose of this study was to deepen understanding of legal reasoning, to explore how these descriptions vary across individuals in this specific group of students.

Interviews

The research used a qualitative approach with interviews as the data collection method. The interviews were semi-structured meaning that there were some predetermined questions but also space for participants' voices and follow-up questions.³⁹ The interviews concentrated on the participants' descriptions of legal reasoning. The students were asked to elaborate on the meaning of legal reasoning. The overall question was: *How would you describe legal reasoning?* If needed, this was reinforced with specific questions such as *How do you approach legal information presented in news in everyday situations?* The first and fourth authors interviewed the participants and data were digitally recorded and transcribed verbatim. The interviews lasted from 36 to 75 minutes. All personal information was removed before the analysis phase and replaced with codes. Finally, the interview data were transferred to the Atlas.ti computer program for the analyses.

³⁸At the present Faculty of Law there are about 20 students per teacher, whereas at the university the average is 10 students per teacher. Data from: Vipunen, Education Statistics Finland <<https://vipunen.fi/fi-fi/yliopisto/Sivut/Opiskelijat-ja-tutkinnot.aspx>> and <<https://vipunen.fi/fi-fi/yliopisto/Sivut/Henkil%C3%B6st%C3%B6.aspx>> accessed 13 October 2021.

³⁹Sandy Qu and John Dumay, "The Qualitative Research Interview" (2011) 8 *Qualitative Research in Accounting & Management* 238, 246.

Data analysis process

First, the data were analysed using qualitative educational content analysis.⁴⁰ The aim of qualitative content analysis was to identify various descriptions of legal reasoning. The analytical process involved both deductive and inductive approaches, which means that the various categories identified in the interviews were connected to theoretical frameworks from previous studies. The analysis process included four main phases and it was non-linear in nature, moving back and forth between the data and understanding acquired from prior studies. In the first phase, the first-named author read the transcripts several times to acquire inductively an overall view of the different legal reasoning descriptions reflected in the interviews. In the second phase, all four authors met to discuss the features of legal reasoning that emerged in the data, establish a common understanding of the data, and agree on the coding scheme. Based on the shared understanding of the coding scheme, the first-named author reread the transcriptions of interview data again and started coding the data. This second phase was guided by theory, as the coding involved findings of Twining and Miers,⁴¹ Weresh⁴² and Wallace.⁴³ The trustworthiness of the coding was checked by the rest of the authors, who carefully followed up on the whole coding process and recoded the data. Coding was continued until no new aspects emerged from the data and consensus was reached with all the authors. In the third phase, the codes were grouped into categories and sub-categories. In the last phase, the final categories and sub-categories were refined, labelled, and cross-checked in relation to the coded extracts and entire dataset. The final results were obtained through detailed and in-depth discussions with all authors. The data examples were translated into English. The final categories and sub-categories are presented in Table 1.

Table 1. The categories and frequency of legal reasoning.

Categories and sub-categories of legal reasoning (frequencies)	Definition
Legal knowledge	
Foundations of law (11)	Basic elements on the foundations of law and legal system.
Complexity of law (16)	Notifies many aspects related to legal domain, understands the interrelated issues, forms an overall picture, understands the legal system.
Legal skills	
Identifying a legal problem (12)	Identifies and forms a legal problem, identifies the essential and irrelevant, seeks a solution.
Seeking information (5)	Can search for and find the necessary legal sources.
Argumentation (7)	At least mentions argumentation or legal justification as part of the legal reasoning process, knows it is important.
Using legal knowledge (17)	Identifies situations in which the learned legal information has been used.
Legal mindset	
Thinking like a lawyer (12)	Notifies a certain legal approach, an angle, thinking or thought pattern, thinks differently from a non-lawyer.
Critical legal mindset (11)	Questions, assesses the accuracy of the legal information presented and the reasons for the decision.

⁴⁰Satu Elo and Helvi Kyngäs, "The Qualitative Content Analysis Process" (2008) 62 *Journal of Advanced Nursing* 107; Stefan Timmermans and Iddo Tavory, "Theory Construction in Qualitative Research: From Grounded Theory to Abductive Analysis" (2012) 30 *Sociological Theory* 167, 180.

⁴¹Twining and Miers (n 13) 337–338.

⁴²Weresh (n 17) 689.

⁴³Wallace (n 10) 261.

Findings

Our study aimed to investigate the students' view on legal reasoning through interviews. The qualitative analysis of students' answers about their legal reasoning revealed that students expressed their legal reasoning through three categories: legal reasoning as (1) legal knowledge, (2) a legal skill, and (3) a legal mindset (see [Table 1](#)).

The first category of legal reasoning was entitled "legal knowledge", and it contained answers in which students described their legal reasoning as mentioning elements of legal knowledge and it included the "foundations of law" and identifying the "complexity of law". Of the 30 students, 21 mentioned "legal knowledge" in their descriptions of legal reasoning.

The "foundations of law" refers to a situation in which students mentioned at least one basic element of the foundations of law. The students described "the foundations of law" very similarly, briefly mentioning some sources of law in a general and limited way, as the following extracts show:

At least you have some basic knowledge on the legal system and the basic content of law. (Student #21, 1st year)

The basic information from different fields of law, like that there's the material itself, what, what you know. (Student #4, 2nd year)

In "complexity of law" students described that they have started to understand how their comprehension about law has widened and they have noticed that the knowledge base is becoming more multidimensional during their studies. They mentioned how important it is to create an overall picture about the field of law with a range of sources of legal knowledge and several areas of law. This is illustrated in the following examples:

Like how the whole juridical system works, it's not just that, that you know the laws, but you must understand how they are all connected. (Student #18, 1st year)

Like of course when you get more information, then you start to understand it in a more comprehensive manner, that the law is more than just the law, more than what it says there in a book. (Student #6, 2nd year)

The second category of legal reasoning was entitled "legal skills" and it consisted of descriptions of how students can approach legal problems and use legal knowledge. Four sub-categories of legal skills were identified, namely, "identifying a legal problem", "using legal knowledge", "argumentation" and "seeking information". Twenty-one students mentioned at least one "legal skill". "Identifying a legal problem" refers to a situation in which a student describes how to identify a legal problem and how to approach it at the general or abstract level. Nearly half of the participants mentioned and described their approach to legal problems and identified some problem-solving steps but were unable to provide a concrete model of a legal problem-solving process or an example of it.

Like you should have like an outline on how you're gonna solve it. [. . .], like that you can separate the most relevant and leave the least relevant things out of the matter at hand. [. . .] Yeah, like you need to be able to approach the problem from so many angles. (Student #11, 2nd year)

You start to see things like from a juridical perspective and can build like, when you see a problem, a legal problem in everyday things and you can start to consider it, ponder about it and to seek a solution. (Student #7, 3rd year)

In “seeking information” the student has recognised the meaning of seeking information in legal problem solving. Few students mentioned this sub-category. The students’ descriptions were related to legal reasoning as a part of legal problem processes as the following extract shows:

That you can like research those legal resources and delve into these things, like that you can specifically search for the exact information that you need. (Student #23, 2nd year)

“Argumentation” refers to a situation in which the student recognises that the argumentation is related to legal reasoning. Argumentation was poorly recognised by students; moreover, the students just mentioned it, and hence did not describe the role of argumentation in legal problem solving or in legal discussion. This is illustrated in the following extract:

Maybe like a specific kind of thinking, it’s not just that I can read from a law book and explain that in this case it’s about these things and then just name the sections of the law, rather that I can see the big picture and open my mouth and make arguments. (Student #8, 3rd year)

In “using legal knowledge” the students bring out the importance of using and applying legal knowledge. The following extract is typical of such descriptions:

Ok, so sometimes you can find the direct solution from the lawbook, but not always and sometimes you have to combine different provisions of law and you have to know how to combine them. Which provision or law goes prior to another and which doesn’t. (Student #9, 1st year)

The participants also described how they noticed that studying law had changed their thinking and behaviour. For example, they had started using legal knowledge in everyday situations such as in analysing advertisements and commenting on court rulings:

Like at a shop if they’re marketing something wrong, then these days, after studying here and participating in the consumer rights module, then it’s easier to say like hey, it can’t go that way. (Student #5, 2nd year)

The third category consisted of descriptions of “legal mindset” in which students described legal reasoning as a certain way of thinking and they were reaching an understanding of how things work in legal cases. Twenty students described the “legal mindset” as a feature of legal reasoning. This category included the sub-categories of “thinking like a lawyer” and the “critical legal mindset”. In “thinking like a lawyer” students were aware that lawyers have their own special way of thinking which differs from “non-lawyer’s thinking”, and it is especially related to the way of approaching problems. The following extract is typical of such descriptions:

Many of my friends who are not law students have made comments to me like, you’re starting to think like a lawyer or like that I do analyse things like what if it went like this and that you can solve that somehow, maybe you can’t really analyse it yourself, but my friends have noted it, that some kind of a paradigm has modified my thinking. (Student #14, 3rd year)

“Critical legal mindset” refers to the situation in which students explain they have started to interpret and evaluate legal cases which have been published in the media. Furthermore, they have an idea “how things work” in the juridical system. In their answers, students explain how they are critical about the news concerning the field of law and they do not always trust the information, but want to read the original source of the information:

If there is a case about a crime in a newspaper, I can't just read it, I have to dig up the original reporting on the case, and if I get really excited then I'll start comparing them and the newspaper, like where it goes wrong. (Student #11, 2nd year)

Variation between the year groups

The same main categories and sub-categories were mentioned by the first-, second- and third-year students. However, the third-year students used a richer variety of the features of legal reasoning than the second- and first-year students. On average, the third-year students mentioned four features of legal reasoning, while the second-year students mentioned on average three and the first-year students on average two features of legal reasoning. In addition, there were clear differences in the volume of the following sub-categories: the "identifying a legal problem" sub-category was more typical for the third-year students ($n = 7$) than among the first- ($n = 2$) and second-year students ($n = 3$) and their descriptions were more diverse as well. Furthermore, only one first-year student identified the features of the "thinking like a lawyer" sub-category, whereas at least half of the second- and third-year students described the features of this sub-category. In addition, none of the first-year students mentioned "seeking information" in their descriptions. The characteristics between these year groups were mainly found in the quality of descriptions in legal reasoning. The third-year students were able to provide a richer, more detailed and coherent verbalisation of their legal reasoning process than the first- and the second-year students whose descriptions were more limited and fragmented. The following extracts show the qualitative difference between the students' descriptions of legal reasoning. The first is an example of a description by a first-year student and the latter is by a third-year student.

You must at least have some kind of basic knowledge and skills about the content of the legal system and the law, but of course your way of thinking is also kind of a central part of it [...] Well I also had a kind of perception that laws would be pretty straightforward and that you could quickly find solutions from them, and now I've noticed that it's more about deeper choice and multifaceted thinking. (Student #21, 1st year)

Well at least a certain way of thinking, they're at least trying to make us internalise what type of legal problems you should solve. What I've noticed is that it's not so important to know the content or the principle of every single law so precisely as long as you know how to apply them and then know how to find the right information from literature or from cases or from something else; that I think is a more important element. Many of my non-student friends have noticed that I'm starting to think like a lawyer or that I think very analytically about things, like what if it went this way or you could solve this like that. [...]. I've just got more of a certain way of thinking, like the method for finding a right answer like how you can find the right information from all these different resources [...]. Well, no, maybe you can mostly notice it in everyday things like you can pick certain things from the day's news or other things and note what's the legal problem in that thing. (Student #14, 3rd year)

Taken together, it was not easy for the students to reflect on and describe their legal reasoning. The students' descriptions were mainly short and not very detailed or explanatory, and two students did not mention any features of legal reasoning.

Discussion

The aim of the present study was to explore students' descriptions of their legal reasoning. The results showed that nearly all the bachelor-level students were able to describe their legal reasoning and identify at least one feature of legal reasoning. Students' descriptions of legal reasoning included descriptions of legal reasoning as a domain knowledge, a skill to practise law and a legal mindset. The results are in line with studies identifying the nature and features of legal reasoning.⁴⁴

The interviews revealed that most of the students had recognised the expectations of learning abundant amounts of legal knowledge and principles. However, some students seldom used basic concepts of legal knowledge and theory, such as legal rules, statutes and principles. Instead, their descriptions remained vague even when students were asked to give a practical example of their legal reasoning. It seems that these students were not thoroughly aware how the theory of law relies on legal reasoning and their answers might demonstrate a lack of understanding of basic legal concepts and structure. This might indicate a lack of metacognitive skills and as previous studies have shown, there is evidence that learning legal reasoning requires the ability to comprehensively evaluate and reflect on legal aspects relevant to the topic in question.⁴⁵

The law profession relies strongly on information sources and legal knowledge; the aim of legal education is not only to teach and learn legal doctrines and the theory for the areas of law, but students must come to understand matters so they can act and use legal knowledge. In this study, over two-thirds of students identified that legal skills are implemented in their conceptions of legal reasoning. These students described how legal skills are related especially to legal problems. Problem solving is common to the legal profession and legal education relies on the goal that students learn to solve legal cases during their studies. However, it is typical especially when starting to study that teaching focuses on domain knowledge whereas applying this knowledge to solve problems is less apparent.⁴⁶ This also emerged in our results, where first-year students were less able to pay attention to applying legal knowledge especially to problem solving in their descriptions of legal reasoning than the third-year students. However, it was found that there were also third-year students who were unable to describe their work with legal problems clearly or did not have a clear schema for seeking and using information to solve legal problems. Therefore, it is important that teaching not only focuses on teaching legal knowledge but also helps students to apply knowledge, in other words, develops students' ability to use knowledge.⁴⁷

The interviews further revealed that in some students' minds, legal education had led them to prepare for the legal profession and they questioned whether certain legal judgments were legally correct. In other words, these students had become aware of aspects of concepts and practices that they had not previously noticed, and they had started to connect them to other new aspects of the legal field during their studies. Furthermore, some second- and third-year students mentioned that they got feedback from friends or family members that they had started to "think like a lawyer" – meaning that they started to have the ability to see the problem from a wider perspective. This

⁴⁴Eg Schultz (n 16) 60; Twining and Miers (n 13) 337–338; Wallace (n 10) 261–262; Luhmann (n 6) 287.

⁴⁵Preston, Stewart and Moulding (n 1) 1057.

⁴⁶Hakkarainen and others (n 23) 21.

⁴⁷Preston, Stewart and Moulding (n 1) 1070.

can be a result of legal education routines, in which certain habits have developed students' minds⁴⁸ and trained students to "think like a lawyer".⁴⁹ However, these students were in the minority of participants.

The results showed that students' perceptions of legal reasoning vary between the year cohorts. The findings suggest that third-year students were able to describe legal reasoning more profoundly than the first- and second-year students. Similarly, Krieger⁵⁰ found that there were differences in legal reasoning especially between the third-year students and students in the first two study years. The variation between the year cohorts of students supports the idea that legal reasoning develops slowly. However, there was also a variation within the third-year students, indicating that some of them found it difficult to describe their legal reasoning or to some extent they still lacked the ability to elaborate on it further. Thus, there were individual differences in students' skills in regulating their learning. This might suggest that the development of legal reasoning is an individual thought process and is related especially to metacognitive skills.⁵¹

Conclusions

The present study shows that it is not easy for these students to reflect on and describe their legal reasoning. However, it should be pointed out that even if students found it difficult to describe legal reasoning, it does not mean that they would not have developed legal reasoning, just that they had not yet become aware of it. Therefore, special attention should be paid to educating students about legal reasoning within legal education, and also to supporting the development of legal reasoning and metacognitive skills, such as problem-solving processes. Educating about legal reasoning and supporting metacognitive skills are not only needed for higher education studies but are also, and crucially, needed in the workplace.

The present study has two implications to support students' development of legal reasoning. First, it emphasises the importance of pedagogies that tie together both the theory and practices in legal education and make visible a hidden curriculum in which students are expected intuitively to construct their legal reasoning when they are studying. Legal reasoning has been found to be difficult to teach,⁵² and typically, legal reasoning is taught throughout law students' studying when solving legal problems within courses concentrating on substantive law.⁵³ It has been suggested that legal education must aim to teach students to "think like a lawyer"⁵⁴ and the development of legal reasoning needs to be facilitated systematically.⁵⁵ It is important that students are introduced to this uncertain process and become familiar with the fact that legal reasoning does not amount to the somewhat flawed idea of an ultimate right answer to a legal problem but that legal

⁴⁸Lee Schulman, "Signature Pedagogies in the Professions" (2005) 134(3) *Dædalus: Journal of the American Academy of Arts & Sciences* 52, 56.

⁴⁹Wizner (n 20) 583.

⁵⁰Krieger (n 2) 252.

⁵¹Preston, Stewart and Moulding (n 1) 1057.

⁵²Steel (n 11) 234.

⁵³Nick James, "Logical, Critical and Creative: Teaching Thinking Skills to Law Students" (2012) 12(1) *Queensland U Teach L & Just J* 66, 72.

⁵⁴Preston, Stewart and Moulding (n 1) 1074–75.

⁵⁵Preston, Stewart and Moulding (n 1) 1057; Deborah Zalesne and David Nadvorney, "Integrating Academic Skills into First Year Curricula: Using Wood v. Lucy, Lady Duff-Gordon to Teach the Role of Facts in Legal Reasoning" (2008) 28 *Pace L Rev* 271, 274.

reasoning and legal decision making in general are often characterised by the opportunity to arrive at a range of interpretations.⁵⁶ Thus, a discipline-specific skill item, legal reasoning, should be taught within the degree curriculum. In addition, teaching practices should be further developed to support students' legal reasoning skills, which require student-centred pedagogical approaches to teaching, such as problem-based learning and case-based learning. Students are expected not only to be active but also to be interactive and participate in discussion. Thus, we suggest that legal reasoning can be fostered in small group discussions in teacher-facilitated discussions promoting oral and written discussion, argumentation and problem solving, from which students are able to get feedback. Secondly, students should be encouraged to reflect on their learning. Based on the previous school performance law students are assumed to be good students with excellent study skills, including metacognitive skills⁵⁷ and the development of metacognitive skills should be integrated within legal education.⁵⁸ Methods that support the development of metacognitive skills are often used in legal education, but this is rarely recognised by teachers or students. Such methods include writing memos and journals, reflection logs and diaries, peer assessment, and asking students to implement their problem-solving processes.⁵⁹ In addition, students need feedback, not only summative feedback for outcomes, but formative feedback during the learning focusing on the process/argumentation.

In addition, the profound importance of educating students in legal reasoning needs to be connected to the role of the legal professionals within society and its legal expert culture. In modern society, legal practice is a highly specialised practice within which educated professionals examine, produce and reproduce the legal order and legal practices. Legal professionals work and interact within this specialised expert culture with their own specific legal language and their special style of argumentation and reasoning, which still is also connected to the society in which legal expert culture belongs. In this respect it has been stated that the task of legal education is about advancing expertise in the principles belonging to legal culture rather than transferring detailed knowledge about the law's surface level. If sufficient knowledge on the principles of legal culture and their use is sedimented in the minds of legal professionals, this provides them with the means to acquire and apply further discursive knowledge.⁶⁰ Legal reasoning inevitably belongs to legal culture, which comprises a deeper level of the legal system and which consists of principles and practices that are part of the legal professional's self-understanding. Educating students in legal reasoning and enhancing profound understanding on it are essential in legal education. Seen from this perspective, legal education also has an important role in fostering legal culture.

As a concrete example of this, a new introductory legal studies course at the University of Helsinki, Faculty of Law, was introduced. The main aim of the course is to familiarise the first-year students with the more profound ideas, principles and

⁵⁶David Yuratic, "Ratio! A Game of Judgment: Using Game-based Learning to Teach Legal Reasoning" (2021) 55 *The Law Teacher* 213, 216.

⁵⁷Preston, Stewart and Moulding (n 1) 1087.

⁵⁸Preston, Stewart and Moulding (n 1) 1086.

⁵⁹Paul Callister, "Time to Blossom: An Inquiry into Bloom's Taxonomy as a Hierarchy and Means for Teaching Legal Research Skills" (2010) 102 *Law Library Journal* 191, 217–218.

⁶⁰Kaarlo Tuori, *Critical Legal Positivism* (Routledge 2002) 161–66. In his theory of critical legal positivism, Tuori introduces a three-level theory of law, in which law comprises surface level, the level of legal culture and the deep structure of law. The phrase "legal culture" is not given the same meaning as, for example, in comparative law. In Tuori's theory, legal culture comprises, inter alia, legal expert culture, various methodological elements characteristic in law, etc. See Chapter 6 of Tuori's *Critical Legal Positivism*.

practices of law, the legal system and the legal profession belonging to the level of legal culture. The idea is that these aspects are being gradually sedimented to the self-understanding of the students in a way that they can use these aspects in their subsequent courses on substantive law and get a deeper understanding of the topics and the relevance of the topics covered in the courses. This new introductory course is a whole-year course led by several teachers. Teachers supervise students in small groups at regular meetings, which enable discussion and instant feedback.

Some limitations of this study should be mentioned. One weakness concerns the fact that the interviewers were personally familiar as teachers with the students beforehand, which may have made some participants cautious in their comments. On the other hand, familiarity with the interviewers may also have helped to reduce bias. In addition, the interviews were conducted in Finnish and translated into English. Therefore, some parts could not be translated exactly due to differences between the conceptions of the two languages. Moreover, the Finnish higher education context differs from many other countries due to study time. The students are advised to aim to complete within five years (300 ECTS), but they have the right to choose which courses and how many they will complete during the academic year, and they have the right to take up to seven years to complete their degrees. This freedom of choice may cause delays in graduation times, although it is possible to complete both degrees (bachelor's and master's) very quickly, even in less than two years. Therefore, the participants' study credits in year cohorts can be considered to be indicative and the number of courses and credits completed by students in each cohort may vary. In this study, students' study credits were distributed according to the assumptions that first-year students had the fewest credits and third-year students completed the most credits. It should be noted that the number of participants was quite small. On the other hand, the sample represented the bachelor's study programme at the target faculty adequately with respect to gender. However, a longitudinal study with a larger sample size should be conducted to obtain a clearer picture of the development of legal reasoning while studying law and to explore how it is related to students' academic achievements. Future research on the nature of legal reasoning and how its development could be supported during studies is clearly needed.

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