

An evaluation of legal teaching methodologies for the purpose of promoting an engaging and inclusive learning environment

Dr Precious Siblangu
University of Limpopo

Adv Mafanywa Mangammbi
University of Limpopo

1 Introduction

Legal education is integral to the broader transformation of South Africa and the legal profession. For legal education to attain the transformation goals, it must change itself. The change in legal education must be a wholesale enterprise: it must include a deliberate intent to change the substance and method of legal education. Teaching involves exchange of content, communication and feedback; simply put, teaching is a practice of imparting skills and knowledge to recipients. According to Melby, teaching is not about carrying out lessons but an art which involves the student in the teaching-learning process, whereby the student is allowed to participate fully in the process.¹ Smith is of the view that teaching is the undertaking of specific ethical tasks to induce learning.²

In essence, teaching is an effective interaction between students and a teacher. Therefore, the interaction requires teachers to employ suitable educational approaches to achieve the specific objectives of any intended learning outcome. Against this backdrop, teaching should reflect on learning theories to understand how students accept, process

1 Melby 'Ghana primary school development' 1994 *Accra*.

2 Smith 'Educational development in Ghana' 2004 *Accra*.

and preserve knowledge. Whilst delivering a designed academic content to achieve the specified learning outcome. There are several learning and teaching theories; however, for the purposes of this discussion, only a few shall be discussed.

2 Discussion

Teaching is a process of imparting knowledge. Hence, it is essential that when such a process is undertaken, both students and lecturers can understand each other.³ Thus, effective communication is important to ensure that the knowledge that is passed is received. According to Velibor, communication is a cornerstone for human interactions; more importantly, it transcends beyond exchanging words.⁴ Communication is about creating a shared understanding, fostering connection, and achieving a desired outcome.⁵ Hence, it is essential that teaching theories effectively communicate with students' learning theories to adequately address each student's diverse learning theories, to achieve an inclusive learning environment. Although this may seem impossible, the discussion below will reflect on literature that will showcase how the teaching theories can address the learning outcomes whilst meeting the students' learning theories and consequently achieve student success. But, before delving into teaching theories and learning theories discussion, it is of the essence to reflect on some of the learning outcomes intended to be achieved at the end of an LLB curriculum.

2.1 Some key areas of competency in law qualification

Upon completing an LLB programme, students are expected to have sound knowledge and understanding of the South African Constitution and basic areas of law.⁶ However, teaching and learning must have occurred to achieve a sound understanding of legal concepts. Thus, if the teaching process did not address the student learning theories, achieving the objective of sound knowledge of the legal concepts can be challenging.

3 Isola 'Concept of teaching,' 2019 *SIJoE* 5-8.

4 Božić 'The art of effective communication' 2024 *RG*.

5 As above.

6 Higher Education Qualifications Sub-Framework for Qualification Standard for Bachelor of Laws Manual for National Review of LLB August 2015.

Hence, lecturers must clearly understand the type of students in front of them and how they learn. Fadzilah et al argue that lecturers must be prepared to teach a diverse population. Thus, lecturers must appreciate the different types of students and their various learning theories.

Furthermore, it should be noted that one of the key competencies of law graduates is critical thinking skills. Students must be able to analyse and resolve legal problems⁷ However, this cannot be achieved if students are not involved in the learning process, therefore to assist students to develop critical thinking skills, the teaching theory must be able to meet how the students learn and engage them in the process to allow them to exercise their analytical skills to given set of facts and provide solutions. Henceforth, if there is no link between how students learn and how they are taught, the abovementioned skills will be challenging to achieve.⁸

In addition, law students are expected to have problem-solving skills. Problem-solving skills are not developed through the traditional teaching method of facilitation, but through numerous teaching and learning engagements; thus, students may miss this developmental stage if they are not actively involved in the teaching and learning process. Instead, focus could be shifted to memorising what was taught in class to pass an assessment. According to Saloua et al, the lack of interaction between teacher and student hinders the development of critical thinking skills.⁹ Thus, teachers must create an engaging learning environment that enables students to think critically about the concepts taught. Harner is of the view that it takes more than thinking like an attorney to become a good attorney; in essence, it is critical that one has the necessary skills to become a good practitioner.

For this reason, assessments must also be problematised to allow students to critically apply the knowledge taught to a set of given facts.¹⁰ This approach in assessment is instrumental in testing the students' learning, critical thinking skills, and problem-solving skills, but it does not exclude research skills. Students are expected to clearly understand

7 Higher Education Qualifications Sub-Framework for Qualification Standard for Bachelor of Laws.

8 Ancess, Rogers, Duncan & Darling 'Teaching the way students learn best: Lessons from Bronxdale High School' 2019 *PA CA*: Learning Policy Institute.

9 Saloua, Lamiae & Hamid 'Perceived Barriers to Critical Thinking Development: The Student's View' 2023 *IJol LT*.

10 Higher Education Qualifications Sub-Framework for Qualification Standard for Bachelor of Laws.

the legal concepts and keep track of the recent developments in law through case law. This requires students to read relevant cases and apply legal principles that they were taught. In addition, they must refer to relevant case laws and legislation in the assessment.¹¹ This practice tests the student's ability to conduct research and apply pertinent legal authorities to a set of given facts.

However, if students did not properly learn, for instance, where students are taught using a teaching theory that does not align with their learning theory, it will be challenging for them to express the knowledge they have memorised. Consequently, this will lead to students not meeting the competency standard for the qualification. It is essential to understand how students learn before choosing a particular teaching theory, as this may potentially create a barrier to imparting knowledge and skills to students. The discussion below will reflect on how differently students learn and how different learning theories can be used to address these differences in learning theories.

2.2 Different learning theories

Learning is considered a lifelong process of experience that creates a better understanding of experiences and eventually changes an individual's perspective about a particular aspect.¹² Therefore, learning theory can be understood as a manner in which students accept, process and preserve knowledge, whilst 'educational approach' can be best understood as delivering a designed academic content to achieve specified learning outcomes. However, it is of the essence that both teaching and learning theories have a causal link to achieve impactful teaching. Therefore, understanding students' learning theories is of great significance; it is also instrumental in assisting lecturers to apply a suitable teaching style tailored to the needs of the students. Furthermore, learning theories assist in helping students achieve the learning outcomes. Thus, when students are taught in a manner that allows them to learn, they have greater chances of achieving better results. As indicated above, there are several learning theories; however, for the purposes of this discussion, only a few shall be discussed.

11 As above.

12 Nieman & Monyai *The educator as a mediator of learning* (2006).

2.2.1 *The cognitive theory*

Cognitive theory provides that students can learn better from visual objects and words.¹³ According to this theory, students learn better when they read words and see images that convey the same information, rather than isolated words or pictures alone.¹⁴ With online platforms, visual images and videos have become a big part of delivering lessons, particularly where the lecture aims to showcase the concepts' practicality. However, this theory would not necessarily yield a more positive outcome for final-year law students. Students at this level are expected to actively participate in their learning and develop their critical thinking and problem-solving skills. Although for first-year students, this theory can enhance their learning experience by providing opportunities to experience and process information more meaningfully and engagingly.¹⁵ In essence, the cognitive theory of multimedia learning allows students to experience teaching and learning more practically by engaging in a simulated environment that enhances their learning experience by providing them with opportunities to engage with multimedia materials in a more meaningful and interactive way. According to Mona, cognitive learning occurs when new information is acquired or existing information is reformed by experience.¹⁶ With that said, it is essential for lecturers to carefully consider their teaching theories and check whether they will address how students learn, furthermore, ascertain whether how students learn will enable students to gain the necessary skills intended to be developed at that particular level of the study. Thus, for knowledge to be modified through cognitive theory, the relevant learning outcome must have been achieved at the end of the teaching and learning process.

13 AlShaikh, Al-Malki & Almasre 'The implementation of the cognitive theory of multimedia learning in the design and evaluation of an AI educational video assistant utilizing large language models' 2024.

14 As above.

15 Meyer, Omdahl & Makransky 'Investigating the effect of pre-training when learning through immersive virtual reality and video: A media and methods experiment' 2019 *Comput. Educ.*

16 Mona 'Learning theories -cognitive learning theories' *Learning Outcomes at Chapter 5* (2010).

2.2.2 *Connectivism theory*

Connectivism focuses on students' ability to source and update accurate information frequently.¹⁷ According to Hendricks, connectivism theory is based on distributed knowledge across a network of connections. As such, it entails that learning consists of the ability to construct and traverse those networks.¹⁸ This theory can be more relevant to students in intermediate and final years, as it encourages students to research and find relevant and contemporary information. According to Dron and Anderson, connectivist learning happens best in network contexts, unlike individual or group contexts.¹⁹ Online platforms provide unlimited data for students, which is convenient and easy to access as opposed to the traditional settings of physical libraries.²⁰ The theory requires students to understand that information is as important as the source from which it was retrieved. Thus, students should not accept information without verifying its authenticity and reliability. This requires a student to be very specific about the quality of information they want to learn from. Essentially, students must be very particular about the credibility of search engines and sources from which they extract information. Alam also asserts that connectivism requires students to critically evaluate the information they encounter to discern what is reliable and relevant.²¹ Furthermore, Alam posits that connecting different sources of information and knowledge is critical in the learning process, as it enables students to construct new knowledge and adjust to new conditions.²² In addition, Darrow-Magras avers that connectivism theory has the potential to improve education through the modification of educational perspectives and generate a greater change towards a student-centred

17 Alam 'Connectivism learning theory and connectivist approach in teaching and learning: A Review of Literature' 2023.

18 Hendricks 'Connectivism as a learning theory and its relation to open distance education' 2019.

19 Dron & Anderson 'Collectives, networks and groups in social software for e-learning' 2007 *Paper presented at the Proceedings of World Conference on E-Learning in Corporate, Government, Healthcare, and Higher Education, Quebec*.

20 Moyo 'Electronic libraries and the emergence of new service paradigms,' 2004 *The Electronic Library*.

21 Alam (n 17).

22 As above.

approach.²³ Essentially, the theory allows students to be proactive in their learning process by engaging with different information networks to source relevant information.

2.2.3 *Constructivist theory*

The constructivist approach helps lecturers and students to understand that knowledge is not fixed nor should it be passively perceived, but is actively built by learners based on their prior knowledge and experiences.²⁴ This enables both the lecturer and the student to be critical of the current state of the law and how it can be changed in keeping with the ideals of social transformation. According to Priyamvada, constructivist theory allows students to build upon their previous experience and understanding to 'construct' a new understanding.²⁵ Kanuka and Anderson posit that in constructivist modes of distance education, 'the educator is a guide, helper, and partner where the content is secondary to the learning process; the source of knowledge lies primarily in experiences.'²⁶ However, the passive teaching method views a student as an empty vessel that needs to be filled with knowledge, unlike constructivism, which allows a learner to be part of the learning experience by engaging and applying their experiences to understand concepts better. According to Piaget, learning is about obtaining information and constructing meaning and understanding through exploration and discovery.²⁷ Therefore, constructive theory is well-suited for online teaching and learning, since it allows students to explore and experience teaching and learning differently from the traditional way. An online platform provides ample sources of information that a learner may explore, experience and construct their understanding. This theory could be suitable for all levels, provided it is applied with relevant moderation of the cognitive level.

23 Darrow-Magras *Connectivism learning theory: Instructional tools for college courses* (Independent Thesis Research 2009 Western Connecticut State University) ED 591.

24 Priyamvada 'Exploring the Constructivist Approach in Education: Theory, Practice, and Implications' 2018 *IJRAR*.

25 As above.

26 Kanuka & Anderson 'Using constructivism in technology-mediated learning: Constructing order out of the chaos in the literature' 1999 *Radical Pedagogy*.

27 Piaget 'The theory of stages of intellectual development' 1971 *Psychol*.

2.2.4 Collaborative theory

This theory is identified by emphasising collective learning, which is the idea that students work together to understand better the information they are presented with.²⁸ The strength of this theory is that students can benefit from each other's understanding of the information, and even their unique skills and resources.²⁹ Kirschner, Paas and Kirschner assert that collaborative theory is instrumental in helping students overcome their limitations.³⁰ Essentially, students can break their barriers through collaborating with others. Paas and Sweller also opine that collaboration assists students to gain from each other's capacity, thus students who participate in collaborative learning are better equipped to overcome their limitations by learning from each other and consequently improve their studies.³¹ The collaborative theory encourages group work, which is suitable for all levels and can promote critical thinking; however, it requires close monitoring from the lecturer to avoid students misleading each other. However, if properly applied, it has the potential to yield better results.

2.2.5 Inquiry-based theory

The inquiry-based approach is unique in the sense that it encourages students to engage in exploration, investigation, research and study. The theory is student-centred, encouraging active participation of students, creativity and critical thinking skills. It begins with presenting questions, scenarios or problems that require critical thinking to solve, which is often presented as an assessment.³² Rahmi et al assert that inquiry-based theory improves students' critical thinking skills by encouraging students to ask questions, investigate problems, and critically analyse information

28 Eka 'Collaborative learning: The concepts and practices in the classroom' 2018.

29 As above.

30 Kirschner, Paas & Kirschner 'Task complexity as a driver for collaborative learning efficiency: The collective working-memory effect' 2011 *Applied Cognitive Psychology*.

31 Paas & Sweller 'An evolutionary upgrade of cognitive load theory: Using the human motor system and learning of complex cognitive tasks' 2012 *Educational Psychology Review*.

32 Kuok Ho 'Student-centered approach in teaching and learning: What does it really mean' 2023.

independently.³³ According to Ramaila, this theory can potentially increase student engagement in learning.³⁴ Therefore, this theory can be applied at all levels in line with the relevant NQF level and curriculum design.

2.2.6 Integrative theory

The integrative approach differs from the other learning theories in that it provides students with an environment where they can draw a nexus between the current topic and other topics they have learned at different stages of the curriculum.³⁵ In essence, this theory creates alignment in curriculum and encourages students to connect information learnt from different levels with the current information to solve problems. Furthermore, integration theory promotes experiential learning by allowing students to integrate practice with theory. Thus, a lecturer who conducts experiential learning contributes positively to integrative learning theory as students will be presented with an opportunity to combine theory with practice. This learning theory is very instrumental in preparing law students for practice. According to Copper, this theory enables a student to develop the ability to act knowledgeably and responsibly in the workplace context.³⁶ Integrative theory is concerned with bridging the gap between theory and practice to achieve students' workplace readiness.

2.2.7 Experiential learning and clinical legal education

This approach involves the constant combination of academic enquiry with real-world experience in all the modules, not only practical modules. The teaching, learning, and assessment demonstrate the symbiotic relationship between theory and practice. While the general intent is to move away from the precepts of traditional legal education

33 Rahmi, Alberida & Astuti 'Enhancing students' critical thinking skills through inquiry-based learning model' 2019 *J. Phys. Conf. Ser.*

34 Ramaila 'Systematic review of inquiry-based learning: assessing impact and best practices in education' 2024.

35 Barends 'Pedagogical choices to integrate theory and practice: Conceptualisation and insights for literacy teacher education' 2022 *Reading & Writing*.

36 Cooper, Orrell & Bowden 'Work-integrated learning: A guide to effective practice' 2010 *Routledge, New York, NY*.

to transformative legal education, there is a need for incrementalism in this transition and the need for sensitivity to differences in modules and their instruction.

2.3 Teaching techniques

Teaching and learning in an institution of higher education is understood as a process in which students are taught and assessed to acquire skills and knowledge for a specific trade.³⁷ However, for teaching to take place, lecturers must use a practical teaching theory that will yield the desired results. Although if a teaching theory is applied to students who learn differently from the theory used by a lecturer, such teaching and learning process would be futile. It should be noted that to achieve good results, a practical teaching theory must be suitable to address students' learning theories. The discussion below will clarify how the most common teaching theories can be used to meet the students' learning theories.

2.3.1 *Student-centred approach*

The student-centred approach shifts the focus from the teacher to the students, considering their interests, abilities, and prior knowledge.³⁸ The aim is to actively engage students in the learning process, promoting critical thinking and independent learning.³⁹ According to Amaliana, a student-centred approach is based on constructivism, which entails students constructing meanings of what they learn by relating new information to what they already know.⁴⁰ However, this approach may not be suitable for first-year students if applied in isolation, since it requires students to share prior knowledge. At this level, students have little or no knowledge about law principles. However, it can be helpful if coupled with other approaches that encourage learning before actively engaging with the concepts. Kuok Ho is of the view that a student-centred approach works differently at different levels. Hence, it must be applied

37 Matola & Fomunyan 'Transforming the teaching and learning process in South African higher institutions' 2022 *UJoER*.

38 Alabi 'Experiential learning: Fostering deep learning through active engagement' 2024.

39 As above.

40 Emaliana 'Teacher-centered or student-centered learning approach to promote learning' 2017 *JSH*.

with an appreciation of students' cognitive level. Similarly, Khoury avers that the effectiveness of a student-centred approach depends on the maturity of students.⁴¹ Simply put, the approach yields better results on higher cognitive levels than lower cognitive levels.

2.3.2 Subject-centred approach

The subject-centred approach focuses on the module's content, whereby the lecturer takes on the role of an expert who imparts knowledge to the students. Ideally, the approach is most suitable for first-year students; however, if applied in isolation, it will not achieve an inclusive learning environment nor encourage student participation. According to Kreber, the subject-centred approach requires a lecturer to have a sound understanding of the subject,⁴² Rowland asserts that the approach is essential in bringing a lecturer and student together over a common interest in the subject.⁴³ This approach could be instrumental in specialised fields. However, it must be used in moderation at higher cognitive levels, not to overshadow students' critical thinking skills.

2.3.3 Problem-centred approach

The problem-centred approach focuses on real-world problems or challenges, allowing students to apply their knowledge and skills to find solutions. It encourages critical thinking, problem-solving, and creativity. This approach is suitable for all levels. However, it must be applied alongside subject-centred and student-centred approaches. According to Ali, a problem-centred approach is most effective when students have a background and experience with the concept. Thus, it would not serve any purpose for lower cognitive levels, particularly first-year students.⁴⁴ However, lecturers should introduce the approach early by giving practical examples of how the principles apply to prepare students to critically analyse and provide solutions to a given set of facts. It should

41 Khoury 'Perceptions of student-centered learning in online translator training: findings from Jordan' 2022 *Heliyon*.

42 Kreber 'Teaching excellence, teaching expertise and the scholarship of teaching' 2002 *Innovative Higher Education*.

43 Rowland 'Collegiality and intellectual love' 2008 *BJSE*.

44 Ali 'Problem based learning: A student-centered approach.' 2019 *ELT*.

be noted that the approach is used to improve the overall competency and skills of the students.⁴⁵

2.4 Use of teaching theories to address different learning theories

The chapter identified three teaching theories above, which are most commonly used in teaching law students. Each of the theories has a different impact on how students learn. The ‘student-centred’ approach encourages student participation, whilst the ‘subject-centred’ approach prioritises the dissemination of content to students. Lastly, the ‘problem-centred’ approach focuses on problematising learning content to develop critical thinking and problem-solving skills. It is equally important to note that learning must have occurred for the student to achieve the expected learning outcome. Thus, students must have been able to learn through the applied teaching theory despite their diverse learning theories. In essence, each of the above teaching theories must not be used in isolation; this will ensure that a student who learns by cognitive, connectivism, constructivist, collaborative, inquiry or integrative theory can understand. According to Erisen *et al*, learning is not content-oriented, but process-oriented. Learning is thus more dependent on the method, technique, or theory used to teach than the content intended to be shared.⁴⁶ Hence, it is of the essence that lecturers understand how one teaches impacts whether a student will learn or not.

2.5 Impact of teaching techniques on students

Using an incompatible teaching approach can hinder students’ ability to learn and gain knowledge actively. Consequently, this can lead to students memorising information to pass assessments. The long-term implication is that graduates would have little understanding of law principles and poor problem-solving skills. However, adequate teaching techniques can promote active participation and meaningful learning. The long-term impact of it is a knowledgeable graduate who can critically analyse and solve problems

⁴⁵ As above.

⁴⁶ Erisen, Çeliköz & Şahin ‘Cognitive learning theories’2016.

3 Recommendations

- (a) Lecturers should carefully consider students' cognitive levels when choosing a teaching technique.
- (b) Lecturers can consider using different teaching techniques to achieve different outcomes.
- (c) Moreover, lecturers should rely on the curriculum design to establish which teaching technique should be employed to achieve a specific learning outcome.
- (d) Furthermore, a careful diagnosis of the type of students a lecturer is presented with can assist in identifying the suitable teaching technique that can address the different learning theories of the students and consequently, enable them to participate fully and gain knowledge.
- (e) Promoting an engaging and inclusive learning environment must be encouraged.
- (f) Experiential learning and clinical legal education must be applied across all levels.

4 Conclusion

The discussion above highlighted various learning theories of students and identified common teaching theories used for a legal education. Moreover, the discussion has elaborated on how the common teaching theories can be used to address the diverse learning theories of students. More importantly, the discussion emphasised the significance of identifying a suitable teaching theory that can positively impact how students receive, process and preserve information. Consequently, the study concludes that identifying a suitable teaching theory can promote maximum participation and improve students' success. More importantly, it could ensure that law graduates are knowledgeable about law principles and can think critically and apply the law to resolve legal matters. While the general intent is to move away from the precepts of traditional legal education to transformative legal education, the chapter is mindful of the need for incrementalism in this transition and the need for sensitivity to differences in modules and their instruction. The chapter concludes that to achieve an inclusive learning environment for diverse learners, lecturers must employ different teaching theories and encourage class participation.