

Enhancing legal education in South African high schools: A need to incorporate law subject in the high school curriculum

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1 Introduction

Legal literacy is a fundamental aspect of active citizenship in any democratic society.¹ This has been defined to refer to the general awareness of laws, legal rights and processes among citizens.² It equips individuals with the knowledge to navigate the legal system effectively and encourages active participation in civic duties.³ In a post-apartheid South Africa, the Constitution serves as the bedrock of governance, establishing the rights and responsibilities of citizens while providing the framework for a just legal system.⁴ Nevertheless, the South African foundation curriculum lacks adequate provisions for legal education, leaving many learners ill-equipped to navigate the complexities of their basic rights and responsibilities.⁵ To this end, the present chapter aims to address this gap by advocating for the integration of a legal subject in

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- 1 Bagga & Chawla 'Legal education – the elevation from a person to a citizen' (2019) *RAIS Conference Proceedings* 101.
 - 2 Suherman & Nugraha 'Culture and citizenship literacy in Sudanese children's literature' (2019) *Advances in Social Science, Education and Humanities Research* 347.
 - 3 Snyman-Van Deventer 'Teaching South African LLB law students' legal analysis to foster critical thinking' (2019) *Journal for Juridical Science* 79.
 - 4 Fabrice 'Democratic constitutionalism in post-apartheid South Africa: the interim constitution revisited' (2015) *Africa Review* 71.
 - 5 Fombad 'Africanisation of legal education programmes: The need for comparative African legal studies' (2013) *Journal of Asian and African Studies* 383.

South African high schools, drawing upon section 29 of the Constitution, which articulates the right to education.

Currently, the South African high school curriculum predominantly focuses on subjects such as mathematics, science, and languages, neglecting crucial areas that pertain to legal education.⁶ In a society where many young citizens will potentially be confronted by legal issues – ranging from property rights to criminal justice among others—students need a foundational understanding of these concepts.⁷ The inadequacy of the current curriculum to provide for this specifically, it is opined, leaves students ill-prepared to recognise their rights, engage in democratic processes, or protect themselves from violations of the law. Furthermore, Mabasa indicates a significant gap in legal awareness among South African youth, contributing to a lack of social responsibility and civic engagement.⁸ Wherefore, the present chapter seeks to underscore the importance of a comprehensive legal education by addressing existing deficiencies in the curriculum and proposing a framework for the introduction of a law subject.

The underlying premise for this pursuit is that in any society, legal knowledge is foundational to understanding civic duties and responsibilities.⁹ In South Africa, we argue, a country that prides itself on its democratic constitution and rule of law, the necessity for legal education is even more pressing. However, the current high school curriculum inadequately addresses the need for an understanding of the legal framework that governs citizens' lives. This inadequacy leaves students ill-prepared to navigate the intricacies of the law, which can directly impact their ability to uphold their rights and responsibilities.

6 Churr 'Realisation of a child's right to a basic education in the South African school system: Some lessons from Germany' (2015) *PER / PELJ* 2437.

7 Greenbaum 'Access to justice for all: a reality or unfulfilled expectations?' (2020) *De Jure* 261.

8 Desan & Dev 'Advancing legal consciousness in South Africa: Using law as an instrument of social change' (2018) *International Journal of Law, Humanities & Social Science* 28.

9 As above, 26.

2 A legal qualification in context

Legal education in South Africa has evolved significantly since the end of apartheid,¹⁰ with the transition to democracy bringing about fundamental changes. These changes include an end to white minority rule, an introduction of an inclusive human rights, transformation, and inclusivity in legal training.¹¹ This latter fact being noteworthy as history informs us that legal education was racially stratified and accessible primarily to a privileged few.¹² Therefore, the new constitutional framework necessitated a review of legal education to ensure it aligns with democratic values and social justice. This paradigm change led to a transformation of legal education to be inclusive and accessible to the previously disadvantaged.

2.1 Brief historical context

2.1.1 *The pre 1994 position*

The law certificate, which was taught informally by practitioners and became a requirement for practise in the Cape in 1858, was the first legal qualification provided in South Africa.¹³ The introduction of the Bachelor of Laws (LLB) degree at the University of Cape Town (UCT) in 1859 marked the beginning of formal university teaching of law.¹⁴ Later, an increasing number of institutions founded in different parts of the country began to provide this degree. During apartheid, legal education was characterised by racial segregation and exclusion.¹⁵ Law

10 Makore & Lubisi 'Dewesternising the South African social security law: A leap towards an afrocentric legal curricular' (2021) *De Jure* 233.

11 Badat & Sayed 'Post-1994 South African education: The challenge of social justice' (2014) *The ANNALS of the American Academy of Political and Social Science* 127.

12 Katherine & Angela 'Family theorizing for social justice: A critical praxis' (2022) *Journal of Family Theory & Review* 370.

13 Act 4 of 1858 and Act 12 of 1858 were passed by the Cape Parliament to establish a Board of Public Examiners and to regulate the admission of candidates to practice.

14 Denis & Daniel *The University of Cape Town Law Faculty, a history 1859-2004* (2004) 22.

15 Greenbaum 'Re-visioning legal education in South Africa: Harmonising the aspirations of transformative constitutionalism with the challenges of our educational legacy' (2014) *SSRN* 1.

school's primarily served affluent, white students while Black South Africans had limited access to legal education.¹⁶

The Attorneys, Notaries, and Conveyancers Admission Act 23 of 1934 governed the professionals' practical training. In terms of this statute, law graduates had to finish two years of articles of clerkship before being allowed to practise law.¹⁷ Graduates who wanted to become advocates had to finish a pupillage program under the careful supervision of an active advocate before taking the bar test.¹⁸

During this time, distinct educational programs were offered to pupils based on their race, with institutions created specifically for 'whites,' 'blacks,' 'Indians,' and 'coloureds'.¹⁹ The level of education delivered by historically 'black' universities (HBUs) was not equal to that of historically 'white' universities (HWUs), which are often found in metropolitan regions, due to their underfunding and awkward rural locations.²⁰ HBUs usually offered the shortened law credentials, but HWUs solely offered the LLB degree, which required a five-year minimum study term.²¹

Only a select few black students were allowed to enrol in white universities with approval from the education minister.²² This division affected graduates' chances of landing jobs at prestigious law firms and maintained the idea that degrees of varying quality were awarded to various races.²³ Most prospective Black attorneys were prevented from joining private practice by the expense of a postgraduate degree, the challenges of acquiring articles, and the inability to pay for a term of pupillage without working.²⁴

16 As above, 2.

17 Attorneys, Notaries and Conveyances Admission Act 23 of 1934 (repealed by the Attorneys Act 53 of 1979 and amended by the Qualification of Legal Practitioners Amendment Act 78 of 1997).

18 As above.

19 Greenbaum (n 15) 2.

20 As above.

21 As above.

22 As above.

23 As above.

24 As above.

2.1.2 *The post 1994 position*

The end of apartheid marked a new era. The transition to a democratic society brought about a comprehensive restructuring of legal education.²⁵ Institutions were encouraged to become more inclusive and representative of South Africa's diverse population.²⁶ There was an urgent need to change the legal profession and legal education after the 1994 democratic transition.²⁷ It was clear that the legal system needed to create a system of justice which is useful, efficient, and easily accessible; which is also legitimate, believable, and well-liked by the public; and it aligns with the principles of a democratic and civilised society. In 1994, approximately 85 per cent of South Africa's legal profession was made up of white lawyers, and there were only two female and four black judges sitting on the bench.²⁸

According to the late Justice Langa, the education system for law students and the principles and beliefs that are taught determine the future of the legal profession.²⁹ Inevitably, most of the legal practitioners present are accustomed to a traditional legal education that emphasises private and business law and encourages the logical inference of unavoidable conclusions from indisputable norms³⁰ They have learnt it that way, and it is an essential tool for any lawyer's toolbox. However, legal education has had to undergo metamorphosis with constitutionalism a big part of the transformation.³¹ Klare defined transformative constitutionalism as a long-term project with the goal of 'transforming a country's political and social institutions and power relationships in a democratic, participatory, and egalitarian direction.'³² This, we contend, suggests an endeavour to

25 As above 5.

26 As above.

27 As above.

28 McQuoid-Mason 'Transforming legal education for a transforming society: The case of South Africa' (2008) Paper delivered at International Conference on the Future of Legal Education, Georgia State University available at <http://law.gsu.edu/FOLEC/ppt/Friday%2020208/McQuoid-Mason220208.ppt> (accessed 24 November 2024).

29 Langa 'Transforming the judiciary: A new role for judges in South Africa' (2006) *Judicial Review* 355.

30 As above, 366.

31 As above.

32 Klare 'Legal culture and transformative constitutionalism' (1998) *SAJHR* 157.

bring about significant societal change using legally based, none-violent political methods.

As it stands, legal education in South Africa follows a narrow route typically characterised by a three-part structure demonstrated here:

- (i) Undergraduate Degree: Aspiring legal practitioners usually begin with a Bachelor of Laws (LLB) degree, which can be pursued after completing high school or after obtaining a degree in another field. The LLB program includes foundational legal principles and various branches of law, such as constitutional law, criminal law, and contract law to name a few.
- (ii) Practical Training: After completing their LLB, graduates are required to undergo practical legal training if they are to be admitted as practitioners. This is usually done through an internship or traineeship with a law firm or in a corporate legal department, and it is often mandatory to complete a practical training program offered by a recognized institution, like the Legal Education and Development (LEAD) program of the Law Society of South Africa.
- (iii) Admission as an Attorney: Following practical training, candidates must pass a competency examination before they can be admitted to practice as duly admitted legal practitioners.³³

3 Exploring the gaps in current legal education

3.1 The articulation gap

The South African high school curriculum is primarily designed around a set of core subjects that include: languages, English and the home languages are mandatory subjects; mathematics and sciences; human and social studies subjects like history and life orientation. It must be noted that although these subjects may touch upon legal concepts, particularly in historic contexts, they often do not provide a systematic understanding of contemporary law. Although Life Orientation covers a range of topics related to personal development, health, and social issues, it tends to be more focused on personal well-being and less on civic education, including understanding one's legal rights and responsibilities.³⁴ From

33 Section 24 of Legal Practice Act 28 of 2014.

34 Curriculum and Assessment Policy Statement (CAPS): Life Orientation FET (Grades 10-12) Final Draft available at <https://www.education.gov.za/Portals/0/>

this, one can deduce that the high school curriculum, structured around traditional subjects, fails to adequately incorporate legal education. It is our argument that this lack of a structured feeder subject creates a significant gap in students' knowledge about the South African legal system, rights, and responsibilities.³⁵

The LLB degree has been available at seventeen law faculties in South Africa since 2015.³⁶ Six of these universities previously offered the program through the Afrikaans medium, while five are historically black institutions.³⁷ Today's South African university students predominantly belong to the 'born free' generation, which refers to those who were born after the end of apartheid in 1994.³⁸ This generation faces a complex legacy; while they have not directly experienced apartheid, they are still affected by the lasting impacts of its systemic injustices and the inequities of the education system that continue to persist.³⁹ In appreciation of this injustices of the past, it is unsurprising that the most significant barrier to academic achievement remains the legacy of an inadequate and inequitable public education system which disproportionately affects students from historically marginalised backgrounds.⁴⁰ Additionally, issues of social inequality, economic disparities, and racial discrimination further complicate the lived experiences of these students, distancing them from idealised notions of privilege associated with being 'born free'.⁴¹ Put simply, a subpar and unfair public education system is a barrier to academic achievement at the university level.⁴² Inevitably, we

Documents/Policies/CAPS/FINAL%20GRADES%2010-12%20LIFE%20ORIENTATION.pdf (accessed 4 December 2024).

35 Marle & Modiri 'What does changing the world entail? Law, critique, and legal education in the time of post-apartheid' (2012) *SALJ* 210.

36 Greenbaum (n 15) 10.

37 As above.

38 Kotze & Prevost 'Born free: An assessment of political identity formation and party support of South Africa's first post-apartheid generation' (2015) *Africa insight* 143.

39 As above.

40 As above.

41 As above.

42 Chiramba & Ndofirepi 'Access and success in higher education: Disadvantaged students' lived experiences beyond funding hurdles at a metropolitan South African University' (2023) *South African Journal of Higher Education* 58.

are unable to avoid the conclusion that students from underprivileged communities are generally ‘under-preparedness’ for higher education.⁴³

A more appropriate word that better conveys the complexity of the systemic issue and highlights the necessity of bringing solutions to ease this transition is ‘articulation gap,’ which occurs at the critical intersection of these two educational periods.⁴⁴ This term refers to the disconnect between the skills and knowledge that students acquire in secondary education and those required for success in higher education.⁴⁵ Despite the obvious challenges faced by underprivileged students, Daka et al postulates that even students who attended ‘privileged’ schools are not spared. It is their view that the educational system is not sufficiently preparing students for university studies.⁴⁶ Notwithstanding this, it is plausible that the articulation gap may be much worse for those who have attended resource-poor and disadvantaged schools, where they typically study in a language that may be their second or even third language.⁴⁷

3.2 *Ignorantia juris non excusat*

Loosely translated, this means ‘ignorance of the law is not an excuse’.⁴⁸ Without in any way overstating the reliance of a legal qualification, the principle itself underlines the importance of legal literacy.⁴⁹ The application of law, which sometimes may actually amount to abuse of process, does not depend on the knowledge of the general public or the specific person affected by that legal provision. Put another way, it is noteworthy to indicate that the relevance and importance of legal literacy transcends mere academic inquiry; it embodies a civic mission centred on empowering youth through knowledge.

43 Greenbaum ‘Legal education in South Africa: Harmonizing the aspirations of transformative constitutionalism with our educational legacy’ (2016) *NYLS Law Review* 472.

44 As above, 473.

45 Daka et al ‘Bridging the gap: Addressing the disparity between higher education knowledge and industry needs’ (2023) *International Journal of Social Science and Education Research Studies* 1589.

46 As above.

47 Greenbaum (n 43) 473.

48 Ashraf ‘Inclusion of law studies in secondary and higher secondary curriculum inclusion of law studies in secondary and higher secondary curriculum’ (2019) *Annual International Conference of Social Sciences* 12.

49 As above.

The South African high school curriculum primarily includes subjects such as history, life orientation, and social science that do not adequately address the legal competencies young learners require to navigate civic duty.⁵⁰ As highlighted hitherto, while history can contextualise the evolution of the legal system, and life orientation can touch upon rights and responsibilities, neither subject provides comprehensive legal literacy to overcome the dangers of ignorance.⁵¹ We argue that the gap leaves students ill-equipped to navigate legal challenges they may encounter in everyday life.

While there is a clear pathway for legal education at the tertiary level, legal studies are conspicuously absent from many South African high school curricula. This exclusion can be attributed to several factors such as policy decisions and educational priorities. What the current chapter argues is that legal education in high schools has not been prioritised within the broader educational framework. The curriculum has concentrated more on subjects deemed essential for university admission criteria, such as mathematics, science, and languages.⁵² This position, it is submitted, is prejudicial to learners in that it robs them of legal literacy and societal awareness necessary to achieve civic functions. It is arguable that policymakers lack the awareness necessary to truly appreciate the importance of legal literacy and its need to be implemented at the high school level.⁵³ Notwithstanding the obvious consequences of the *ignorantia juris non excusat* principle, it is disheartening that many students are unaware of the various career paths within the legal field, leading to diminished demand for legal studies in schools.⁵⁴

In many South African schools, especially those in rural or underprivileged areas, resources and infrastructure are limited.⁵⁵ Consequently, introducing legal education would necessitate trained educators and appropriate teaching materials, which would stretch the

50 Department of Basic Education (2019) Curriculum and Assessment Policy Statement (CAPS): Grades 10-12 Life Orientation 7.

51 As above.

52 Curriculum Assessment Policy Statements (CAPS) available at [https://www.education.gov.za/Curriculum/CurriculumAssessmentPolicyStatements\(CAPS\).aspx](https://www.education.gov.za/Curriculum/CurriculumAssessmentPolicyStatements(CAPS).aspx) (accessed 10 January 2025).

53 Ashraf (n 48) 11.

54 As above, 12.

55 Mncube, Mkhasebe & Ajani 'Exploring the problems of limited school resources in rural schools and curriculum management history' (2023) *UMT Education Review* 3.

already scarce resources. Added to this, it is our view that the socio-political context also plays a role in the exclusion of legal education. It is unsurprising, therefore, that in these areas there may be resistance to introducing a subject on legal literacy.⁵⁶ Despite this, some activists have pursued the mission to forge ahead with the introduction of legal literacy. Shange has started a campaign to include legal education in the high school curriculum in South Africa. Shange's business, Integrate Legal Group, has launched a flagship program for high school students that is based on South Africa's legal system.⁵⁷ Underlying this flagship is Ms Shange's belief that the youth's lives are ultimately either directly or indirectly affected by the law.⁵⁸ The natural consequence of this, the flagship submits, is that learners require legal literacy at the very least.⁵⁹ The initiative, in our view, is a part of a broader objective to encourage active citizenry that is premised on legal literacy. The importance of legal literacy cannot be emphasised enough as it is intrinsically linked to democratic society.⁶⁰ This view of interlinking legal literacy to democracy is also supported by Dworkin.⁶¹

We demonstrate hitherto that the South African high school curriculum remains largely devoid of structured legal studies. This curriculum deficiency hinders the development of a law-literate society where individuals can navigate legal complexities and advocate for their rights effectively.⁶² It is not farfetched to argue that the absence of legal studies in high school curricula contributes to a populace that is less informed about critical legal matters.⁶³ Furthermore, the lack of dedicated legal subjects denies students access to essential skills such as critical thinking, problem-solving, and an understanding of the judicial system.⁶⁴ To resolve the articulation gap, improved legal education

56 Ashraf (n 48) 13.

57 Shange 'Law graduate launches legal education initiative for high school learners' <https://ndabaonline.ukzn.ac.za/StoryPrinter.aspx?id=11852> (accessed 8 January 2025).

58 As above.

59 As above.

60 Gullatt & Tollett 'Study of legal issues recommended for teacher education programs' (1997) *The Teacher Educator* 19.

61 Dworkin *Justice for Hedgehogs* (2011) 381.

62 Gravett 'Pericles should learn to fix a leaky pipe – why trial advocacy should become part of the LLB Curriculum (Part 1)' (2018) *PER/PELJ* 2.

63 As above, 3.

64 Kumar & Antony 'Civic competence: The essential role of legal education in primary and secondary school curricula' 2024 *International Journal of Research*

could enhance awareness about human rights, and contribute towards combating societal issues such as inequality and corruption. In the end, we argue, the lack of a legal framework as part of basic education contributes to widespread legal ignorance.⁶⁵

4 Bridging the articulation gap

4.1 Introduction

The LLB program in South Africa is the primary degree that prepares students for a career in law. Requiring a foundational understanding of legal principles and concepts, the LLB curriculum encompasses various areas of law, including constitutional law, law of delict, criminal law, and commercial law which are the very essence of everyday life and challenges. However, the effects of the pre-university education system on students' readiness for these studies are profound. The absence of a pre-law curriculum can be traced to several interconnected factors, such as the lack of trained educators who can effectively teach legal principles at the high school level.⁶⁶ This reflects a broader issue of underinvestment in teacher education and professional development focused on legal studies.⁶⁷

Equally troubling is the fact that all the current qualified teachers lack the capacity to teach any law related subjects because LLB curriculum does not accommodate or offer service modules to any Bachelor of Education curriculum.⁶⁸ This establishes and maintains a perception that legal studies are reserved for university only. The results of not having a feeder subject are significant because students entering LLB programs often lack fundamental skills in critical thinking and legal reasoning, which are essential for legal success.⁶⁹ Integrating legal education into high school curricula can address this barrier by encouraging discussion from a lower level of education. Law as a subject encourages dialogue

Publication and Reviews 2464.

65 Mubangizi 'Human rights education in South Africa: Whose responsibility is it anyway?' (2015) *African Human Rights Law Journal* 497.

66 Kumar & Antony (n 64) 2465.

67 As above.

68 As above.

69 Daka & others (n 45) 1590.

about rights, responsibilities, and ethical considerations, fostering an informed citizenry. Legal education enhances critical thinking, problem-solving, and analytical skills among students, equipping them with tools to engage with their environment meaningfully.⁷⁰

4.2 Framework for redefining legal education

It is our view that incorporating a subject on legal literacy into high school curricula can reshape the trajectory of legal education and produce graduates equipped to tackle pressing social issues. We submit that the proposed subject be called introduction to South African law. The proposed subject is designed as a comprehensive module aimed at providing students with an essential understanding of the legal framework within South Africa. This module will explore key aspects of the legal system, fundamental rights, and the roles individuals play as responsible citizens within that system. The subject should be available from Grade 10 to Grade 12 in different tiers for each grade. This introduction will allow for a new legal stream with the explicit aim of providing a feeder into the LLB program.

At its core, this module should be structured to cover the following central themes:

4.2.1 *Understanding the Constitution as the supreme law*

The Constitution of South Africa is the highest law of the land, superseding any other legal norms or legislation as espoused by the provisions of section 2. In general, the Constitution establishes the framework for governance, the rule of law, and the protection of fundamental rights.⁷¹ Students will learn that the Constitution provides a foundation for all legal processes and must be upheld by the legislature, the judiciary, and the executive.⁷² This understanding is crucial for anyone engaging with the law, as it shapes how laws are enacted, interpreted, and enforced.

70 Council on Higher Education (2015) Higher Education Qualifications Sub-Framework: Qualification Standard for Bachelor of Laws (LLB) 9.

71 Section 2 of The Constitution of the Republic of South Africa 1996.

72 Section 8, Section 165(2), of the Constitution of South Africa 1996.

4.2.2 Basic introduction to the Bill of Rights;

A particular focus falls to be made on a justiciable Bill of Rights. It is our view that a basic introduction to rights and responsibilities is critical to active citizenry. In the proposed syllabus, the implications of these rights will be discussed in the context of their relevance to everyday life, allowing students to grasp their rights and responsibilities as citizens.

4.2.3 The structure and function of the South African legal system

In this proposed tier, students will learn about the various courts and their hierarchy. Regard will be had to various structures that support democracy and the rule of law: *vis* the office of the Public Protector and the Human Rights Commission, for example. Understanding these key structures would enable learners to be aware of their role in developing the maturity of the South African jurisprudence.

4.2.4 Legal processes

This proposed tier will provide an overview of how laws are crafted, interpreted, and enforced. Students will explore legislative processes, beginning with the drafting of a bill, its passage through Parliament, and ultimately its promulgation as law. A critical examination of the role of the Judiciary will help students understand how courts interpret laws, adjudicate disputes, and protect constitutional rights.

4.3 Brief take on process of implementation

The Department of Basic Education should take proactive steps to integrate a legal subject into the high school curriculum. This subject, introduced in phases from grade 10, should cover the fundamental principles of South African law, rights, responsibilities, and the functioning of the legal system. To effectively oversee this process, we provide a brief step by step process of implementation of legal literacy.

4.3.1 Teacher training and resources

To effectively teach this new subject, existing LLB programs should consider creating a Postgraduate Certificate in Education (PGCE) that specialises in teaching law. This would equip future educators with both

legal knowledge and pedagogical skills necessary for teaching law in schools.

Above, we surmise that the exclusion of legal education in high schools may be a policy consideration and or prioritisation by the department of basic education. We are still unable to opine with certainty what the cause may be. However, what is not in doubt is that legal education is or has been in a constant crisis.⁷³ Whilst the diagnosis of what caused or continue to cause this crisis falls beyond the purview of the present discussion, we are of the view that exploring the route of introducing legal education in high school can only impact the drive for solutions positively. Stakeholders, including South African Law Deans Association, Legal Practice Council, the department of justice and constitutional development and the department of basic education should endeavour to find each other.

The potential benefits are, in our view, plenty. However, we point the following more salient ones. Firstly, the law faculties will absorb students with some form of legal knowledge from high school. An introduction of pedagogic justice, discussed below, stands to enrich the education experience of these students. Secondly, the department of basic education benefits from in-depth teaching and learning of legal rights and responsibilities. Awareness campaigns on bullying and so forth are not enough to imbue students with legal rights and responsibilities. An actual consequent inclined understanding of legal process as we advocate here, presents the legal life of rights and indiscretions. Last, but not least, the department of justice and constitutional development will receive benefit of a legally literate citizenry. Constitutionalism can benefit, and develop in a real sense, from interrogation in the classroom.

4.3.2 Development of learning materials and pedagogical skills

Relevant and engaging teaching materials should be developed to facilitate legal education at the high school level. Collaboration with legal professionals, scholars, and educators can improve material quality and relevance. A holistic approach to this is encouraged. As such, all stakeholders, including professional bodies, institutions of higher

73 Modiri 'The crisis in legal education' (2014) *Acta Academica* 1-24.

learning, legislative portfolios responsible for education and educator bodies and or associations.

Freire characterised the process of education as revealing a fundamentally narrative character.⁷⁴ In terms of this narrative, the teacher assumes the role of the knower whilst the students are the empty depositaries into whose blank memories knowledge is to be deposited.⁷⁵ Freire called this unfortunate system the 'banking concept of education'.⁷⁶ Undeniably, this concept has a limiting effect on student participation in meaning making and knowledge sharing. For that reason, Freire developed what is called the problem-posing method. In terms of this pedagogy, the teacher remains aware of the realities inhibiting both his or her space and those of the students.⁷⁷ To explore this method for the South African context and in the development of legal literacy, a pedagogic justice is fitting. This pedagogic justice is referred to as critical pedagogy by some proponents, including Modiri. According to him, this pedagogy is central to the promotion of 'social justice, substantive democracy and freedom'.⁷⁸ Underlying this pedagogy is the idea of a conscious teacher who conceives education as a tool against oppression, power, and affirmation of erstwhile injustices.⁷⁹

We argue here that legal literacy is intrinsically linked to active citizenry and democracy, as such we contend that pedagogic justice or critical pedagogy is suitable for promoting problem-solving. The teacher-learner consciousness of their legal reality and experiences would merge in a meaning making and knowledge sharing enterprise. In this way, we argue, the engagements would continuously enrich understanding and feed into the participatory nature of democratic processes of the State. We tentatively propose a case study centred approach to lessons. Maswanganyi defines case study as an exploration of different components of institutions and practices that are studied holistically.⁸⁰ This holistic inquiry into legal matters should primarily be relevant to

74 Freire *Pedagogy of the oppressed* (1970) 71.

75 As above, 72.

76 As above.

77 As above, 80.

78 Modiri (n 73) 13.

79 As above.

80 Maswanganyi *Assessing teaching approaches and strategies of foundation phase teachers in developing learners' writing proficiency: A case study in Warmbaths Circuit, Limpopo Province* (PhD of Education 2022 TUT) 10.

the realities of the day. Masenya postulates that relevance plays a major role in education in that it typically underlies learning experiences that are either directly applicable to the personal aspirations or cultural experiences of students or the real-world they observe.⁸¹ In this way, it is submitted, students keep abreast of legal developments and endeavour to provide context specific solutions to the issues.

4.3.3 Awareness campaigns

Schools should conduct workshops, seminars, and awareness campaigns on legal rights and responsibilities, fostering a culture of legal literacy.

4.3.4 Assessment and evaluation

Implement effective assessment techniques to evaluate students' understanding and application of legal concepts, ensuring that legal education impacts their lives meaningfully and promote active citizenry as argued in this chapter.

5 Conclusion

The incorporation of a law subject into South African high school curricula is not merely an educational reform, it is instead a necessity for enhancing legal literacy and building a robust legal profession that reflects the diverse society it serves. A restructured educational framework, rooted in critical legal education principles, can better prepare future generations to engage actively with the law and advocate for their rights. As South Africa navigates its complex socio-political landscape, fostering a culture of legal awareness among its citizens should be a collaborative priority for educators, policymakers, and legal practitioners alike. In a constitutional democracy, adding a legal education to the high school curriculum in South Africa is not only a curricula improvement, but also a vital step in empowering the next generation. The right to education and the significance of creating informed, engaged, and responsible citizens are emphasised in section 29 of the South African Constitution, which is in line with this initiative. Incorporating legal principles into

81 Masenya 'Toward a relevant de-colonized curriculum in South Africa: Suggestions for a way forward' (2021) *SAGE* 3.

the curriculum can help South Africa improve legal literacy, encourage social responsibility, and provide a strong basis for future generations of law-related professionals. It is important to lastly note that individuals and society both depend on an awareness of justice and rights.⁸² Thus, emphasising legal education in high schools becomes a crucial investment in the future of a fair and just South Africa, producing knowledgeable citizens who can make constructive contributions to both their local communities and society at large.

82 Swenson 'Clinical social work's contribution to a social justice perspective' (1998) *Social Work* 527.