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Centre for Teaching and Learning

Faculty Specific Publications

Law

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Articles / opinion pieces about teaching for the Faculty of Law

Anderson, L. S. (2006). Incorporating Adult Learning Theory into Law School Classrooms: Small Steps Leading to Large Results. Appalachian Journal of Law 5(127): 127-149.

Abstract: This article explores aspects of adult learning theory that can be easily applied to law school teaching. It briefly addresses the landscape of legal education today: the traits of law students, pressures to change legal education, and the need to make legal education more effective. After describing several specific principles of adult education, the article offers concrete suggestions for incorporating these ideas by making small changes in the law school classroom that specifically address some of the current concerns about legal education.

Bard, J. S. 2008. Teaching Health Law. Journal of Law, Medicine & Ethics 36(4): 841-850.

Abstract: The article reports on the author's views about the benefits of teaching in the U. S. medical and law schools. It focuses on the different approaches in higher education but leading to the same goal of educating young adults in the field profession of legal education and medical education. The author teaches both.

Biggs L and Hurter K "Rethinking Legal Skills Education in an LLB Curriculum" 2014 JJS 1-30

Abstract: Over the past decade, there have been growing complaints regarding the low levels of literacy, research and numeracy skills demonstrated by law graduates in practice, and a call for universities to more adequately address these skill gaps. The Faculty of Law at the Nelson Mandela Metropolitan University (NMMU) responded to this call by redesigning their first-year Legal Skills course using a stand-alone skills-based model and a context-based teaching approach. The redesign process is outlined and particular themes in each stage of the process are discussed. This includes identifying contextual factors, defining essential skills; course content analysis; course restructuring; teaching reformulation; adaptation of assessment and feedback; implementing a blended learning approach, and collaboration within the Faculty and across faculties and service providers. The article argues that a stand-alone skills-based model can be effective in developing a minimum level of competence, but that a sense of shared responsibility for skills development across the LLB programme is essential for a higher level of skill attainment. Lessons learned during the redesign process are highlighted, and where possible, recommendations for future considerations are explored.

Boyle, R. & Dunn, R. 1998 – 1999. Teaching Law Students through individual learning styles. Alb. L. Rev. 213.

Conclusion: A single method of teaching, whether traditional or nontraditional, is unlikely to prove effective with all students because of the diversity of students' learning styles. Past experimental research has revealed that many under-achieving students failed because of the inappropriate instructional approaches used with them, yet they evidenced statistically higher achievement with different strategies. Once the learning-styles composition of the class is known, law professors should determine which teaching methods to maintain, delete, or add to their repertoire. Because no method is effective for all students, law professors should determine which methods are likely to be most responsive to the learning styles of large clusters of students in each of their classes. In addition, law professors should determine which individuals require special adaptations. Alternatively, professors who choose not to assess their classes will be operating blindly, but are advised to at least incorporate a diversity of approaches to reach a wider audience.

Broodryk, T. 2014. Writing-intensive courses across the law curriculum: Developing law students' critical thinking and writing skills. 35.3 *Obiter* 453.

Abstract: This article will explore the use of writing-intensive courses across the law curriculum, vested in the belief that writing, as an articulation of thinking, enhances learning where it is meaningfully and intentionally embedded into a course structure. The article commences by pointing out that law students often regard the writing process and the critical thinking process as mutually exclusive and therefore fail to appreciate that writing is in fact the end-result of a process of argumentation or analysis. As a result of students" inability to engage effectively in a process of critical thinking, they tend to reach closure too quickly when presented with a critical-thinking problem. Consequently, students often fail to engage in a process of exploratory thinking, enabling them to suspend judgment and to enter into the spirit of opposing views. The article specifically focuses on the writing strategy recently implemented by the Faculty of Law, Stellenbosch University with the primary aim of establishing a coordinated approach to the development of research and writing skills within the LLB programme as an integral part of legal education within the Faculty. The Strategy is intended to enhance the writing and research skills of LLB students through a number of interrelated interventions implemented across the entire LLB programme. A principal aim is to inculcate both generic and specific writing skills in LLB graduates in a manner that is integrated into the curriculum. A key component of the Strategy, on which the article will focus, entails the identification and development of writing-intensive courses in terms of which writing and research assignments are integrated into substantive courses. Writing-intensive courses support the notion of "writing to learn" as opposed to "learning to write" and thus encourage critical thinking. They are assignment-centred rather than text- and lecture-centred; they are structured so as to enable exploratory thinking (and thus writing); they encourage students to become actively involved in their own learning processes; and they consist of assignments that require students to arrive at well-reasoned conclusions and solutions, testing them against relevant criteria and standards, justifying their ideas in writing or other appropriate modes. In these courses, students are instructed on writing skills alongside the substantive content of the particular course and given exercises to develop such skills with reference to the substantive content of the course. Each course is focused on specific writing skills and successive courses are focused on developing these skills. The article concludes by dealing with the practical difficulties and benefits associated with the development of writing-intensive courses, one of which is the fact that students not only develop generic writing skills, but they also develop specific writing skills within the academic discourse of our environment – they therefore do not only learn to write, but to write in law.

T Broodryk & M Buitendag "Writing-intensive courses across the law curriculum: developing law students" critical thinking and writing skills – a post-evaluation assessment" 2015 36(3) *Obiter* 615-630

Abstract: This article follows upon a previous article which dealt with the writing-across-the-curriculum strategy implemented at the Faculty of Law, Stellenbosch University. This article details the findings and recommendations of an outcomes evaluation conducted in respect of the strategy, commissioned by the Faculty, and deals with the design, implementation and achievement of outcomes by the strategy. It commences by considering the different components of the strategy, the implementation of these components and the relevant findings of the outcomes evaluation in this regard. Specific attention is given to the five mainstream outcomes envisaged by the Faculty through the implementation of the strategy's different but mutually complementary components. The article will conclude by making recommendations aimed at ensuring the continuous development and improvement of the strategy, not only at the Faculty, but also in an attempt to assist other law faculties in the implementation or improvement of their own writing initiatives.

T Broodryk & C Golombick "Teaching Legal Writing Skills in the South African LLB Curriculum: The Role of the Writing Consultant" (2016) 3 *Stell LR* 535-553.Lately,

Abstract: Lately, the South African LLB degree has been the topic of considerable debate. It is becoming increasingly apparent and problematic that LLB graduates are not sufficiently equipped with the requisite critical thinking, numeracy and writing skills to enable them to make a smooth transition into the legal profession. Law schools are therefore under increasing pressure to implement methods to develop and improve these skills. This article briefly discusses the writing strategy (the "Strategy") implemented by the Faculty of Law (the "Faculty") at Stellenbosch University, with its primary aim of establishing a coordinated approach to the development of research and both generic and specific writing skills within the LLB programme as an integral part of legal education in the Faculty. A key component of the Strategy, and the focus of this article, is the Faculty's Writing Consultants (the "Consultants"). The Faculty currently employs three full time Consultants who render daily writing-related assistance to the Faculty's students. The writing-related assistance takes place in the form of a one hour, one-on-one contact session. This article evaluates the consultancy service as a key component of the Strategy, especially taking into account the recent outcomes-based evaluation conducted in respect of the Strategy and specifically the benefits associated with conducting individualised consultations. These benefits include, but are not limited to, quality interaction between Consultants and students during which consultations students can explore new ideas or expand on their current ideas that might be somewhat stilted. Muriel Harris calls this the "ideal teaching situation" where Consultants act as "helpers and coaches, not graders". A further benefit lies in the fact that student strengths and weaknesses can be properly addressed in one-on-one consultations without the competition of other students, as is the case in the traditional lecturer-class set-up. Ultimately, the consultations aim to enhance students' understanding of writing as a process, which "improves and strengthens both the paper and the writer". The article posits certain recommendations regarding the role of the Consultants in order to contribute to the further development and improvement of the Strategy. It concludes by suggesting that implementing a Consultant-component may be a good choice for faculties that are insufficiently resourced to implement a comprehensive writing-across-the-curriculum strategy.

Bateman, P. (1997-1998). Toward Diversity in Teaching Methods in Law Schools: Five Suggestions From The Back Row. Quinnipiac Law Review 17.

Summary: How might we diversify the way we teach so that we hear not just from the "communicating core" of the class, but also from those who often remain silent? At law school, the correlation between class attendance and class standing at the end of the first year is high. However, one of the first alienating experiences a student may face at law school is the law school class itself. The problem is compounded when we recognize the almost overwhelming use of the Socratic Method as a teaching method at law schools, to the exclusion of many other effective alternatives and supplements to that method. Part II of this article analyzes the goals of the Socratic Method both from the point of view of law school education and from the points of view of other educational fields. Those goals may have strayed from those Socrates' would recognize. Part II outlines the criticism of the Socratic Method. While the Socratic Method has received increased respect as a result of some studies of elementary school classes, the criticism among the law school community continues to grow, although some of that negative criticism may actually be more properly directed at aspects of law school education other than the Socratic method of instruction. Part IV of the article describes five supplements to the traditional Law school class, and attempts to show the ways in which those supplements to the Socratic Method can fill students learning needs in a way that the Socratic Method alone cannot. Computer-Assisted Instruction as well as the student-learning contract in particular seem to offer much promise for enhancing law school instruction and for enhancing the ways in which students approach the process of the study of law.

Caron, P. L. (2003). Back to the Future: Teaching Law Through Stories. University of Cincinnati Law Review 71.

Introduction: This Essay explains the pedagogical theory behind the new Law Stories series of books to be published by Foundation Press. The Law Stories series is intended to enrich the use of the case method of instruction in the law school classroom. By focusing on fewer cases and pausing for an in-depth review of the seminal cases in the field, the professor can empower students to construct their own schematic understanding of the area of law. Cognitive science teaches that such active learning produces more lasting value to students who are better equipped to process new information and solve new problems within the context of their self-constructed schemata. Professors thus should resist the temptation to do this work for students, conveying our schemata in a top-down fashion, with students playing merely a passive role in receiving this oracular wisdom. As a result, Professors should not sacrifice depth of coverage at the alter of scope of coverage; rather than rush through the signature cases in our subject in order to get to the latest hot topic or fashionable theory, professors should savor the opportunity to unpack with our students what it is that makes these cases central to a deep understanding of the field. The Law Stories series provides the raw material to enhance the study of the foundation cases in different subjects. As the initial book in the series, Tax Stories provides an in-depth examination into ten pivotal United States Supreme Court cases in the development of the federal income tax that provide fresh insights both into particular doctrinal areas of tax law as well as issues of wider application across the tax law.

Caron, P. L. (2005). Teaching with Technology in the 21st Century Law School Classroom The Future of Law Libraries Symposium, Amelia Island.

Abstract: These remarks were delivered at The Future of Law Libraries Symposium at Amelia Island, FL on March 10, 2005 and have been expanded and updated to be current through February 1, 2006: I believe we are entering a fourth phase in the deployment of modern technology in the law school classroom, in which faculty embrace technology to actively engage the twenty-first century law student. Instead of fighting losing battles against technology, or living with the problems associated with the current state of law school classroom technology, I want to discuss here three of the new technological tools

that I use on a daily basis in my classes: (1) the Classroom Performance System; (2) the Law Stories Series; and (3) the Law Professor Blogs Network. These technological tools represent the next generation of law school teaching technology and answer critics who charge that technology in the form of PowerPoint slides and laptop computers create a stultifyingly passive classroom environment. By requiring students to take a more active role in their learning, these technologies help students to thrive in the fast-paced legal world of the twenty-first century using twenty-first century tools.

Christensen, L. M. (2009). Enhancing Law School Success: A Study of Goal Orientations, academic achievement and the declining self-efficacy of our Law Students. Law and Psychology Review 33: 57-92.

Summary of introduction: In this study, highly ranked law students rated themselves low on academic self-efficacy measures. Low self-efficacy is a trait more typically associated with performance orientation. What accounts for this result? The answer may lie within legal education's goal structure – a structure completely oriented towards performance. This article explores the results of the present study. Part II describes the theoretical framework of goal orientation theory. Part III describes the present study, including the survey design and the methods used to collect and analyze the data. Part IV discusses the results of the current study. Part V explores the conclusions we might draw from the data, including suggestions for legal education reform.

Corrada, R. L. (1996). A Simulation of Union Organizing in Labor Law Class. Journal of Legal Education 46(3): 445-455.

Introduction: Since I started teaching, in 1990, I have realized that the vast majority (probably more than 95 percent) of the students in my class on labor relations law have never worked in a unionized environment. Indeed, a great many have not worked in what has sometimes been termed an "industrial" or "blue collar" environment. As a result, I have found it difficult in class to contextualize cases and inculcate an appreciation for the collective consciousness that characterizes the union experience, especially in the industrial setting. It was surprising to me how much this lack of union or industrial experience affects the students' understanding of the regime erected by the National Labor Relations Act. For example, students have a difficult time under- standing how an employer's creation of work teams could possibly undermine independent employee efforts at unionization. Having never attempted to deal with management in a concerted way, students have no appreciation for the extent of an employer's coercive power over employees. That makes it hard for them to understand certain doctrines in labor law related to union organizing, like section 8(c)'s prohibition of promises of benefits, which stems from an understanding that well-timed benefits can serve as forceful reminders to employees that the employer truly controls their economic destiny. After reading David Dominguez's description of a simulation experience involving zero-sum bargaining related to minority rights, I decided to try a simulation experiment in my labor law class: I would allow students, if they chose, to form a union and bargain with me about terms and conditions class. My modest initial goal was to have students appreciate strong section 8(a) (2) - prohibiting employer domination of at a time when the section is under heavy attack for its apparent obsolescence.

Curcio, A. A. (2009). Assessing differently and Using Empirical Studies to see if it makes a Difference: Can Law Schools do it better? Quinnipiac Law Review 27(899): 899-933.

Introduction: This Article explores alternative law school assessment methods and suggests ways to engage in empirical study of alternative and existing assessments. In Part II, the Article provides some concrete suggestions for both incremental and larger changes to doctrinal class assessment practices with an eye toward developing assessments that

begin to desegregate legal analysis, practical skills, and professional identity. What is not explored explicitly, but what is implicit throughout, is that, because professors should not assess what they do not teach, examining and changing assessment methods necessarily involves reflection about teaching methodology and coverage. The Article then moves from a discussion of changing teaching and assessment practices to a discussion of studying the impact of those changes. Because empirical studies can be a persuasive tool in laying the groundwork necessary to develop institutional support for a change in assessment practices, Part **III** seeks to de-mystify the empirical study process. Written for those without a social science background, it briefly discusses basic issues in study design, methodology, implementation, and interpretation, providing an overview of how to develop and design an empirical research study. Part IV suggests some potential empirical research assessment studies that can be performed on both alternative and existing law school assessment methods. Finally, the Article concludes by arguing that if law professors give their teaching and assessment work the same scholarly scrutiny given to other research interests, they may discover ways to help students become more effective lawyers, lessen student disengagement and create the potential for a more diverse bench and bar.

Dickinson, J. A. (2008). Understanding the Socratic Method in Law School Teaching After the Carnegie Foundation's *Educating lawyers*.

Abstract: For many committed law school teachers, the traditional Socratic pedagogy they practice is the irreducible core of legal education. For others its continued practice is a scandal and more damning, an impediment to learning the practice of law. The Carnegie Foundation's Educating Lawyers: chose not to take a position in this debate, while framing it, thus leaving its call for reform ungrounded.

Greenbaum, L. The four-year undergraduate LLB: Progress and pitfalls. Journal for Juridical Science 2010: 35(1)

Summary: In this paper, the historical and contextual factors that resulted in a change from a postgraduate LLB to an undergraduate LLB, as the single qualification for lawyers in South Africa in 1997 as part of a national transformation agenda, are reviewed. It is timely to consider whether the motivating reasons for introducing a four-year degree, to enhance representivity within the legal profession and to reduce the cost of obtaining a legal education, have been met. Systemic and structural features of post-apartheid South Africa, which reflect the legacy of unequal educational provision, a vast socio-economic divide, and a divided legal profession, continue to hamper attempts to redress past imbalances. A failing school system, ongoing poverty, and the underpreparedness of increasing numbers of students gaining access to higher education have produced data that reveals high university drop-out rates, particularly for African students, and distressingly low levels of student success at tertiary institutions. Dissatisfaction amongst stakeholders regarding the quality of law graduates has added to the current impasse as to how legal education can most effectively be improved. The establishment of a new Ministry of Higher Education and the undertaking of a research project on the effectiveness of the law curriculum by the Council on Higher Education both promise some possibility of flexibility and change in the future.

Greenbaum, L. 2012. Current Issues in Legal Education: A Comparative Review. Stellenbosch L. Rev. 16.

Summary: A serious focus on research in the field of teaching and learning in law is advocated in this article. From a review of the legal education literature that has emanated from the United States of America, England, Australia and South Africa, it is clear that the field of legal education in South Africa has not attracted much scholarly attention. The article suggests that contextual factors, related to the substantive changes to South African law

post-1994 have been responsible for this deficit. Law academics have chosen to research specific discipline areas, notably linked to the changes brought about as a result of the new constitutional dispensation, in favour of conducting research related to their pedagogical functions. In the international scholarship, a growing body of literature on legal education, fueled by reports that document the state of legal education in each of the foreign jurisdictions, has emerged. Within the field of legal education, two particular themes appear to have predominated the recent literature: (i) the doctrinal/skills dichotomy in law curricula. Reflected in tensions between law academics and the legal profession; and (ii) the need for inculcating ethical sensitivity, as part of the development of lawyers' professional identity, through the teaching of socio ethical values in the academic curriculum. It is suggested that an engagement with these themes by South African legal educators, through research and scholarly writing, would enrich the debate that ought to take place amongst all stakeholders, in order to enhance the current state of legal education and to improve the quality of law graduates.

Greenbaum, L. 2015 – 2016. Legal Education in South Africa: Harmonizing the Aspirations of Transformative Constitutionalism with Our Educational Legacy. N.Y. L. Sch. L. Rev. 463 2015-2016

Introduction: This paper addresses the imperative to align the education of South Africa's lawyers with the project of transformative constitutionalism. The obligation to change the essential character and methodologies of legal education, to equip law graduates to participate in the ongoing project of constitutionalism, carried immediate implications for curriculum reform and the training of lawyers in the late 1990s. Now, after twenty years, with the wisdom of hindsight and experience, it is appropriate to review whether legal education is meeting the challenges of producing law graduates with the necessary attributes and skills to fulfill the pivotal role they are required to play in advancing constitutional democracy. This appraisal cannot be accomplished without a careful consideration of who our students are and how we address systemic obstacles to achieve transformative legal education. The historical legacy of unequal educational opportunities and a deficient secondary school system demands creative and pragmatic approaches to harmonize the aspirational ideals of post-apartheid legal education within the context of higher education in South Africa in 2016. In Part II of this article, I review the history and current state of legal education in South Africa to frame the racial disparities and the regulatory context in which legal education exists. Part III considers critical perspectives that have informed a vision of transformative legal education. Against this background, Part IV discusses the reality of the present state of higher education in South Africa in order to highlight the challenges of providing legal education that is equitable and fit for purpose. Finally, Part V proposes pedagogical strategies to address systemic fractures and obstacles in order to develop recommendations for the future.

Greenbaum L "Experiencing the South African Undergraduate Law Curriculum" 2012 De Jure 104-124

Abstract: In this paper, the experiences and perceptions of law graduates in relation to the experience of the law curriculum at one South African law
faculty were analysed as part of a larger study to determine the fitness for purpose of the four year undergraduate LLB degree in South Africa. The term "curriculum" is used in the broadest sense as including the official (written) curriculum, the curriculum as it is implemented in lecture rooms (enacted), the hidden curriculum (or "unstated norms and values communicated to students") and the null curriculum (what is not taught). A discussion of the three positions that were identified from the data gathered in interviews with six law graduates who are now practising attorneys, will be followed by my analysis of how the experience of the undergraduate law curriculum at one historically white university (HWU) in South Africa replicates the educational and socio-economic backgrounds of the graduates

and prevents the experience of the law curriculum from being a transformative education, and thus indirectly operates as an obstacle to many students seeking to gain entry to the legal professions.

Henderson, T. L. and J. J. Martin (2002). Cooperative Learning as One approach to Teaching Family Law. Family Relations 51(4): 351-360.

Abstract: We identified appropriate family law content and a pedagogical vehicle to support instructors interested in teaching family law to students of family studies and human development programs. Additionally, we provide instructors with an overview of a family law course, a detailed model syllabus, strategies, and model assignments for using cooperative learning as the core pedagogy. We review the pedagogical value of cooperative learning in general and give specific cooperative assignments for our readers. The course model is designed to improve students' critical thinking, team building, and problem-solving skills toward understanding the intersection of families and the law.

Hinnet, K. (2002). Developing Reflective Practice in Legal Education. UK Centre for Legal Education.

Introduction: What this guide aims to do is to provide a starting point for law teachers who want to know a little more about reflection and how it might be facilitated. In doing so it refers to educational theory and provides a number of examples of how reflective practice can be integrated into the learning situation. It is hoped that the guide will provide inspiration for action and prompt further debate about what we require of law graduates and how this might best be achieved.

Ingham, J. and R. A. Boyle (2006). Generation X in Law School: How These Law Students are Different From those Who teach them. Journal of Legal Education 56(2): 281-295.

Abstract: This article presents the results of a multi-year study that examined the learning styles of law students at three law schools in the age category known as Generation X. Joanne Ingham and Robin Boyle also compared the learning styles of the faculty who teach the Gen X student population in the study. The three law schools included in the study were Albany Law School, New York Law School, and St. John's University School of Law. All three schools are located in different geographical parts of New York State. The Dunn and Dunn Learning Style Model was used. The study's findings support and offer explanations for several characteristics of the Gen Xers. When comparing the learning styles of law students and faculty, the authors found that faculty and students' learning style patterns were very different from each other.

Joshi, M. and A. Babacan (2009). Enhancing deep learning through assessments: A Framework for Accounting and Law Students. Review of Business Research 9(1): 124-131.

Abstract: This paper looks at the impact of assessment on the promotion of deep learning in the teaching of accounting and law. The first part of the paper begins by detailing the requirements of accounting regulation bodies in terms of skill acquisition required from accounting graduates in order to join the accounting profession. Next, there is theoretical discussion of an assessment framework which will help accounting educators to promote student learning so as to promote the skills required by the accounting regulation bodies. In doing so, the relationship and impact of assessment tasks on learning outcomes is undertaken. It is demonstrated that a deep approach to teaching and learning results in higher quality.

McCrehan Parker, C. (2008). Writing is Everybody's Business: Theoretical and Practical Justifications for Teaching Writing Across the Law School Curriculum. Journal of the Legal Writing Institute 12: 175-190.

Abstract: This Essay discusses theoretical and practical justifications for teaching writing across the law school curriculum in terms of specific curricular goals. Practical justifications for teaching writing across the curriculum include the central importance of written communication in practice; the explosion in availability of legal authority and other information that requires ever more skill and efficiency in selection and synthesis of appropriate authorities; and law firm economics that increasingly require new lawyers to be ready to practice law immediately upon hiring. At the same time that employers' expectations of new law graduates have increased, evidence indicates that preparation in research and writing in secondary and undergraduate schools has diminished. The Essay concludes by proposals for a writing revolution urged by the National Commission on Writing in America's Schools and Colleges and ways that law schools may implement those suggestions.

McElroy, L. (2009). From Grimm to Glory: Simulated Oral Argument as a Component of Legal Education's Signature Pedagogy. Indiana Law Journal 84(2).

Abstract: The past two years have been a period of landmark transformation in legal education. With the issuance of the Carnegie and Best Practices in Legal Education reports, law schools and law professors have re-begun the essential process of analyzing and transforming legal pedagogy. This widespread re-examination of the law school curriculum has yielded two important changes in legal education: first, law schools – including those in the top tier – have begun radically to amend their curricular goals and structures; and, second, legal scholars have begun to turn their attention to the theory and implementation of better legal education. As Carnegie and Best Practices note, this nascent metamorphosis in scholarly thought about legal education has the potential to transform both the law school and the law practice experience, as well-grounded pedagogy will remove the barriers to learning that some law students have historically experienced while better preparing them to practice law. This article represents one of the first concrete responses to Carnegie and Best Practices. In proposing that law professors regularly use oral argument exercises to supplement traditional Socratic dialogue, it meets head on the concerns expressed by Best Practices and Carnegie that over-reliance on the Langdell method neither mimics law practice nor nurtures student learning. It also responds directly to the suggestion in both reports that simulation exercises may yield better legal analysis and knowledge. Finally, this article advances a novel theory directly related to the objectives and conclusions of the Reports; namely, that for experienced advocates and law students alike, practice oral argument may be a starting point, rather than a mere end point, for teaching, learning, and executing the fundamentals of legal analysis. In the style of the transcribed classroom conversations of the Carnegie Report, it discusses and demonstrates by example a simulation exercise designed for professors to use in introducing this teaching methodology. The exercise, based on seven fairy tales used as precedent cases, provides a familiar, non-threatening technique for students to learn about rule synthesis, weight of authority, analogy and distinction, and theme through oral argument.

Merritt, D. J. (2007). Legal Education in the Age of Cognitive Science and Advanced Classroom Technology. Centre for Interdisciplinary Law and Policy Studies Working Paper, Ohio State University College of Law.

Abstract: Cognitive scientists have made major advances in mapping the process of learning, but legal educators know little about this work. Similarly, law professors have engaged only modestly with new learning technologies like PowerPoint, classroom response systems, podcasts, and web-based instruction. This article addresses these gaps

by examining recent research in cognitive science, demonstrating how those insights apply to a sample technology (PowerPoint), and exploring the broader implications of both cognitive science and new classroom technologies for legal education. The article focuses on three fields of cognitive science inquiry: the importance of right brain learning, the limits of working memory, and the role of immediacy in education. Those three areas are fundamental to understanding both the effective use of new classroom technologies and the constraints of more traditional teaching methods.

Quinot, G. & Greenbaum, L. 2015. The contours of a pedagogy of law in South Africa. Stellenbosch Law Review, 26(1):29-62.

Summary: Reform of legal education is currently a topic of debate in South Africa again. Reform in higher education can, however, be dangerous and counter-productive if it is driven purely by policy agendas and in the absence of sound pedagogical considerations. This contribution aims to add a pedagogical perspective to the debates about reform of legal education in South Africa. Drawing on our earlier work in this field, we sketch the broad contours of a legal pedagogy for South Africa. Although there has traditionally been reluctance by law teachers locally and in other countries to embark on engagement with educational theory, we would advocate that this is essential and inevitable if reforms are to be based on sound theoretical underpinnings and empirical evidence, instead of anecdotal views. We propose nothing more than a pedagogical framework and do not intend to present anything as prescriptive. Our approach is premised on transformative legal education (TLE) as developed by Quinot. Within the framework of TLE we argue for an integrated, coherent approach, which aims to integrate skills development with substantive law, various areas of law with each other and with broader contextual influences flowing from the South African reality within which legal education is grounded. This calls for a whole-of-curriculum approach with high levels of co-ordination and co-operation within a law programme. We emphasise the importance of authentic learning and focus especially on experiential learning and clinical legal education. Finally, we consider the major role for the use of information technologies in teaching law in South Africa. Our recommendations are not without challenges with the lack of resources and the articulation gap between secondary and higher education as major concerns. While being realistic about the limitations imposed by these challenges we argue that a re-conceptualisation of legal education in light of the imperatives of transformative constitutionalism has become inevitable in South Africa.

G Quinot & SP van Tonder. The Potential of Capstone Learning Experiences in Addressing Perceived Shortcomings in LLB Training in South Africa. (2014) *PELJ* 1355 1360-1363, 1366-1368

Conclusion: While legal education in South Africa is currently undoubtedly under pressure from multiple angles, these pressure points can also be leveraged to achieve pedagogical advantages. Kift90 has noted that it was the "external drivers for change in the legal and tertiary sectors" in Australia that created the momentum for "reform to core undergraduate law curriculum that might otherwise have been too radical to contemplate". This included careful consideration of capstones.

The question is if changes on the horizon in respect of South African legal education will open up the same scope for drastic change in the LLB curriculum. If so, perhaps a move towards true problem-based learning across the entire curriculum, something to which law as a discipline seems particularly well suited, would be possible. If not, extending and consolidating capstone experiences in the final year would probably be the most one could hope for. A capstone learning experience for each law graduate may at least address some of the key concerns raised about legal education at present. These include skills in communication, problem solving, ethics, and in general a holistic view of the law in practice.

Capstones are obviously not the solution to all problems in legal education, but it seems that they hold significant potential as a mode of instruction in respect of some of these problems.

Quinot G. 2012. Transformative Legal Education. SALJ 411-433

Abstract: This article argues that significantly increased attention to theory (or theories) of legal education is not only imperative in order to improve the quality of legal education in South Africa, but is a crucial ingredient of constitutional transformation grounded in law in this country. The article puts forward a theoretical framework, called 'transformative legal education', in terms of which law could be taught at South African universities. In developing this framework the article draws upon insights from three basic dimensions of legal education, namely (1) the subject matter or discipline being taught (here law), (2) the teacher or the act of teaching, and (3) the student or learner. It is argued that these insights

call for a fundamental shift from formalistic legal reasoning to substantive reasoning under a transformative constitution, for a shift towards a constructivist student-centred teaching model and for the recognition of a paradigm shift in knowledge from linear to non-linear, relational or complex. The article concludes by arguing that these different insights force law teachers to reassess critically their approach to legal education, and by explaining how these insights can contribute to a meaningful framework within which law can be taught responsibly in contemporary South Africa.

Quinot, Geo (2011). Inaugural lecture: Transformative legal education. University of Stellenbosch.

Abstract: If I were to say, "Theory matters", most people would not find it particularly surprising. In fact, you would think it obvious that as a university professor, I would make such a statement. But what would your reaction be if I were to say, "Theory matters in teaching"? It is on this question that I want to dwell in this lecture and in particular within the context of teaching law in South Africa today. I shall propose that theory matters very much in teaching law in contemporary South Africa, and I shall put forward a theoretical framework within which law should, in my view, be taught at South African universities. I call this framework 'transformative legal education and in short it is what I consider law teachers can and "must do in order to achieve the aims of transformative constitutionalism". I do not propose a new theory, but I rather propose a theoretical framework, that is, a framework that draws upon a number of insights from different disciplines to guide the teaching of law. In setting up this framework, I shall focus on three basic elements of education, namely 1) the subject matter or discipline being taught (here law), 2) the teacher or the act of teaching and 3) the student or learner. I shall align each of these dimensions of legal education with contemporary theories and insights within that particular field. All of these I consider to hold profound implications for the way that law teachers approach their craft. These insights call for a fundamental shift from formalistic legal reasoning to substantive reasoning under a transformative constitution, for a shift towards a constructivist student-centred teaching model and for the recognition of a paradigm shift in knowledge from linear to nonlinear, relational or complex. In conclusion, I shall argue that these different insights force us to critically reassess our approach to legal education and explain how these insights can contribute to a meaningful framework within which law can responsibly be taught in contemporary South Africa.

Randall, V. R. (2000). Increasing retention and improving performance: Practical advice on using Cooperative Learning in Law schools. 202-273.

Introduction: Imagine, please, taking a class in piano playing. Assume the teacher focuses all of her effort on analyzing sheet music of great musicians. At each class, students are

called on to dissect, digest, analyze and compare various works. Occasionally, they are asked to play very short snippets, but most of the time they read and discuss. At the end of the course, when the students have learned everything there is to know about the treble and base clefs, timing, notes, beats and rhythms, the student is asked to take a final exam, which consists of playing a piano piece that they have never seen before. They are given no time to practice the piece. The piano is wheeled in and the students proceed. Assume the professor discloses to the students this testing practice, but adamantly assures the students that if they prepare for class diligently they will be prepared for the exam. Who will do well on the exam? Will it be the person who never sat down to a piano before this class? Will it be the student who ignores the professor's assurances and takes piano lessons independently? Will it be the person who has taken piano as a child or during college?"' What obligation does the professor have for teaching the student who has never sat down to a piano before?

Robbins, I. 2009. Best Practices on "Best Practices": Legal Education and Beyond. Clinical L. Rev. 269.

Abstract: "Best practices" has become one of the most common research and development techniques in the United States and throughout the international community. Originally employed in industry, the concept sought to identify superior means to achieve a goal through "benchmarking," thereby allowing companies to obtain a competitive advantage in the marketplace. In recent decades, the use of best practices has become widely popularized, and is frequently utilized in the areas of administrative regulation, corporate governance, and academia. As the term has grown in popularity, however, so too has room for its abuse. In many instances, the term has been invoked to claim unsupported superiority in a given field. This article examines the history behind the emergence of best practices, summarizes the prevailing models of the concept, surveys the worst practices on best practices, and proposes a working definition. It then applies that definition to the Clinical Legal Education Association publication, Best Practices for Legal Education. While there are contexts in which identifying and applying best practices may be appropriate, the article concludes that using best practices when thinking and writing about legal education is misleading and inappropriate.

Schwartz, M. 2001. Teaching Law by Design: How Learning Theory can Instructional Design Can Inform and Reform Law Teacing. San Diego L. Rev. 347.

Introduction: Although law teachers generally have salutary educational goals and some individual law teachers have intuited and developed insightful experimental instruction, law school instruction as a whole, remains locked in an instructional methodology of dubious merit.' That method, characterized here as the Vicarious Learning/Self-Teaching Model, has persisted since Christopher Columbus Langdell's tenure at Harvard Law School in the 1870s. It has persisted even in the face of the explosive evolution of learning theory throughout the twentieth century and the rise, in the second half of the century, of the field of instructional design, a field devoted to the systematic and reflective creation of instruction. As nearly all law professors know, nine years ago, the MacCrate Report spawned a national discussion of the skills and values law school graduates should possess although this discussion of what law students should learn is necessary, it addresses, at most, one-half of the equation. Good learning goals mean nothing if the instruction does not succeed in producing learners who have achieved those goals. In other words, what is missing is an educationally sound body of law school andragogy' scholarship, a body of scholarship that applies twentieth century developments in the fields of learning theory and instructional design to the design of law school instruction. This Article examines the law school Vicarious Learning/Self-Teaching Model in light of learning theory and instructional design. Further, it identifies both the good intuitions7 and the many deficiencies in how law professors develop and present instruction. More importantly, this Article offers a dramatically different

approach to law school instruction, an approach more likely than current law teaching methodologies to produce effective, efficient, and appealing law school instruction.

Smuts, K. B. (2003). Supplemental instruction in law: a case study in peer tutoring. SAJHE 17(1): 166-174.

Abstract: Supplemental Instruction (SI) was implemented in three second-year courses in the Bachelor of Laws degree at the University of the Witwatersrand, Johannesburg. Of the 898 registered students, 152 (17%) attended SI and this group achieved a significantly higher mean course mark than the non-SI group (59.48% and 53.74% respectively.

Van Niekerk, C. 2013. The Four-Year undergraduate LLB: Where to from here? Obiter.

Conclusion: The debate surrounding the undergraduate LLB has raged for some time. No doubt, it will continue to do so in the future especially in light of the standard-setting process conducted by the CHE. Perhaps this process will put an end to all the uncertainty surrounding the future of legal education in this country. The reality that exists is that graduates are being produced who lack basic numeracy and literacy skills. Clearly, this situation cannot be allowed to continue indefinitely. To do so will be a deadly blow not only to the legal profession but also to the future administration of justice. Any solution chosen in future will need to address the concerns raised regarding the poor quality of law graduates and the ways in which this situation can be remedied.

Webb, J. (2000-2001). Discussion Forum: Teaching Ethics to the Legal Profession: Is there a Better Way? Legal Ethics 3(128): 128-130.

Introduction: In the previous, *Discussion Forum*2 Professor Peter Camp traced the development of professional conduct training for solicitors from its inception as part of the "old" Law Society Finals course in 1979/80 to the present regime. In his analysis Professor Camp rightly focuses on the problem of matching what should be done at a given stage of training against the experience and training needs of junior practitioners at that point in their careers. The core of his argument seems to be that the present system is guilty both of attempting to do too much too soon and of offering too little in the way of post-qualification training after the formal traineeship has ended.