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PEDAGOGICAL APPROACHES TO LEGAL EDUCATION IN THE 21ST CENTURY†

By

YUSUF M. YUSUF, S.M. TAGI & M.K ADEBAYO*

INTRODUCTION

Legal education in Nigeria¹ is undertaken by the Law Faculties in the various universities. The Nigerian Law School² also participates in legal education at the level of the professional training of law graduates seeking to enroll as legal practitioners. The traditional approach adopted by universities in Nigeria towards fulfilling the learning needs of the persons seeking a degree in law has always been structured on the lecture model which addresses the question: what are the critical learning goals and objectives for the course? In the Nigerian Law School setting however, in addition to the building of knowledge and the understanding of substantive law, this includes the development of critical and analytical reasoning, professional values and ethics, and other basic lawyering skills necessary for the practice of law.³

The NUC Minimum Academic Standards⁴ has prescribed the minimum standards for all faculties of law in Nigerian Universities. The programme is designed to ensure that the graduate of law will have a clear understanding of the place and importance of law in society. Since all human activities – social, economic, political – take place within a legal framework, it is necessary that the students of law should have a broad general knowledge and exposure to other disciplines. Legal education should therefore act first, as a stimulus to stir the student into critical analysis and examination of the prevailing social, economic and political system of his community and secondly, as an intellectual exercise aimed at studying and assessing the operation, efficacy and relevance of various rules of law in the society.⁵

A law graduate therefore must be able to use law as a tool for the resolution of various social, economic, and political conflicts in society. This is why the training in the law programme is specifically aimed at producing lawyers whose level of education would equip them properly to serve as advisers to governments, their agencies, and companies.⁶ If this is the message which law faculties seek to deliver to their students, then it is necessary for the adoption of the appropriate teaching technique that would ensure the achievement of the said objectives.

† This paper was first presented at the 43rd Annual Conference of NALT at Kogi State University, Anyigba, from 17th-20th May 2010

* Lecturers, Faculty of Law, University of Maiduguri, Maiduguri-Nigeria.

¹ For a brief history legal education in Nigeria, see R. Aduche Wokocha, *The Challenges of Legal Education in Nigeria: The Way Forward* [2008] 3 Web JCLI

² The Council of Legal Education was also established to co-ordinate legal education in Nigeria. (<http://www.nigerianlawschool.com>).

³ Rhode, D., *Expanding the Role of Ethics in Legal Education and the Legal Profession Ethics at Noon* presentation given at Santa Clara University on Jan. 17, 2002, part of the 2001-2002 *Markkula Ethics Center Lecture Series*

⁴ See the NUC document

⁵ NUC Minimum Academic Standards (The NUC document)

⁶ Ibid

Indeed it has become obvious that institutions of higher learning across the nation are responding to political, economic, social and technological pressures to be more responsive to students' needs and are more concerned about how well students are prepared to assume future societal roles. In this regard faculties of law are already feeling the pressure to lecture less and to adopt new strategies and methods of teaching in order to make learning environments more interactive, to integrate technology into the learning experience, and to use collaborative learning strategies when appropriate.⁷ This is the only way to match the increasingly complex world which is characterized by globalization, rapid technological advances and economic shifts.

The achievement of such an objective in the 21st century would hinge on the ability to put to use effectively the opportunity created by technological development. In this respect the ICT perhaps may be described as the greatest technological development of this century⁸ in the way it has made not only information available on a scale never imagined but has also made such information accessible. This new technology has also created new and more effective forms of communication in this increasingly complex world by allowing users to participate in a rapidly changing world in which work and other activities especially teaching are increasingly transformed by access to varied and developing technologies. It is for this reason that it is suggested that any pedagogical approach that would be adopted must be based on such technology so as to harness the advantages of this development.

We shall first start by examining various pedagogical approaches generally.

PEDAGOGICAL TECHNIQUES IN LEGAL EDUCATION

Pedagogy is actually a word that encompasses all teaching strategies. Thus, 'pedagogical strategies' are basically educational strategies employed to help students learn. As we have seen the traditional pedagogical approach adopted by the law faculties and indeed the law school has always been the lecture model. This method involves lecturers teaching the students by dictating notes on topics taught.⁹

Lecture

Since the commencement of the training of lawyers in Nigeria, the lecture method has remained as the most widely used instructional strategy, if not the only one used in the faculties of law and the law school. However, there is no denying the fact that the lecture if can be used in conjunction with other learning and teaching strategies, it can be an effective way of achieving of imparting instructions.

There are a number of advantages in using the lecture method. Foremost amongst which is that it provides a simple way of communicating a large amount of information to many listeners. It also maximizes instructor control in addition to being non-threatening to students.¹⁰ Notwithstanding the advantages enumerated above there are also some

⁷ NULAI has started the first steps towards a new interactive approach to teaching through teacher training in Clinical Legal Education

⁸ See Rice, MF 2005, 'Information and Communication Technologies and the Global Digital Divide Technology Transfer, Development, and Least Developing Countries', Comparative Technology Transfer and Society, Vol.2, No.2, pp.72-87

⁹ Mamman T, Company Law And Practice Curriculum and Teaching Methodology at The Nigerian Law School <http://www.ialsnet.org/meetings/business/MammanTahir-Nigeria.pdf> visited 11/5/2010

¹⁰ Woods R H, 'Order in the Virtual Law Classroom...Order in the Virtual Law Classroom' - A Closer Look at American Law Schools in Cyberspace: Constructing Multiple Instructional Strategies for Effective Internet-based Legal', 2001(3) *The Journal of Information, Law and Technology (JILT)* available at <http://www2.warwick.ac.uk/fac/soc/law/elj/jilt/2001_3/woods/>.

disadvantages associated with the lecture method. Unlike in active engagement the lecture method leaves control over learning in the hands of the teacher. It also exhibits a curriculum of disconnected tasks and subtasks taught independently of the whole context with no connection to real world life. Finally, the lecture method focuses on "correct" responses rather than on the processes by which responses are generated.¹¹ This kind of education and training creates learners who lack confidence in their ability to function independently, dependent on their teachers, who can produce correct answers but don't understand the principles involved in their answers and are bored, uninvolved and passive in their learning.¹² Be that as it may, the lecture approach may become more effective if Cashin's¹³ suggestions are adopted. He suggests that you:

1. Fit the lecture to the audience
2. Focus your topic - remember you cannot cover everything in one lecture
3. Prepare an outline that includes 5-9 major points you want to cover in one lecture
4. Organize your points for clarity
5. Select appropriate examples or illustrations
6. Present more than one side of an issue and be sensitive to other perspectives
7. Repeat points when necessary
8. Be aware of your audience - notice their feedback
9. Be enthusiastic - you don't have to be an entertainer but you should be excited by your topic.¹⁴

Case Method¹⁵

Although the dominant methodology is the lecture method but providing an opportunity for students to apply what they learn in the classroom to real-life experiences has proven to be an effective way of both disseminating and integrating knowledge. The case method is an instructional strategy that engages students in active discussion about issues and problems inherent in practical application. It can highlight fundamental dilemmas or critical issues and provide a format for role playing ambiguous or controversial scenarios. It has been shown that a higher retention rate is recorded where this methodology is adopted. The case study approach works well in cooperative learning or role playing environments in that it stimulates critical thinking and awareness of multiple perspectives.

DISCUSSION¹⁶

There are a variety of ways of stimulating discussions. For example, while some faculties begin their lessons with a group discussion to refresh students' memories about the assigned reading(s) others find it helpful to have students list critical points or emerging issues, or generate a set of questions stemming from the assigned reading(s). These strategies can also be used to help focus large and small group discussions.

Obviously, a successful class discussion involves planning on the part of the instructor and preparation on the part of the students. Instructors should communicate this commitment to the students on the first day of class by clearly articulating course expectations. Just as the

¹¹ Ibid

¹² Ibid

¹³ Teaching Strategies <http://www.gmu.edu/resources/facstaff/part-time/strategy.html> visited 15/5/2010

¹⁴ See Cashin 1990, pp. 60-61 cited in Woods R H supra

¹⁵ Ibid

¹⁶ Ibid

instructor carefully plans the learning experience, the students must comprehend the assigned reading and show up for class on time, ready to learn.

ACTIVE LEARNING¹⁷

Active learning has been described as learning environments that allow "students to talk and listen, read, write, and reflect as they approach course content through problem-solving exercises, informal small groups, simulations, case studies, role playing, and other activities - all of which require students to apply what they are learning". Many studies have shown that learning is enhanced when students become actively involved in the learning process. Instructional strategies that engage students in the learning process stimulate critical thinking and impact a greater awareness of other perspectives.

COOPERATIVE LEARNING

Cooperative learning is a systematic pedagogical strategy that encourages small groups of students to work together for the achievement of a common goal. Although the term 'collaborative learning' is often used as a synonym for cooperative learning, it is in fact a separate strategy that encompasses a broader range of group interactions such as developing learning communities, stimulating student/teacher discussions, and encouraging electronic exchanges¹⁸.

INTEGRATING TECHNOLOGY

Computer literacy is an important part of a student's education. Electronic mail is now common with students and has been found to be a useful way to promote student/student or teacher/student communication between class meetings. Despite the advantages associated with integrating ICT in learning there are a number of cogs that militate against the effective use of ICT oriented pedagogy. But there is no doubt that information and communication technology (ICT) is creating an increasing impact and affecting the way we live, work and play as well as in the ways in which we access information, communicate and learn. Towards this end we shall attempt to examine the various approaches that could be employed for legal education and make an effort to highlight those to be preferred in line with 21st century developments particularly the ICT.

DISTANCE LEARNING

Distance learning is not a new concept. The introduction of distance learning in most universities in Nigeria including the National Open University of Nigeria¹⁹ has increased this mode of learning. Distance learning is defined as 'any form of teaching and learning in which the teacher and learner are not in the same place at the same time'²⁰.

Obviously, information technology has broadened our concept of the learning environment. It has made it possible for learning experiences to be extended beyond the confines of the traditional classroom. Distance learning technologies take many forms such as computer simulations, interactive collaboration/discussion, and the creation of virtual learning environments connecting regions or nations. Components of distance learning such as email, list-serves, and interactive software have also been useful additions to the educational setting.

¹⁷ Meyers and Jones (1993) cited in Woods, R H., supra

¹⁸ Bruffee, 1993 cited in Woods, R H., supra

¹⁹ <http://www.nou.edu.ng/noun/index.htm> visited 12/5/2010

²⁰ Gilbert, 1995 cited in Woods, R H, supra

TOWARDS NEW PEDAGOGICAL APPROACHES

In view of the advancements introduced in the 21st century there is a need for a reconsideration of almost all the old ways of approaching issues including learning. Consequently, the need for new pedagogical strategies to strengthen the learning process cannot be over emphasized. Insofar as law is a way of thinking, a mode of reasoning, rather than just a collection of rules, doctrines, and institutions, the ultimate objectives of legal education ought to be not so much the absorption of legal information as the development of the ability to think in law.²¹ Hence the familiar saying that law school aims to render students capable of 'thinking like a lawyer.' This view of legal education, in its classic, domestic inception, here serves as the stepping stone for exploring the objectives of legal education at a global level.²² Indeed the suggestion has been that implicit in the globalisation frenzy is the assumption that legal education should, ideally, aim to introduce students to the greatest possible number of legal systems.²³

Bearing the increasing state of super-complexity in mind, it is important to realize that students in addition to learning and understanding existing knowledge, should themselves also produce new knowledge in order to be a part of the "knowledge society". In order to respond to these demands, new forms of teaching and learning are required that build upon the possible interconnected nature of goals, tasks, resources, roles, pacing and social structure.²⁴ Thus when a pedagogical approach other than the lecture is adopted, or the lecture model in conjunction with other models is employed in legal education it would impact positively on the learning process as has been graphically shown below by this comparative table. From Traditional to New Approaches in Education.²⁵

Traditional	New
Ego-focused, self-assertive	More socially integrating
Rational/logical	More intuitive
Expanding in nature "Cowboy economy"	Conserving nature- "Earth is a space-ship"- economy
Competitive "Performer attitude"	More collaborative -"Learner attitude"
Defined/limited "Atomic"/fragmented	Holistic
Quantity	More focus on quality
Linear, predictive	More non-linear, towards super-complexity
Hierarchical	More network oriented
Decisions by leaders	More consensus oriented

As shown by the above table it is imperative to have a rethink in using the lecture model only. Already the pressure to lecture less, to make learning environments more interactive, to integrate technology into the learning experience, and to use collaborative learning strategies

²¹ Woods, R H, supra

²² Ibid

²³ This suggestion has however been shown to lack merit as the period of law degree i.e. 4 years is insufficient to teach students multiple legal systems. See Woods, R H, supra

²⁴ For a graphic detail see Watkins et al. 2002 cited in United Nations University

²⁵ Ibid

when appropriate has started having some effect. NULAI's²⁶ effort in this regard has to be appreciated. It is worth mentioning also that the law school has moved away from the lecture method to an interactive method.²⁷

CHALLENGES IN ADOPTING NEW PEDAGOGICAL APPROACHES

These can be categorised as technological, learner community, teaching community, institutional and pedagogical.²⁸

Technological

E-learning has become part of the educational process in this 21st century. The adoption of any pedagogical technique that would make use of the ICT would require students to be able to navigate comfortably between different virtual rooms including own room and group rooms, contribute online in threaded group discussions, navigate and search efficiently on the internet. Nigeria does not yet have the commitment or resources to provide such. This is not the only challenge as there is so much ICT illiteracy not only on the part of the students but on the part of the teachers as well.

Learner Community

The students are largely ignorant of the ICT or at most incompetent in its use. The sorry state of our infrastructural development makes the situation worst.

Teaching Community

The teacher is critical. Yet the training of teachers and their capacity to follow up the students in a consistent study network is a challenge. Even if all the teachers manage to update their own competence in this regard the nation's underdevelopment will impede the effective use of ICT. Teachers need time, resources and encouragement to venture into new and demanding fields. As has been pointed out "the virtual campus also requires a paradigm shift in terms of a move away from lecture based teaching methodologies to the adoption of learner-centred approaches."²⁹ Most lecturers unfortunately are still more comfortable with the lecture method. And surely many still have difficulties in moving away from the traditional, individual method of preparing lecture notes rather than working in a team to produce online products. This resistance to change might not be unconnected with the refusal to accept the transition from being a performing authority to being a permanent learner. In addition, a constructivist pedagogical approach means that the syllabus cannot be entirely pre-defined. When students are allowed to select at least part of the syllabus themselves, many teachers feel that they have lost control.

Institutional

An institutional challenge will be to raise sufficient resources to enable teachers to take the necessary training, keep their motivation up through various support mechanisms in an ICT driven pedagogical approach. There is also the challenge of ensuring that the persons being trained acquire the necessary proficiency in the subject. The law teacher is still far away from this ideal.

²⁶ NULAI has embarked on retraining of lecturers on the use of the interactive form of teaching. But this is so far limited to law teachers involved in Clinical Legal Education.

²⁷ See Mamman T., *supra*

²⁸ This has been adopted from Bjørke et al at United Nations University/Global Virtual University. Global cooperation on e-learning Background and pedagogical strategy <http://www.gvu.unu.edu/> visited 12/5/2010

²⁹ (Lazenby, K. 1999). Cited in Bjørke *supra*