Now is Not the Time for Another Law School Lecture: An Andragogical Approach to Virtual Learning for Legal Education

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NOW IS NOT THE TIME FOR ANOTHER LAW SCHOOL LECTURE: AN ANDRAGOGICAL APPROACH TO VIRTUAL LEARNING FOR LEGAL EDUCATION

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ABSTRACT

COVID-19 forced nearly every institution of higher learning, as well as others, to quickly pivot from a traditional face-to-face teaching model to an online teaching model. While some institutions had technology in place to quickly adapt, most institutions were not prepared. Even where the technology infrastructure was in place, the faculty were not readily prepared to adapt their teaching style to this online model. Given these challenges, many professors chose the path of least resistance and chose to conduct those lectures just as they always had but just in an online format. However, now was not the time for another law school lecture. Instead, it is a perfect time to use an andragogical approach to virtual learning to create more engaging and effective instruction. This article discusses the differences between andragogy and pedagogy and the fact that andragogy focuses on designing instruction with the adult learner in mind. It also discusses metacognition as a part of adult learning theory and how online tools can be used to develop such courses. Lastly, I share my own development strategies using adult learning principles and instructional technology.

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INTRODUCTION

COVID-19 presented the world with a global pandemic and nearly everyone was affected. The ability to simply get in your car, drive to campus, and be present for class—a once normal routine, perhaps taken for granted—was legally disrupted on March 22, 2020, by a Shelter-In-Place Executive Order issued by the Governor of Louisiana.[1] The individual schema that so many Americans and Louisianians alike had always known to be normal was suddenly disturbed, creating a disorienting moment for law students, law school faculty, and their families. With another five weeks remaining in the semester at Southern University Law Center, law students, faculty, and administration were now faced with the conundrum of trying to accommodate the needs of all stakeholders, while satisfying both the ABA standards for law school education and the personal standards of the human beings whose lives and structures were impacted by the sudden change.

Schema, the individual knowledge structures that have been shaped by past experiences, define how a person expects the world to operate, and provide people with frameworks within which they can make meaning of their environment,[2] shifted, creating an impetus for re-examining previously held beliefs. Not only did the schema shift for students, but it also shifted for professors. Traditional students were being summoned home by concerned parents. Non-traditional students were now facing uncertainty with their jobs while in some cases juggling the demands of home-schooling children while trying to balance the demands of completing the final five weeks of the semester. Professors, who in some cases also had new family obligations, much like those of the non-traditional student, also had to suddenly rethink the way they had taught law school students. Some professors who had only ever taught face-to-face, Socratic-lecture-style, were now suddenly faced with at least 3 challenges: 1) Determining how to teach a law school course in an online format; 2) learning what technologies exist to permit this; and 3) learning how to use these technologies to facilitate the course. Now was not the time to have another law school lecture.

While many law schools may have had some type of distance learning courses as a part of their curriculum, a majority of law professors had to quickly prepare to teach their courses online. Many professors approached the practice of online learning by recording themselves giving the lecture and having students watch the prerecorded video as their lecture. Other professors opted to conduct their lectures live during the class time. Although the time provided to shift from face-to-face to virtual was minimal at best, more was required by way

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1. La. Exec. Order No. 33 JBE 2020 (Mar. 22, 2020), https://gov.louisiana.gov/assets/Proclamations/2020/JBE-33-2020.pdf.

2. *See* Katja Michalak, *Schema*, BRITANNICA (Oct. 3, 2019), https://www.britannica.com/science/schema-cognitive.

of course development to have an engaging learning experience for students beyond the traditional lecture on the law.

The importance of developing online content that is student-focused has long been recognized within the andragogical learning environment.[3] The Socratic method, though engaging and student-focused, is not a scripted lecture and comes with challenges when teaching within a virtual environment. Academics suggest that law education should move away from the notion of only training students to think and instruct on the black letter law, focusing instead on the application and practice of law.[4] This article discusses what it means to develop engaging online learning that is student-focused, and provides practical guidance on how to develop online learning that goes beyond the traditional law school lecture. It also discusses the pivot from traditional face-to-face lectures into engaging online content that is student-focused. Lastly, it focuses on strategies law professors can use to convert their content into online content that is effective for their students.

In Part I I discuss the differences between andragogy and pedagogy and the fact that andragogy focuses on the adult learner, which includes law students. In Part II I discuss metacognition as a part of adult learning theory and how online content should be developed using adult learning theory and principles. In Part III I discuss online learning tools that can be used to develop online course content. Lastly, in Part IV I share my own development strategies using adult learning principles and instructional technology.

I. Andragogy Distinguished from Pedagogy

In the 1970s, a relatively new discipline called andragogy began to emerge.[5] The concept of andragogy is defined as the "art and science of helping adults learn," and was meant to be an alternative to pedagogy.[6] Pedagogy refers to the teaching of children, although most educators use the term to refer to the broader meaning of teaching in general.[7] Knowles believed that pedagogy focused on teacher-center learning, while andragogy should involve student-centered learning.[8] Andragogy "provides a set of guidelines for designing" self-directed

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3. Malcolm Knowles, The modern practice of adult education: From pedagogy to Andragogy 48 (Cambridge, The Adult Education Company rev. ed. 1980).

4. Bryan F. Taylor, *Through the Looking Glass: Perceptions on the Law School Learning Experience*, 61 Loy. L. Rev. 275, 278 (2015).

5. Anthony S. Niedwiecki, *Lawyers and Learning: A Metacognitive Approach to Legal Education*, 13 Widener L. Rev. 33, 47 (2006).

6. Malcolm Knowles, The Adult Learner: A Neglected Species 42–43 (1st ed. 1973).

7. *Id*. at 42.

8. *Id*. at 47.

rather than teacher-directed instruction.[9] Since law students are adults, adult learning principles or adult learning theory should be applied when teaching courses to law students. Under the theory of andragogy, adult learners are often more motivated to learn as they begin to have needs and interests that require learning.[10] Additionally, adults come to every new learning experience with previous experience which is another important difference between adult learners and children.[11] Children come with the expectation of being told what to learn—teacher-centered—while adults have the need to be self-directed in their learning—learner-centered.[12] Traditionally, law school lectures have been focused and controlled by the professor which is more teacher-centered, whereas adult learning theories rely on learning being student-focused.

Six core assumptions underlie the andragogy and allow it to be distinguished from pedagogy:

> First, adults need to know why they should learn something before they will commit to learning it. Second, adults like to believe that they are responsible for their own decisions. Third, adults come to any learning experience with a greater volume and different quality of experiences than younger people. Fourth, adults are most willing to learn those things they feel they need to address real-life situations. Fifth, adults tend to be task-centered in their orientation to learning; that is, adults are most willing or motivated to learn those things that will help them in their day-to-day living. Sixth and finally, intrinsic motivators such as self-esteem and quality of life are the most effective motivators to learn.[13]

Additionally, andragogy represents a departure from traditional legal education:

> The traditional approach to legal education seems to be at odds with the major premise of adult learning theories, i.e., andragogy and experiential learning theory, which focuses on the premise that experience itself provides a rich resource for learning. Traditional first-year legal education places the law professor in the position of an expert, and teaching strategies have been based upon the transmission of this expert knowledge. Andragogy, on the other hand, assumes the learner brings valuable experience to the learning situation, values cooperation, and involves an experiential design in the learning process.[14]

II. ADULT LEARNING THEORY

Adult learning theory incorporates the notion of metacognition. Metacognition refers to the self-monitoring by an individual of his own unique

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9. Michael Birzer, *Andragogy: Student Centered Classrooms in Criminal Justice Programs*, 15 J. CRIM. JUST. EDUC. 393, 398 (2004).

10. Niedwiecki, *supra* note 5, at 47.

11. *Id.*

12. *Id.*

13. Danielle R. Cover, *Of Courtrooms & Classrooms*, 27 B.U. PUB. INT. L. J. 291, 313 (2018).

14. Taylor, *supra* note 4, at 283.

cognitive processes.[15] "[M]etacognitive strategies provide the necessary format to promote learning not just for a test, but for a lifetime—not just for recall, but lifelong logic and reasoning."[16] The basic notion behind metacognition is the idea that thinking about one's thoughts and what specific skill sets can best be used within the learning task will yield the most efficient and reliable model of learning.[17] "[M]etacognitive skills, or metaskills, include helping students: 1) understand how they learn; 2) become aware of the skills they already possess or are lacking; 3) plan appropriate strategies to actively acquire new skills without any additional formalized instruction; 4) control, monitor, and evaluate their learning."[18] In my classes, I use technology to foster more effective metacognitive learning so that students would learn how to transfer cognitive legal skills to new situations and problems.[19]

There has never been a major change in the approach to legal education based on learning theory.[20] However, now COVID-19 has forced law professors to quickly adapt, at least somewhat, their traditional method for teaching—in most cases based on a pedagogical model where the professor controls the classroom—to a virtual environment that is learner-focused to ensure learners remained engaged, despite the disorienting moment. The most effective learners are self-regulating learners, because these adept learners are able to plan, monitor, and modify cognition at various stages during knowledge acquisition.[21] Law professors now must adapt their teaching styles based on adult learning theory to ensure law students are able to self-direct their learning in this virtual environment.

III. ONLINE LEARNING TOOLS

Instructional technology, which allows for "technology-enhanced" learning, supplements the traditional, face-to-face learning format.[22] Once the state of Louisiana issued mandatory shelter-in-place policies, all universities had to quickly pivot into an online format. Professors at my institution, Southern University Law Center, had approximately two weeks to move all face-to-face traditional content to an online format using instructional technology tools. The

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15. Rebecca Jacobson, *Teachers Improving Learning Using Metacognition with Self-monitoring Learning*, 118 EDUC. 579, 581 (1998); Sadhana Puntambekar, *Helping students learn 'how to learn' from texts: Towards an ITS for developing metacognition*, 23 INSTRUCTIONAL SCI., 163, 165 (1995).

16. ROBIN FOGARTY, HOW TO TEACH FOR METACOGNITIVE REFLECTION, at xvii (1994).

17. Niedwiecki, *supra* note 5, at 42.

18. *Id.*

19. *See infra* Sections III and IV.C.

20. Niedwiecki, *supra* note 5, at 37.

21. *Id.* at 44.

22. Gerald F. Hess, *Blended Courses in Law School: The Best of Online and Face-to-Face Learning?*, 45 MCGEORGE L. REV. 51, 55 (2014).

university provided us with several tools to facilitate the transition, but I also used additional tools to try to develop a learning experience using adult learning principles. I found the following tools to be the most helpful in creating engaging learner-centered course content.

A.   Zoom

Zoom has several features that are helpful when facilitating online learning. In addition to virtual meetings, you can also use Zoom to organize users into smaller meetings using the breakout rooms features. To engage users, Zoom also has a polling feature. Polls are created prior to the start of each session and then utilized throughout the sessions to keep users engaged. Zoom also has virtual hand-raising and a chat feature to encourage users to raise their hands if they have questions and to type any questions or comments they have into the chat feature. Zoom was a standard tool provided by the university.

B.   Creately

Creately is a virtual workspace for team collaboration. Creately allows virtual teams to collaborate to plan, brainstorm, and design flowcharts, mindmaps, and diagrams virtually in real time. Team members can literally watch each other build their diagrams as if they were in the same workspace or classroom doing it. Creately was a personal purchase.

C.   Office 365 PowerPoint

PowerPoint is a presentation software by Microsoft Office. Since the classroom moved online it was challenging to keep users engaged without having visually appealing slides to make the transition as smooth as possible. The biggest benefit of using the Office 365 version of PowerPoint is the Design Ideas feature. Rather than spend a lot of time on trying to design engaging slides, the Design Ideas creates the slide for you once you apply your content to the slides.

D.   Captivate

Up until now, every online tool I mentioned was extremely helpful in developing synchronous learning events. However, Captivate is a course development tool that is a part of the Adobe products used to create asynchronous content that can also be tracked for completion through a learning management system such as Canvas. Captivate can be used to develop full courses with quizzing and scoring but can also be used to develop microlearning modules. Microlearning modules are small "bite-size" modules or courses that

last no longer than 15 minutes and typically only cover content for one learning objective.[23]

E.   *Canvas by Instructure*

Canvas is a learning management system developed by Instructure for Higher Education institutions. While the features of Canvas are too numerous to describe here, the most relevant features were the ability to build a course page to house all content generated through the synchronous learning events as well as the asynchronous content. Additionally, by using Canvas, learners have a repository for all course content while providing professors with analytical insights on what materials learners were using most.

IV. PRACTICAL APPROACH TO VIRTUAL COURSE DEVELOPMENT

"Adults learn differently than children."[24] Law students are graduate students and enter their studies as adult learners.[25] By introducing learning theory into the law school curriculum and specifically teaching the students how to learn, law schools can extend the one-dimensional learning that is currently central to the law school curriculum to one that focuses on teaching students to transfer learned knowledge and skill to new and novel situations.[26] "[C]reating situations in which learners and listeners can draw on relevant prior knowledge is critical to the learning process."[27] Law students want a diversity of learning experiences, simply because they are adults. A pedagogical approach is inapplicable to the law school learning environment, and COVID-19 created not just a disoriented moment for students, but professors also, because they had to quickly shift to a virtual learning environment. With that shift came learning curves for technology and the bigger challenge of how to quickly and effectively transition to an online learning model.

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23. Nikos Andriotis, *What Is Microlearning: A Complete Guide for Beginners*, ELEARNING INDUSTRY (December 10, 2018), https://elearningindustry.com/what-is-microlearning-benefits-best-practices [https://perma.cc/BG2D-WL9R].

24. Fred Bolton, *Rubrics and Adult Learners: Andragogy and Assessment*, 18 ASSESSMENT UPDATE, May–June 2006, at 5, 5. *See also* Elwood F. Holton, et al., *Andragogy in Practice: Clarifying the Andrological Model of Adult Learning*, 14 PERFORMANCE IMPROVEMENT Q. 118, 118 (2001) (improving Knowles' model by including practice-related factors); Ron Zemke, *A Pocket Guide to Useful Learning Theories*, TRAINING, Sept. 2002, at 90, 90 (describing Knowles' theory of andragogy).

25. Taylor, *supra* note 4, at 286.

26. Niedwiecki, *supra* note 5, at 35.

27. Cover, *supra* note 13, at 305.

A.   Blended Learning

A blended course includes both face-to-face classes and instructional technology.[28] Blended course design was an inevitable reality due to COVID-19. Seventy-five percent of the Spring 2020 semester was spent in a traditional face-to-face lecture, but with the mandatory shelter-in-place, instructional technology was used to develop online content for the remaining twenty-five percent. With little time to plan the remaining part of the Spring semester, I was able to fully utilize the features of Zoom to move my classes online. For Obligations, which is a civil law course similar to the common-law Contracts course, I developed PowerPoints to review key concepts and cases. I required students to be visible during class via Zoom so that I could gauge their understanding of the content. I also provided the PowerPoints to students after class for additional review. As I do in my face-to-face classes, I employed the Socratic-method teaching style by calling on different students to review cases and calling on other students to present opposing views. What I found to be consistent were the students who actively engaged the face-to-face lectures also actively engaged the online lectures.

I also taught Legal Writing and in this class my students had to do oral arguments. Students dressed up to present their arguments while I empaneled a virtual jury composed of other students to grade the oral arguments. The virtual jury was given a rubric to grade the various aspects of the oral arguments. Prior to COVID-19, the plan was to use the courtroom for the oral arguments and have other legal professionals grade the arguments. However, once COVID-19 occurred, I provided students with several videos of oral arguments so they would know how to both make their own arguments and help determine the quality of their peers' oral arguments. I found this to be helpful in keeping students engaged while their peers were presenting.

Once the semester concluded, and with no end to the shelter-in-place order in view, I was able to spend more time developing true online learning experiences incorporating adult learning principles such as cooperative learning and experiential learning to create more learner-centered experiences for future classes.

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28. D. RANDY GARRISON & NORMAN D. VAUGHAN, BLENDED LEARNING IN HIGHER EDUCATION: FRAMEWORK, PRINCIPLES, AND GUIDELINES 5–7 (2008).

B.   Adult Learning Principles

1.   Cooperative Learning

Cooperative learning is the learning process that occurs when peers have the opportunity to share with each other and is a deeply effective learning strategy.[29] I was able to create cooperative learning by using the breakout rooms feature in Zoom. For the first twenty minutes of class, we reviewed the black letter law and discussed cases. During the next thirty minutes of class, students were given hypotheticals and arranged into groups of no more than four. Each group worked to answer the hypothetical. One member was responsible for preparing a typed answer and sharing their screen with the rest of the class. Another member reviewed the answer the group came up with while the other members and I asked questions to understand how the groups arrived at their answers. While each group was in their breakout room, I was able to join the groups and observe their interaction. Each time, all group members were actively discussing the law and how they viewed the law in light of the hypothetical assigned, and were contributing to the final answer to be shared. "When adults teach and learn in one another's company," they are more likely to be "engag[ed] in a challenging, passionate, and creative activity."[30] Each time students worked in breakout rooms within Zoom I always assigned them to different groups. This enabled students to better overcome the "disorienting moment" brought on by COVID-19, while also developing an andragogical learning environment.

2.   Experiential Learning

Over the summer, during my Pre-Law class, the students' only option was to attend virtually due to COVID-19 social distancing constraints. Unlike my students during the Spring semester who had gotten to know one another over the semester during face-to-face classes, Pre-Law students from different areas of the country were meeting each other for the first time via Zoom. Experiential learning theory posits that "[l]earning is the process whereby knowledge is created through the transformation of experience."[31] I introduced a "Social Media Introductions" activity into my class using the theory of experiential learning by allowing students to review their social media accounts with us while the class provided feedback. This exercise provided greater context for students' experiences prior to law school. By viewing their social media pages, we learned

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29. Clifford Zimmerman, "*Thinking Beyond My Own Interpretation:" Reflections on Collaborative and Cooperative Learning Theory in Law School Curriculum*, 31 ARIZ. ST. L.J. 957, 961–63 (1999).

30. STEPHEN BROOKFIELD, UNDERSTANDING AND FACILITATING ADULT LEARNING: A COMPREHENSIVE ANALYSIS OF PRINCIPLES AND EFFECTIVE PRACTICES 1 (1986).

31. DAVID KOLB, EXPERIENTIAL LEARNING: EXPERIENCE AS THE SOURCE OF LEARNING AND DEVELOPMENT 38 (1984).

about students' work experiences, families, organizational affiliations, hobbies, and so much more. It also made everyone much more comfortable with one another. The feedback from the students was overwhelmingly positive and I observed relationships forming throughout the Pre-Law program because students felt more comfortable with one another because they found ways to connect personally. These social media introductions also helped to minimize what might otherwise have been a "disorienting moment."

C. *Instructional Technology*

For the Fall 2020 semester I used instructional technology to develop additional course content based on blended learning methodologies as well as adult learning principles. For both doctrinal courses I teach, students often struggle to see the big picture. Using Creately, I developed a flowchart to introduce students to the course's concepts; I've also developed several group activities in which students use my introductory to collaboratively build out their own outlines throughout the semester using Creately.

I also decided to employ the "flipped" course approach for my Contracts course. A "flipped" course is a particular type of technology-enhanced hybrid course where students, through the use of technology, receive course content outside of class and use in-class time for application, problem solving, analysis, and other active methods to deepen student learning.[32] Using Captivate, I developed short videos (no more than five minutes in duration) and used them to review each learning objective for the chapters. These videos are then added to the course page on Canvas where I can track whether students watched the videos in their entirety. Additionally, the course page also has quizzes built into the video to test student knowledge, along with a commenting feature enabled to allow students to engage with other students even though they may be watching the videos at different times. Class time, whether it is online or face-to-face, will be used to work hypotheticals based on the cases read. Finally, I've also developed a capstone project for the class to work in teams as small law firms to represent fictitious clients in an employment arrangement. Teams will negotiate terms for a Letter of Intent and Employment Agreement. They will fully execute both agreements using DocuSign.

CONCLUSION

The importance of developing online content that is student-focused has long been recognized within the andragogical learning environment. Law professors must now review their teaching style to change the trajectory of legal education that moves away from the notion of only training students to think and instruct on the black letter law, focusing instead on the application and practice

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32. Hess, *supra* note 22, at 56.

of law through the use of adult learning principles. COVID-19 necessitates a change in the traditional approach to legal education which seems to be at odds with the major premise of adult learning theories. However, adults do learn differently than children and law students are graduate students who are also adult learners. By introducing learning theory and instructional technology into the law school curriculum and specifically teaching the students how to learn with technology-enabled courses and supplemental material, law schools can extend the one-dimensional learning that is currently central to the law school curriculum to one that focuses on creating learning events that are student-centered and technology-enabled and will help students to retain and transfer this knowledge even in the midst of the disorienting moment of COVID-19.