TOWARDS ANDRAGOGY: HUMANISING THE TEACHING OF LAW TO ADULT LEARNERS AT UFH

"The single story creates stereotypes, and the problem with stereotypes is not that they are untrue, but that they are incomplete. They make one story become the only story."

"Power is the ability not just to tell the story of another person, but to make it the definitive story of that person."

Chimamanda Ngozi Adichie[1]

INTRODUCTION

This paper reflects on experiences and lessons learnt from an ongoing project that entails the collection and compilation of narratives, artefacts and envisaged recorded interviews with adult learners on various topics in an African Customary/Indigenous law module taken by municipal councillors in the Law Faculty at the University of Fort Hare. The artefacts and recorded interview materials are intended to supplement the standard textbook and other materials in the teaching and assessment of this module. As such the project is intended to move students from being consumers of learning without a voice to being partners in the teaching and learning process as co-creators of knowledge.[2]

African Customary Law was chosen for this project because has always been attended by the uneasiness that "a single story" invokes in that (i) there is an enduring dichotomy between the official version as found in textbooks and official documents and the living customs practised in communities (ii) the legal aspects are embedded in broader religious and cultural connotations, (iii) official texts are invariably rendered in non-indigenous languages; English in particular, and (iv) being culturally imbedded one soon realises that one speaks too hastily when one speaks of Customary law in a culturally diverse country such as South Africa. One should rather speak of customary

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[1] Adichie CN "The Danger of a Single story" at
https://www.ted.com/talks/chimamanda_adichie_the_danger_of_a_single_story?language=en last accessed on 25/07/2016
[2] See generally, McPherson NG & Heggie G " Transitioning to Students as Partners, Producers, Collaborators and Co-creators. Are We Serious?"
http://www.enhancementthemes.ac.uk/docs/paper/transitioning-to-students-as-partners-producers-collaborators-and-co-creators-are-we-serious-.pdf?sfvrsn=6 last accessed 25/07/2016; Healey M, Flint A and Harrington K "Engagement through partnership: students as partners in learning and teaching in higher education" at
https://www.heacademy.ac.uk/sites/default/files/resources/engagement_through_partnership.pdf last accessed on 29/07/2016.

laws so as to capture the highly localised nature of customary law as it is associated with cultural homogeneity.

The aims of the project are (i) to democratise the design and content of curriculum through collaboration and consensus building; (ii) to acknowledge and tap into the experiential subject knowledge of students obtained in authentic social settings; and (iii) to enhance the learning experience of adult learners and, hopefully, the chances of success. These aims were inspired by Hoppers's assertion that "…knowledge paradigms of those excluded and epistemologically disenfranchised [now] move centre stage, acquire agency and demand a new synthesis…" [3]

In particular this project adopts a peer centred process that (i) is rooted in processes of dialogue and meaning making, (ii) raises the bar of self-discipline and accountability, (iii) focuses on the praxis that combines new knowledge with meaning making through learning cycles, action and reflection, and (iv) recognizes the diversity of knowledge and experience of students. [4]

INSTITUTIONAL CONTEXT

The University of Fort Hare, within the general context of South Africa's seminal constitutional values of dignity, equality and freedom [5] and its Charter of Ethical Principles and Values has committed itself to a just, humanising and collaborative pedagogy [6]. This, among other things, has meant (for the writer) the adopting an emancipatory and social constructivist perspective of teaching and learning.

However, this has proved to be considerably challenging when it comes to legal teaching. Law teaching presents a context where progressives often see legal education as being characterised by classrooms that are "hierarchical with a vengeance" and that any student participation is but "pseudo participation." [7] It is a context in which, even the use of the Socratic Method (usually seen as promoting

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[3] Hoppers CAO "Education, culture and society in a globalizing world: implications for comparative and international education" *Compare: A Journal of Comparative and International Education* Vol. 39, No. 5, September 2009, 601–614 at 602.

[4] These values and approaches are as espoused the University of Fort Hare Teaching and Learning Policy-see *loc cit* n7.

[5] Constitution of the Republic of South Africa 1996 s7.

[6] see http://wvw.ufh.ac.za/?q=ethical-principles-and-values accessed June 2016; see also generally http://www.ufh.ac.za/tlc/sites/default/files/UFHTeachingandLearningPolicy.pdf

[7] Kennedy D "Legal Education as Training for Hierarchy" *Journal for Legal Education* 32 1982 591.

autonomy) is seen as subjecting the student to a situation where "one struggles desperately...to read a mind that is determined to elude you". This represents an abiding tension between efforts to democratise and humanise the teaching and learning space and enhance epistemological access on the one hand and the fact that the traditional law classroom and curriculum "suggest at once the patriarchal family and a Kafkalike riddle state." [8]

PROGRAMME AND PROFILE OF LEARNERS

The Law Faculty at Fort Hare offers a Diploma in Local Government Law & Administration (and ancillary credit bearing short courses) for which the writer is responsible as a lecturer and programme coordinator. This programme was designed at the request of the South African Local Government Association (SALGA) as part of the University's contribution to capacity building in local government. The targeted students are, up to now, exclusively elected representatives/councilors (90%) and officials working in municipalities who study part time through block release.

The students who register for these programmes are (typically) adult learners.[9] A few of them have tertiary qualifications such as teachers' and other diplomas while even fewer have degrees. The majority obtained a school leaving certificate at matric and yet others did not complete or did not pass matric. As such quite a number of students have been admitted through mature age exemption (23 years old and above) and age exemption (45 years old and above). They are also subject to the pressures of political office. It seems that a great majority of them, while possessing considerable experiential knowledge regarding law and public administration issues in local government seem not to cope very well with large tracts of legal and other texts (content) and as such the pass rates have been very low and the dropout rate very high.

Hitherto, our approach had been that, in order to maintain the parity esteem and equivalent quality of this adult targeted Diploma programme the "rigour" had to be the

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[8] *Ibid.*

[9] The definition of "adult learner" adopted in this project is one that refers to lifelong learners who generally are 23 years or older, and/or have additional responsibilities such as family, career, community, and are seeking a degree or other educational offering (credit or non-credit) to enhance their professional and/or personal lives. See Buchler *et al* "Equity access and success: Adult learners in public higher education" 123 in *Review of Higher Education in South Africa: Selected Themes* CHE August 2007.

same as that of traditional/regular undergraduate programmes. This, in our practice, meant that the content, delivery and assessment practices, in particular, were designed and carried out along the same lines as those of regular undergraduate programmes. Clearly, while the programme had been introduced with broadening formal access to higher education we had not paid sufficient attention to epistemological access.

RESEARCH QUESTIONS

The following questions that framed a similar study[10] are germane and for the research problem for this project: (i) How do our current practices mediate adult learner participation or exclusion across the continuum of formal and informal learning?; (ii) Do these practices favour some socio-economic categories of learners more than others? and; (iii) What can be done to ensure that adult learners have greater prospects for access (including epistemological access and cognitive justice) as well as success?

THEORETICAL BASIS OF STUDY

In designing, implementing and reflecting on the project the writer borrows liberally from Vygotsky's social constructivism, Friere's *Pedagogy of the Oppressed* and more particularly from Wally Morrow's scholarship on epistemological access as well as on principles of andragogy as espoused by such writers as Malcolm Knowles. Other concepts that resonate with the project include collaborative learning, cognitive justice and therefore, in a modest way, decolonisation of the curriculum.

Social constructivism emphasizes the collaborative nature of learning and represents a departure (attributed to Vygotsky) from other cognitivist theorists such as Piaget and Perry who espoused learning apart from social context. Vygotsky emphasised learning as a process by which learners intergraded into a knowledge community, therefore language and culture would play a significant role. Similarly Williams points out that "knowledge is socially created, not individually discovered, and it is created through a process that involves emotion as well as reason"

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[10] Osman R & Castle J "Making Space for Adult Learners in Higher Education" *SAJHE* 20 (4) 2006 pp. 515 527 at 515.

It is also Vygotsky who famously asserted that, "Through others we become ourselves."[11] This adage resonates with the universal African Customary maxim of "*umntu ngumntu ngabantu*" otherwise better known by its truncation, *Ubuntu*. This notion of Ubuntu is often neatly and concisely translated into "I am because we are' or more elaborately as a philosophy or quality that includes the essential human virtues of compassion and humanity.

It is against this backdrop that within the Fort Hare context the writer has sought to understand the institution's commitment to humanising pedagogy. The University's commitment premised on the understanding that, "Humanising pedagogy allows for the engaging of critical dialogue with students and other partners as equals; recognizing and respecting the values, ideas, needs and histories of our communities."[12] The philosophy is imbued with ideas that resonate with this project including peer centeredness, the integration of values of *Ubuntu*, recognition of the diversity of knowledge and student experiences as well as multiculturality etc.

Further and more specifically the intervention that is being implemented in this project is informed by principles of andragogy owing to the profile of students involved. Andragogy is defined as "the science of teaching adult learners…"[13] As Knowles asserts, in distinguishing andragogy[14] from pedagogy, instruction should take into account the wide range of different backgrounds of learners; **learning materials and activities should allow for different levels/types of previous experienc**e…and, since adults are self-directed, instruction should **allow learners to discover things and knowledge for themselves without depending people.** However they will be provided guidance and help when mistakes are made.

Among other considerations recognition of these principles meant move away from a taught curriculum towards a learning curriculum which draws resources from within

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[11] Daniels H & Wertsch JV *The Cambridge Companion to Vygotsky* Cambridge University Press 2007 56.
[12] See n7 above.
[13] Laher S "Reflections on teaching undergraduate psychology to part-time adult students" *South African Journal of Psychology*, 37(2) 2007 383–388.
[14] Knowles in *The Modern Practice of Adult Education: From Pedagogy to Andragogy,* also defined andragogy as "the art and science of helping adults learn" 1980 43.

and outside the formal setting as well as according respect for tacit knowledge and for dispersed knowledge; knowledges not necessarily recognised in formal education.

Susan Imel puts its most succinctly when she points out that, "The major assumptions underlying these practices [that inform andragogy] are empowerment, teacher as learner, joint knowledge construction, critical reflection, student voice, and dialogue."[15]

PROJECT DESIGN AND IMPLIMENTATION

In the collection of artefacts and in deciding which of them would go into the reader a modified version of the jigsaw learning method was adopted. This method was preferred because it is a cooperative learning method that emphasizes shared responsibility by encouraging listening, engagement, and empathy.[16]

The Jigsaw Cooperative Learning Method[17]
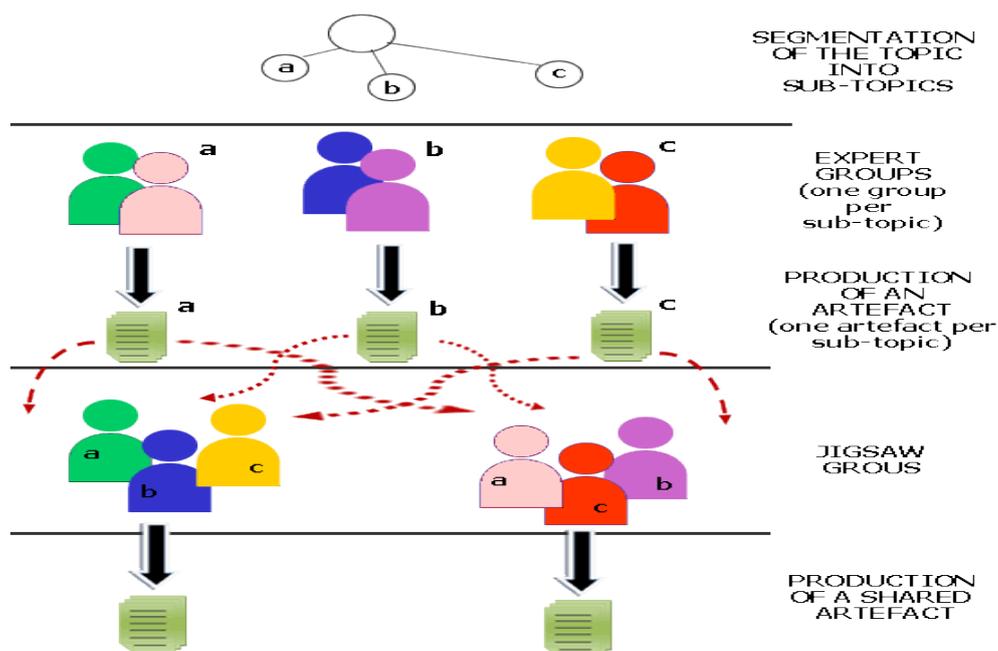
PRELIMINARY PROJECT OUTCOMESAND REFLECTIONS

[15] Imel S "How Emancipatory Is Adult Learning?" Myths and Realities No.6 1999 College of Education Ohio State University at http://www.calpro-online.org/eric/docs/mr00021.pdf
[16] "Jigsaw Strategy" Schreyer Institute for Teaching Excellence: Penn State at https://www.schreyerinstitute.psu.edu/pdf/alex/jigsaw.pdf last accessed 25/07/2016.
[17] See Persico D. & Pozzi F "Collaborative techniques and strategies in Computer Supported Collaborative Learning (CSCL)" at http://www.cscl-book.itd.cnr.it/techniques.htm for the diagram.

At the time of writing this report the project had not progressed as far as initially envisaged. This was owing to incidents of student unrest and, more particularly that in planning the project I had not anticipated the disruptive effect of this being a local government election year on the target students. As a result while the areas and subareas of customary law had been identified, groups and subgroups formed and allocated tasks as well as materials sourced and submitted the exercise in consensus building on what would go into the final reader had not been completed. In this regard one must also concede that there was some naivety when it comes to the time cost of consensus building exercises. Consequently the evaluation had not been completed either. However a number of observations and comments can be made on the work done to date since making a case for the adoption of principles of andragogy and, in particular, the democratisation of content sourcing and creation were also ends of themselves.

First, going into this project I was aware of some tension that may lie between some the fundamental values that underpinned it, in particular between emancipation and critical reflection (including self-reflection). This is due to the fact that, "When learner experience is placed at the center of educational practice, it becomes privileged and may be treated as a source of authentic knowledge, rather than being examined critically."[18] This potential dilemma could in turn clash with the transformative aim of the project, especially when one takes into account the fundamentally patriarchal and group oriented nature of African Customary Law in an egalitarian modern democracy that champions individual rights.

Secondly, considering that this is a project meant, among other things, to be emancipatory since it promotes cognitive justice by giving students greater agency and autonomy and a departure from "the danger of a single story", one of the surprises to come out of the project is that most students collected materials/artefacts that are typically used in traditional classroom such as case law reports and extracts from theses and other academic writing. The latter were also exclusively from law and not even from cognate disciplines such as anthropology or sociology, for example.

Having engaged with Paulo Friere's *Pedagogy of the Oppressed* this made one wonder whether this was a manifestation of what he calls "Self-deprecation… of the

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[18] *Ibid.*

oppressed, which derives from their internalization of the opinion that the oppressors hold of them." He goes further to crisply point out, "Almost never do they realize that they, too, 'know things' they have learned in their relations with the world…..."[19]However upon further reflection one supposes that it may well be that some students, while eager to contribute to the design and content of the curriculum, they might still prefer the less radical intervention of doing so within the confines of the traditionally recognised curriculum and discourse of the discipline. This point may well become clearer when the evaluation is complete.

Thirdly, I also found difficulty in dealing with students who were not inclined to participate in collaborative group activity. They were keen to contribute artefacts of their choice but not within a group context. However, group participation was important in order to achieve the peer centered, dialogic and consensus based aspects of the project. Nevertheless I also knew that students have different learning preferences (something the project also aimed to recognise). In particular I was mindful that the choice of individuals to work alone might have been an attempt on their part to ensure that their authentic voices do not get muted in a process that often turned, not on qualitative considerations, but on simple majoritarian outcomes. The problem with simple majoritarian outcomes is that they may sometimes not stem from sufficiently meaningful and critical reflection but other considerations largely based on convenience. This same dynamic also brought to the fore of the possible tension between group and individual emancipation and autonomy.

Furthermore, even though the interdependent aspect of the jigsaw method is intended to ameliorate one of the tenacious problems of group work; freeloading, it also proved to be highly risky to the completion of the project. Where there were students who, for one reason or another, such as protracted service delivery protests or other political and financial challenges, were unable to pull their weight the entire project was in ajeopardy because of gaps in the areas allocated to them.

On the upside several of the project's aims have been and continue to be realised. The exercise has created a space for orature and other forms of knowledge and types

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[19] Freire P *Pedagogy of the Oppressed: 30th Anniversary Edition* Bloomsbury Publishing USA 2014 63.

of information to supplement legal texts. Furthermore it represents a shift towards "connected teaching"[20] and the fulfilment of adult students "affiliation needs."[21]In this respect it has created a space for mutual vulnerability, recognition of multiculturality and, most importantly, the promotion of the transformative constitutional values of human dignity, equality and freedom.

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[20] Connected teaching "describes **participatory teaching and learning** while creating a sense of mutual or shared goals and objectives among participants." See Osman & Castle op cit n15 at 517.
[21] This denotes "the desire for learners to be connected and supportive of one another's learning, and the importance of forming relationships that encourage learning." *Ibid.*