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Is skills training through skills transfer, experiential learning and simulations the solution to the legal education crisis, and what curricular changes are required to deliver it?

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ABSTRACT

Numerous authors and commentators have observed that there is a legal education crisis in South Africa and that it is rooted in the fact that many law graduates, upon entering the legal profession, do not possess the practice-related skills required by the legal profession. This skills gap stems from the belief that, in law studies, theory and legal practice should be kept apart from each other and the fact that university law faculties are reluctant to shift their teaching method away from one based solely on doctrine to one incorporating skills training. Legal education is currently focused on a doctrine-based method, as law faculties believe that by teaching students how to analyse legislation and case law their preparatory obligation is fulfilled. As a result, law graduates are entering the legal profession without the skill-set required to practice law and represent clients proficiently. This journal article investigates how skills training could be incorporated into the existing LLB curriculum and how, through the use of skills transfer, experiential learning and simulation exercises, this could be achieved and subsequently the skill levels of law graduates can be improved. This journal article goes on to examine conceptual frameworks which can be developed and the adjustments that could be made to the existing LLB curriculum to close the skills gap by ensuring that students gain both knowledge of the law and the skills required to practise it and promote the achievement of socio-economic equality in South Africa.

Keywords: curriculum; skills training; skills transfer; conceptual framework; curriculum development; adjustments; experiential learning; simulations; legal education

1 INTRODUCTION

Former Constitutional Court Justice Kate O'Regan points out that

the lives of law graduates are determined in a real sense by the skills and habits that they have acquired at law school and that much of the test of what constitutes a competent lawyer is skills-based rather than content-based.¹

Snyman-Van Deventer and Swanepoel note that “every legal practitioner needs to be able to put into practice certain skills during their legal practice career”.² However, Judge Mojapelo, in commenting on the standard of the practitioners appearing before him in his court, lamented the lack of skill of these practitioners and questioned whether law schools are teaching the skills required to practise in the legal profession.³ Van Der Merwe echoes the concern raised by Judge Mojapelo and “supports the view that the LLB [has] failed to develop graduates with acceptable quality of graduate attributes”.⁴

West shares this concern about the inadequate skill levels of graduates entering the legal profession, noting that there is a misassumption that the purpose of university law faculties is to train law students to think like practising lawyers rather than make them practice-ready.⁵ That being said, some believe that, in achieving this purpose, law faculties are failing miserably at preparing graduates for legal practice.⁶ Members of the judiciary have complained that law students, on graduation, lack the necessary practical knowledge, skill and ingenuity expected of a practising attorney.⁷

In addition to attracting the attention of judges and scholars, graduates' lack of acceptable skill levels on entering the legal profession has been noted by the legal profession itself, as many law firms are experiencing difficulty in securing graduates with

¹ Cited by Du Plessis MA “Clinical legal education: Interviewing skills” (2018) 51 *De Jure* 140 at 142.

² Snyman-Van Deventer E & Swanepoel C “Teaching South African law students (legal) writing skills” (2013) 24 *Stellenbosch Law Review* 510 at 510.

³ Mojapelo P “Transformation, independence and poor ‘products’ of the LLB” available at <https://www.derebus.org.za/transformation-independence-poor-products-llb/> (1 December 2012) *De Rebus* (accessed 16 July 2025).

⁴ Van der Merwe P “The trouble with LLB graduates” (2007) 4 *De Rebus* 1 at 2.

⁵ West R *Teaching law: Justice, politics and the demands of professionalism* New York: Cambridge University Press (2013) at 155.

⁶ West (2013) at 144.

⁷ Welgemoed M & Lerm H “Justifying the integration of clinical legal education with procedural-law modules to develop practical skills in law students” (2024) 3 *Obiter* 569 at 571.

a suitable skill-set to fill their vacancies.⁸ A skills gap has therefore been identified in legal education, one which authors such as Modiri, Barry and Joy have described as a legal education crisis.⁹ Green, too, acknowledges the existence of a skills gap, and describes law graduates as having “poor and deficient numeracy and literacy skills”.¹⁰ In commenting on the existence of a legal education crisis and the lack of skills training provided to law students, Sedutla notes that there has been a “chorus of complaints” about the quality of LLB graduates, who are said to lack broad skills, including in writing, reading, ethics, and understanding the Constitution.¹¹ Bauling concurs, and claims that skills courses at South African universities are insufficient to close this gap.¹² Therefore, while it is acknowledged that the collective mission of law schools is to prepare students for responsible participation in the legal profession, the question of how to accomplish this mission still perplexes the legal academy.¹³

Past failures to properly discuss how to inculcate legal skills through subjects that traditionally cover the theory of law alone,¹⁴ combined with the identification of a skills deficit among graduates entering the legal profession, have led to the following question: What is the solution to this mooted legal education crisis and how could law schools adapt their *modus operandi* to address it? In this vein, Tokara et al. note that the marketplace will eventually force law faculties to be more efficient and tailor their curricula to ones that also meet the needs of students looking to enter legal practice.¹⁵

In this article, I argue that the integration of skills training in the LLB curriculum through the use of skills transfer, experiential learning, and simulation exercises can

⁸ Page M “Addressing the skills gap in the legal sector” available at <https://www.michaelpage.co.uk/our-expertise/legal/addressing-skills-gap-legal-sector> (accessed 16 July 2025).

⁹ Modiri J “The crises in legal education” (2014) 46(3) *Acta Academia* 1 at 7.

¹⁰ Greenbaum L “The four-year undergraduate LLB: Progress and pitfalls” (2010) 35 *Journal for Juridical Science* 1 at 13.

¹¹ Sedutla M “LLB summit: Legal education in crisis?” available at <https://www.saflii.org/za/journals/DEREBUS/2013/113.pdf> (accessed 17 July 2025).

¹² Bauling A “Towards a sound pedagogy in law: A constitutionally informed dissertation as capstone course in the LLB degree programme” (2017) 20 *Potchefstroom Electronic Law Journal* 1 at 3.

¹³ Beckman S & Tremblay P “Foreword: The way to Carnegie” (2012) *Boston College Journal of Law and Social Justice* 215 at 215.

¹⁴ Snyman-Van Deventer & Swanepoel (2013) at 511.

¹⁵ Tokara K, Lopez A, Maisel P & Seibel R “Using three years of legal education with expanded experimental education and required clinical education to develop Carnegie’s three professional apprenticeships” (2014) 43 *Washington University Journal for Law and Policy* 32 at 35.

ensure that law students are taught the skills required to enter the legal profession.¹⁶ These three methods of teaching would give them the opportunity to develop their skills and practise them in a controlled environment. I explain how this could be achieved by integrating skills training in the LLB curriculum and discuss its benefits and argue that it would help address the legal education crisis.

2 DENOUNCING THE MYTH THAT LEGAL EDUCATION CAN MEANINGFULLY SEPARATE THEORY FROM PRACTICE

Du Plessis and Welgemoed note that “legal practitioners have remarked that law students, upon exiting law school, lack the basic practical skills that would enable them to make a good start in practice”.¹⁷ Francot and de Vries, in commenting on the current approach to legal education, characterise it as handicapped and incomplete.¹⁸ Barry – in adding to the debate about the legal education crisis – opines that law schools need to do better in preparing students for the legal profession.¹⁹

These statements were all made by authors discussing a model of legal education predicated on the conveyance of doctrine. Joy, in describing traditional legal education, notes that law schools conventionally focus on educating law students in theoretical knowledge of the law and use the Socratic case-dialogue method²⁰ of instruction to do so.²¹ Legal education is delivered in this way because law faculties believe that, in teaching students how to analyse legislation and case law, they have met their preparatory obligations.²² As Barry notes, law faculties see this mode of education as

¹⁶ The skills referred to include interpersonal and consultation skills, legal writing and drafting skills, analytical skills, and trial advocacy skills.

¹⁷ Du Plessis MA & Welgemoed M “Training for legal practice – towards effective teaching methodologies for procedural law modules” (2022) 1 *Obiter* 205 at 208.

¹⁸ Francot L & De Vries B “Legal education re-enchanted” (2006) 3 *European Journal of Legal Education* 1 at 10.

¹⁹ Barry M “Practice ready: Are we there yet?” (2012) 32 *Boston College Journal of Law and Social Justice* 247 at 255.

²⁰ This refers to a teaching method which makes use of an anchor as the base and analyses this case through the asking of probing questions.

²¹ Joy P “Law schools and the legal profession: The way forward” (2011) 47 *Akron Law Review* 177 at 182.

²² Barry (2012) at 249.

ideal and believe that the essence of legal education lies in the critique of cases and doctrine.²³

Bezuidenhout and Karels, however, submit that “focusing teaching exclusively on doctrine fails to reach the mind of the offeree (the student) and succeeds only in satisfying the mind of the offeror (the teacher)”.²⁴ Beckman and Tremblay, arguing in support of this sentiment, believe that such a method of teaching “erases the context of legal practice”;²⁵ as a result, legal education fails to serve one of its primary functions – namely, ensuring that all entrants to the legal profession exhibit a minimum competence in the range of skills required by it.²⁶ Du Plessis and Welgemoed, in criticising the Socratic teaching method, note that it often has a destructive psychological effect on students in that they develop a feeling of inferiority to lecturers as far as skills and abilities are concerned.²⁷

The reluctance of university law faculties to expand their teaching methods by including skills training has led to the emergence of a skills gap in the legal profession. Kryvoi states that this skills gap has come about because modern legal education leaves students with theoretical knowledge but lacking in the skills required for a career in legal practice as well as the wider job market.²⁸ The skills gap in the legal profession has been reported on by Reuters,²⁹ is recognised globally,³⁰ and is in direct contradiction to universities’ overt promise of graduate employability.³¹ Therefore, it can be argued that modern legal education fails to adequately prepare students for legal practice.

²³ Barry (2012) at 248.

²⁴ Bezuidenhout I & Karels M “Legal educators – the peddler of precedent, the skill builder and the socially conscious knowledge generator” (2014) 46(3) *Acta Academica* 40 at 43.

²⁵ Beckman & Tremblay (2012) at 216.

²⁶ Stockey R *Best practices for legal education: A vision and a roadmap* Columbia: University Publications, University of South Carolina (2007) at 58.

²⁷ Du Plessis & Welgemoed (2022) at 211.

²⁸ Kryvoi Y “Teaching how to think like a lawyer: Seven essential legal skills” (2025) *British Institute of International Comparative Law* 1 at 19.

²⁹ Sloan K “Law school failed to prepare 45% of junior associates for practice, survey finds” (29 April 2024) *Reuters* available at <https://www.reuters.com/legal/litigation/law-school-failed-prepare-45-junior-associates-practice-survey-finds-2024-04-29/> (accessed 7 November 2025).

³⁰ Kryvoi (2025) at 19.

³¹ Powell K & Siller N “From law school to practice: Conflict in Australian university mental health management and law student employability” (2024) 31 *International Journal of the Legal Profession* 111 at 112.

Nevertheless, despite almost a century of critique to the effect that the current approach to legal education does not prepare students sufficiently for a career in legal practice, law faculties have remained reluctant to modify their method of teaching law and continue to view legal theory as separate from legal practice. As West notes, legal education is focused on inculcating knowledge of the law and, thanks to this single-minded focus, legal scholarship is moving away from the legal profession,³² as the teaching of the skills required by the legal profession is not prioritised. This has resulted in a separation between law-school education and preparation for practice, even though “the legal profession would prefer to receive ready-made legal practitioners”.³³

This entrenched separation of theory and practice means that law faculties fail to train lawyers adequately³⁴ and see students entering the legal profession without the requisite skill-set for practising law and representing clients. In addition to failing to train lawyers adequately, law schools focusing solely on knowledge of the law alienate the legal profession, as they are doing little to prepare students for future legal practice³⁵ and fill vacancies at law firms. In search of a solution, Sullivan argues for an expansion of the core of legal education so as to close the skills gap, maintaining that the basic components of legal education should include the skills of legal practice and that the teaching of these skills should be aligned more closely with legal analysis.³⁶ Modiri echoes this call for the expansion of legal education and supports changes to the LLB curriculum that would include a broader array of teaching methods.³⁷

As the above suggests, the separation of theory and practice in legal education is unfounded and harmful to both the students wishing to enter the legal profession and the profession itself. Snyman-Van Deventer and Swanepoel reject this separation, arguing that “the development of both knowledge and skills is both recognised and of critical importance to both the improvement of the quality of law graduates and the development of legal practitioners”.

³² West (2013) at 144–145.

³³ Welgemoed & Lerm (2024) at 571.

³⁴ Joy (2011) at 184.

³⁵ Joy (2011) at 184.

³⁶ Sullivan W “After ten years: The Carnegie Report and contemporary legal education” (2018) 14 *University of St Thomas Law Journal* 331 at 335.

³⁷ Modiri (2014) at 7.

3 SKILLS TRAINING AND WHY IT HELPS CLOSE THE SKILLS GAP

Kryvoi notes that “the role of legal education is to equip future professionals with the right set of skills to be employed and work in the legal profession”.³⁸ With this statement taken as the foundational paradigm for this article, it can be strongly suggested that the incorporation of skills training into legal education can close the skills gap in the legal profession and, in doing so, set in motion a causal sequence that would help resolve the legal education crisis. Skills training is defined as “a structured approach to improving specific employee capabilities, directly tied to business objectives”.³⁹ Skills transfer, which I propose as one of the ways in which skills training can be incorporated into legal education, is defined as the process by which knowledge and skills that have been acquired are transferred to other persons to be applied in a professional context.⁴⁰

The need for skills training in legal education, as the above paragraphs indicate, has come under the spotlight in recent years; in this regard, attention has shifted towards the idea of equipping law students with a wider range of skills than usual, skills which can be used in the workplace and which are required by the legal profession.⁴¹ Skills that have been identified as paramount in the legal profession include communication and interpersonal skills, writing and drafting skills, trial advocacy skills, and critical thinking and analysis. It is through the development of these skills that one develops within the student the competencies that professionals need.⁴²

Barry supports the emphasis on these skills, given that she describes competencies such as client interviewing and communication, drafting, and trial and pre-trial practice as critical professional competencies.⁴³ The skills identified above are also supported by McQuoid-Mason, who characterises them as essential for legal practice.⁴⁴ Pelta, in

³⁸ Kryvoi (2025) at 7.

³⁹ Kanaki M “Skills training: What it is and how it benefits your business” (21 March 2025) *Talentlms* available at <https://www.talentlms.com/blog/skills-training/> (accessed 21 July 2025).

⁴⁰ Charles C “Skills transfer: How to ensure the real upskilling of learners” *Didask* available at <https://www.didask.com/en/post/transfert-de-competences-comment-assurer-la-montee-en-competence-reelle-de-vos-apprenants-2> (accessed 16 July 2025).

⁴¹ Kift A & Airo-Farulla G “Throwing students in the deep end, or teaching them how to swim? Developing ‘offices’ as a technique of law teaching” 1995 (6) *Legal Education Review* 53 at 54.

⁴² Barry (2012) at 253.

⁴³ Barry (2012) at 252.

⁴⁴ McQuoid-Mason D “Developing the law curriculum to meet the needs of the 21st century legal practitioner: A South African perspective” (2004) *Obiter* 101 at 102.

extending the focus towards the workplace setting, notes that critical thinking, analytical reasoning, communication and writing have been identified as transferable skills that employers desire,⁴⁵ while Kift and Airo-Farulla note that there is also evidence that employers value the ability of graduates to work in teams and adapt to new situations.⁴⁶

In view of the importance of skills training, I argue that its incorporation into legal education through skills transfer, experiential learning and simulated exercises can close the skills gap that currently exists in the legal profession. Furthermore, I argue that use of the subversive teaching method which focuses on the transfer of knowledge, coupled with small and simple changes to the LLB curriculum directed at skills development, could produce tangible changes in how legal education is provided. The teaching methods suggested here are based on the consensus of opinion among practising bar, legal practitioners and clinical legal educators that university law faculties should require law students to receive greater professional skills instruction.⁴⁷

The benefits of using skills training are palpable. Reed, in arguing for the inclusion of skills training in all forms of legal education, notes that by making it a part of their legal education, students gain an opportunity to practise law through simulated exercises and, in doing so, build other essential skills too.⁴⁸ Sullivan also notes the benefits of incorporating skills training into professional education, stating that all fields of professional education would benefit by including modern learning approaches⁴⁹ and that professional education should include methods that equip novices with the skills required by the profession in question.⁵⁰ Therefore, on this basis, skills training, specifically in the form of skills transfer, experiential learning and simulated exercises, can be a way to improve the skill levels of law students.

⁴⁵ Pelta R “15 Transferable skills that companies want: Examples and definitions” (13 September 2024) *Flexjobs* available at <https://www.flexjobs.com/blog/post/transferable-skills> (accessed 16 July 2025).

⁴⁶ Kift & Airo-Farulla (1995) at 54.

⁴⁷ Joy (2011) at 184.

⁴⁸ Reed O “How practical legal training enhances law education and career readiness” (n.d.) available at <https://www.owenreed.co.uk/legal-education/practical-legal-training-law-education/> (accessed 8 October 2025).

⁴⁹ Sullivan (2018) at 333.

⁵⁰ Sullivan (2018) at 334.

Beckman and Tremblay argue that to maximise educational value for students, legal practitioners teaching students should teach them habits, skills and values that would serve them in any professional context.⁵¹ Reed notes that when this approach is taken, “students gain greater competence and confidence and that the amount of time the student needs to adjust to the workplace is significantly reduced”.⁵² Therefore, as discussed in section 2, while the Socratic teaching method often has a destructive psychological effect on students and limits their development,⁵³ incorporating skills training into legal education would lead to more confident and workplace-ready law graduates in the future.

4 MECHANISMS FOR CLOSING THE SKILLS GAP

4.1 Closing the skills gap with skills transfer

Kift and Airo-Farulla point out that while throwing students “in at the deep end” may force them to learn enough to make it through a programme, this approach rarely produces experts;⁵⁴ in turn, Keene notes that “law students can benefit greatly from learning legal writing and oral advocacy from those who use these skills most often – experienced legal practitioners”.⁵⁵

With these statements in mind, it is suggested that an optimal method to improve the skills of law students is for lecturers or supervising attorneys to transfer their skills to them.⁵⁶ The transfer of skills is, in the context of learning, defined as an individual’s ability to extend what he or she has learnt to others.⁵⁷ Skills transfer is regarded as a powerful growth mechanism and a vehicle through which one can consolidate knowledge and

⁵¹ Beckman & Tremblay (2012) at 222.

⁵² Reed (n.d.).

⁵³ Du Plessis & Welgemoed (2022) at 211.

⁵⁴ Kift & Airo-Farulla (1995) at 55.

⁵⁵ Keene SL “It was the best of practice; it was the worst of practice: Moving successfully from the courtroom to the classroom” (2010) 48 *Duquesne Law Review* 533 at 533.

⁵⁶ It is usually a clinician or supervising attorney who presents clinical legal education and teaches skills courses.

⁵⁷ Northeastern Center of Advancing Teaching and Learning through Research “Developing skills and promoting skills transfer” available at <https://learning.northeastern.edu/developing-skills/> (accessed 13 October 2025).

know-how and pass it on to another person.⁵⁸ Here, the “skills transfer” referred to is the transfer of skills from the lecturer or supervising attorney to the student; this, it is suggested, is as a mechanism for closing the skills gap in the legal profession. Keene, in noting the value of skills transfer in legal education, recognises the value of the experience of the practitioner or supervising attorney and believes that it can be passed to others in the classroom, remarking that “law students acquire expertise not in a vacuum, but as novices who must be socialised into a community of knowledge and discourse by those who constitute the community”.⁵⁹

Binder and Bergman note that skills-focused clinical courses can promote the transfer of lawyering skills, as clinicians can organise classrooms and live client-work around the skills they seek to transfer.⁶⁰ Therefore, the transfer of skills should be used in clinical courses where, through the use of both lectures and live client-work, lecturers or supervising attorneys transfer the skills they have acquired throughout their careers to the students working under their supervision. Tokara et al. concur, stating that clinical courses provide the conceptual framework for the skills that lawyers use every day and provide students with opportunities to engage in complex issues arising from consulting with real-life clients.⁶¹

The most commonly used skills in the legal profession are communication skills, writing skills, and trial advocacy skills.⁶² It is acknowledged that teaching for the transfer of such skills is complex, as it takes a significant investment of time to transfer them to students.⁶³ Binder, Moore and Bergman, in supporting the use of skills transfer to teach law students, suggest that, for each skill taught, a conceptual framework should be developed.⁶⁴ The framework should be rooted in the core content that needs to be

⁵⁸ “The transfer of skills: Key factors for success – part 2” (30 July 2024) *CrossKnowledge* available at <https://www.crossknowledge.com/blog/transfer-skills-key-factors-success/> (accessed 22 September 2025).

⁵⁹ Keene (2010) at 551.

⁶⁰ Binder D & Bergman P “Taking lawyering skills seriously” (2003) 10 *Clinical Law Review* 191 at 207.

⁶¹ Tokara et al. (2014) at 39.

⁶² Tokara et al. (2014) at 36.

⁶³ “How long does it take to master a skill?” (23 April 2025) *Talentsblocks* available at <https://talentsblocks.com/blog/how-long-does-it-take-to-master-a-skill> (accessed 18 March 2026).

⁶⁴ Binder D, Moore A & Bergman P “A deposition course: Tackling the challenge of teaching for professional skills transfer” (2007) 13 *Clinical Law Review* 871 at 884.

covered when exercising the skills; the same framework should also specify the outcome that can be achieved by applying the skill. The conceptual framework should be flexible in nature and designed to ensure that all the variables that a student could encounter when exercising the skill are addressed.

The framework would therefore be guided by the ability that needs to be displayed and would vary according to the skill being taught. Examples include what needs to go into a letter to a client or what needs to be put to the witness for the other side in cross-examination. In addition, the conceptual framework created for a specific skill should explore the techniques that may be used when exercising it, as well as consider obstacles that could arise or possible responses from the opposition. The conceptual framework would thus be created by using the direct first-hand legal experience of the lecturer or supervising attorney as raw material to be moulded and shaped according to the nature of the matter being dealt with.⁶⁵

By means of the creation of a conceptual framework, the lecturer or supervising attorney who has developed a skill through experience is able to teach that skill to students, that is, to transfer it to them; after acquiring the skill, students are then able to apply what was learned to new situations.⁶⁶ Those teaching the students will, by sharing their experience and creating new experiences in turn for students, provide the environment in which students can build up their own experience and, thereby, their competence.⁶⁷

Tokara et al., in discussing how to introduce students to lawyering practice and client responsibility, note that in order to master the skills essential for lawyering, students need the guidance of faculty members.⁶⁸ Consequently, skills transfer by the lecturer or supervising attorney – facilitated through the use of a conceptual framework designed for each specific skill being transferred – allows the student to be guided by the faculty member and thus master the skills required by the legal profession they wish to enter.

⁶⁵ Tokara et al. (2014) at 40.

⁶⁶ Binder, Moore & Bergman (2007) at 884.

⁶⁷ Keene (2010) at 555.

⁶⁸ Tokara et al. (2014) at 36.

4.2 Closing the gap through the use of simulation training

Simulation training is defined as the creation of true-to-life learning environments that mirror actual work scenarios and which can be used to acquire knowledge and skills not only by reading books on theory or listening to lectures but through physical, hands-on activity.⁶⁹ Suhaida Ali describes simulation training as a teaching method that combines role-playing simulation with traditional teaching. This is not only an effective way for students to apply, integrate and retain information, but is also a means of building their engagement in the learning process.⁷⁰

Gross notes that simulation training is extremely flexible and can be tailored to meet both time constraints and pedagogical goals.⁷¹ Accordingly, if the goal is, for example, to teach writing skills in a corporate or litigation setting, exercises can be devised for each of these settings to address the style and content which they require. Alternatively, if the goal is to teach consultation skills, simulated scenarios can be devised which can be presented to persons playing the role of imitation clients with whom the students can consult. The scenario could include having the students consult with either the instituting or the opposing party in a matter. This allows students to learn what is required when litigating from either side. Chesler, in commenting on the use of simulated exercises to teach consultation skills, notes that simulated exercises are an ideal way to introduce students to the role of a lawyer as counsellor and allow them to explore what constitutes an effective interaction between lawyer and client.⁷²

The benefit of simulated exercises is that they place students as closely to the real working world as possible and allow them to experience the nuances of dealing with a matter without the pressure of consulting with a real-life client. A further benefit is that any number of simulated exercises can be created to provide students with the opportunity to learn (and practise) a specific skill, or part of a skill, and to do so

⁶⁹ Srivastava A "Simulation training – definition, learning benefits & top companies" *LearningLight* available at <https://www.learninglight.com/simulation-based-training-providers/> (accessed 19 September 2025).

⁷⁰ Suhaida Ali N "Teaching international law using simulated problem-based method (SPBL)" (2022) 20 *Indonesian Journal of International Law* 93 at 95.

⁷¹ Gross S "Clinical realism: Simulated hearings based on actual events in students' lives" (1990) 40 *Journal of Legal Education* 321 at 321.

⁷² Chesler S "Developing students' ethical professional identities through role-playing exercises" (2012) 26 *Second Draft* 8 at 8.

consistently. Cooper Davis et al. note that persons learn better when they believe the things they are learning to do can be done well as a result of practice and effort.⁷³

In addition, since the length and extent of simulated exercises is flexible, they are an ideal way to incorporate skills training into an already full academic calendar. Simulated exercises are flexible enough to be incorporated into the schedule and planning of any module in any university law faculty. Indeed, simulated cases can be given to students at the beginning of a semester (for them to practise throughout the semester) or at the end (for them to complete after having been taught a skill during the semester).

4.3 Closing the gap with experiential learning

“Experiential learning” refers to an education philosophy in which students purposefully engage in direct experience to increase their knowledge and develop their skills.⁷⁴ McNamara and Cockburn state that experiential learning is recognised as essential to legal education,⁷⁵ while Tokara et al. describe it as a key tool for helping students develop self-directed learning skills,⁷⁶ given that it allows them to think beyond the facts and develop skills that lead to a lifetime of reasoning and independent thought.⁷⁷ Experiential learning is defined as “learning by doing” and thus – through of use of internships – it involves job placements and workplace-integrated learning (WIL). This helps students experience the working world while completing their studies. Experiential learning can be used either as a primary method of learning or as an aspect of learning in a subject.

⁷³ Cooper Davis P, Coletu E, London B & Yuan W “Making law students healthy, skilful and wise” (2011/12) 56 *New York Law School Law Review* 487 at 493.

⁷⁴ Queen’s University “What is experiential learning?” available at <https://www.queensu.ca/experientiallearninghub/about/what-experiential-learning> (accessed 15 October 2025).

⁷⁵ McNamara J & Cockburn T “Creating and enabling opportunities for increased student participation in experience based leaning in professional practice” Experience Based Learning Association Inaugural Conference, University of Technology Sydney, Sydney (7–9 December 2009) available at <https://www.researchgate.net/publication/40835526> (accessed 15 September 2025).

⁷⁶ Tokara et al. (2014) at 41.

⁷⁷ Magnus E “The benefits of experiential learning” (16 May 2025) *Cardigan Mountain School* available online at <https://www.cardigan.org/blog/benefits-of-experiential-learning> (accessed 15 October 2025).

Both methods can, however, develop the skills of law students,⁷⁸ and give greater meaning to what has been taught in the classroom.⁷⁹

Experiential learning can take place on the campuses of universities or at off-campus locations such as courts, tribunals and government administrative offices. Whether on- or off-campus, it forms part of WIL.⁸⁰ The latter is “a structured educational strategy aimed at integrating classroom studies with practical work”,⁸¹ and consists in programmes or courses that link university students to a workplace related to their field of study. Creating WIL opportunities for students allows them to engage in experiential learning and practise the skills they have been taught. Those opportunities can include allowing students to consult with clients as part of a clinical law module, engage in an externship,⁸² or sit in and observe a trial or hearing taking place in a local court. As Barry notes, placements at court or externships immerse students in the life of legal enterprises outside of the law school.⁸³

Bezuidenhout and Karels, arguing in support of the use of experiential learning, note that teaching law without succeeding in facilitating the student’s understanding of the relevance of what we teach⁸⁴ as well as facilitating within the student an understanding that legal disputes in practice are often the symptoms of social disharmony in which the law is a piecemeal solution to a legal dispute – is jeopardising the underlying legitimacy of teaching.⁸⁵ Therefore, by consulting with the client, participating in an internship, or observing a matter being heard at a court, students are exposed directly to the legal profession, are able to discover what it takes to be successful in an individual matter as

⁷⁸ Mcnamara & Cockburn (2009) at 1.

⁷⁹ Hess G & Friedland S *Techniques for teaching law* Durham: Carolina Academic Press (1999) at 108.

⁸⁰ Rippenaar SJ “In pursuit of the work-ready graduate: Using the UWC Law Clinic’s WIL project to prepare final-year law students for entry into legal practice” (2025) 29 *Law, Democracy & Development* 58 at 61.

⁸¹ Rippenaar (2025) at 61.

⁸² An externship is defined as a short-term experiential learning opportunity where a student observes and/or shadows an established worker.

⁸³ Barry (2012) at 253.

⁸⁴ Bezuidenhout & Karels (2014) at 43.

⁸⁵ Bezuidenhout & Karels (2014) at 44.

well as the legal profession, and have the opportunity to determine “the kind of lawyer that they wish to be”.⁸⁶

In summary, experiential learning can significantly aid in the skills development of law students. Tokara et al. believe that the strongest justifications for its use in formal education lie in what students discover about themselves and the world they live in.⁸⁷ As Downs remarks, “experiential learning may be the closest that one can get to training for the actual work”.⁸⁸

5 CURRICULAR ADJUSTMENTS TO GIVE EFFECT TO SKILLS TRAINING

Manyathi-Jele states that it is critical to the legal profession to ensure that law graduates are prepared effectively to enter the profession and to serve the public professionally and efficiently.⁸⁹ Sedutla points out in this regard that universities have a duty to identify areas in their programmes that do not meet the necessary standards and take steps to improve the situation.⁹⁰ In other words, the onus is on those providing legal education to make the adjustments necessary for improving the skills of law students. Keene notes that once those providing legal education recognise the gap between what their students know about the legal profession and what they themselves know as teachers of future practitioners, there is a wonderful opportunity for the development of legal education.⁹¹ This opportunity allows for the introduction of new methods of teaching and for making adjustments to existing teaching methods to develop of the existing curriculum towards one aimed at the advancement of student skills. Kift and Airo-Farulla note that “a new challenge for instruction is to develop ways of organising learning that permits it to be practised in the environment in which it will eventually be used”.⁹²

⁸⁶ La Rue H “Developing an identity of responsible lawyering through experiential learning” (1992) 43(4) *Hastings Law Journal* 1147 at 1157.

⁸⁷ Tokara et al. (2014) at 41.

⁸⁸ Downs R “Experiential learning: In a practical training course” (1989) 7(2) *Journal of Professional Legal Education* 141 at 144.

⁸⁹ Manyathi-Jele N “LSSA calls on CHE to consult legal profession on LLB degree issues” (1 June 2017) *De Rebus* available at <https://www.derebus.org.za/lssa-calls-che-consult-legal-profession-llb-degree-issues/> (accessed 16 October 2025).

⁹⁰ Sedutla M “Legal education in crisis” (1 May 2017) *De Rebus* available at <https://www.derebus.org.za/legal-education-crisis/> (accessed 16 October 2025).

⁹¹ Keene (2010) at 554.

⁹² Kift & Airo-Farulla (1995) at 56.

The presenter of legal education – a lecturer or a supervising attorney – is thus both a teacher and skills developer. According to Bezuidenhout and Karels, “a skill builder begins the process of legal moulding from a foundation of doctrine and thereafter advances or develops within the student skills specific to legal practice”.⁹³ It is on this basis that the LLB curriculum could be adjusted to adopt the learning methods explained above. Welgemoed and Lerm argue that the legal profession depends on the educational system to provide the profession with skilled practitioners⁹⁴ and maintain that the integration of skills training in procedural law modules would have this desired effect.

Davis et al. argue that legal education should go beyond teaching students to know things – it should also teach them how to do things; all law school courses, they believe, should be dedicated to the cultivation of skills.⁹⁵ It is here that WIL and the use of simulation exercises can be incorporated into legal education, since even courses or modules that, historically, have been taught on a purely theoretical basis will have a link to aspects of legal practice. Litigation has been instituted in courts which deal with aspects which are being taught in these modules. It would hence be possible for the curricula of such theory-based modules to be extended to include a WIL experience or a simulated task or assignment for students to complete.⁹⁶

The adjustments that can be made include incorporating WIL experiences outside of the classroom, but so too inside it – for instance, video footage of court cases can be presented to students so as to study the arguments made by legal representatives. This provides students with an experience equivalent to having been in the courtroom. Such an experiential learning exercise could be linked to a simulated training exercise in which students are instructed to act for one of the parties in the matter and determine what evidence would be needed or what submissions would have to be included in the affidavits delivered to support the arguments presented by the legal practitioners. By participating in this experience, the student is learning how to think like a lawyer and exercising the skills he or she would use in legal practice. The lecturers or supervising attorneys guiding this process would rely on their expertise and previous experience to

⁹³ Bezuidenhout & Karels (2014) at 45.

⁹⁴ Welgemoed & Lerm (2024) at 574.

⁹⁵ Cooper Davis et al. (2011/2012) at 492.

⁹⁶ Rippenaar (2025) at 64.

lead this process, give guidance to the students and, in so doing, transfer their skills to the students. It is therefore clear that through skills transfer, simulated exercises, and experiential learning, skills training can be incorporated into various aspects of legal education.

Joy notes that in order to provide training at a level similar to that found in other professions, law schools would have to regard the teaching of professional lawyering competencies as part of their core mission.⁹⁷ While there is increasing pressure to teach lawyering competencies and “improve the practical skills of those entering the legal profession”,⁹⁸ there is concern about the ability of university law clinics and clinical legal education courses to continue to solely carry the burden of teaching the skills that lawyers need.⁹⁹ In this regard, Kryvoi argues that legal education should foster adaptive expertise and that legal educators should develop flexible pedagogical approaches such as those presented above. Tokara et al. likewise express hope that the marketplace will compel law schools to tailor their curricula to meet the practical needs of students who wish to enter legal practice.¹⁰⁰ As Cottrell notes, “those presenting legal education must recognise that the students need you to do this”.¹⁰¹

6 CONCLUSION

Legal education’s failure to provide integrated education focusing on knowledge, practice and professional values results in a failure to help students develop a critical understanding of their professional role and identity.¹⁰² Tokara et al. reject the sentiment that theory and practice can be separated in legal education and also reject the notion that lawyering skills can be taught only via clinical law courses rather than also via the doctrinal or case-dialogue method.¹⁰³ Bezuidenhout and Karels likewise reject the separation of theory and practice in legal education, arguing that legal educators should

⁹⁷ Joy (2011) at 194.

⁹⁸ Welgemoed & Lerm (2024) at 570.

⁹⁹ Barry (2012) at 265.

¹⁰⁰ Tokara et al. (2014) at 35.

¹⁰¹ Cottrell S “10 ways to incorporate study skills into your teaching” (19 July 2024) *Bloomsbury Academic* available at <https://www.bloomsbury.com/uk/discover/bloomsbury-academic/blog/featured/10-ways-to-incorporate-study-skills-into-your-teaching/> (accessed 17 October 2025).

¹⁰² Tokara et al. (2014) at 42.

¹⁰³ Tokara et al. (2014) at 37.

structure their teaching to emphasise the value of precedent while still promoting an appreciation for the application thereof.¹⁰⁴

Kok and Oelofse believe that skills training and theoretical education based on doctrine should be combined in the same modules and that the skills required of lawyers, along with a comprehensive knowledge of the law, should be taught as part of the LLB degree.¹⁰⁵ I have shown that, by incorporating skills training into the LLB curriculum through skills transfer, simulation exercises and experiential learning, law students would develop the skills that enable them to enter the legal profession and thrive in it.

This is not to suggest that law schools should abandon teaching doctrine; rather, the legal education crisis demonstrates the need for recognising the importance of lawyering skills and professional values.¹⁰⁶ The adjustments to legal education I have argued for are geared not only to developing a productive workforce but to teaching students to adopt a conceptual approach to legal practice. These would equip them to think critically, perform in-depth analysis of cases, and, broadly, pursue justice and socio-economic equality in South Africa in a manner more likely to ensure the achievement thereof. The use of skills training would ensure that legal education is not only about teaching students to “know things” but also to “know how to do things”.¹⁰⁷ The innovative approach to legal education advocated for above would build the knowledge of the student while also imparting skills essential for lawyers living in a democratic society.¹⁰⁸ As Beckman and Tremblay note, “the separation of legal analysis and professional skills makes no sense in the law school of the future”.¹⁰⁹

McNamara and Cockburn, in commenting on implementing measures such as those explained above in university law faculties, note that law faculties should develop methodologies beyond the legal-clinic model to upskill law students and that these could include simulations and externship arrangements.¹¹⁰ These methods of tailoring the LLB

¹⁰⁴ Bezuidenhout & Karels (2014) at 42.

¹⁰⁵ Kok A & Oelofse M “Teaching and inculcating (decolonised) legal skills in the LLB curriculum at the University of Pretoria?” (2020) 2 *Journal of Decolonising Disciplines* 1 at 11.

¹⁰⁶ Joy (2011) at 197.

¹⁰⁷ Cooper Davis et al. (2011/2012) at 492.

¹⁰⁸ Greenbaum (2010) at 13.

¹⁰⁹ Beckman & Tremblay (2012) at 221.

¹¹⁰ McNamara and Cockburn (2009) at 2.

curriculum would raise the base skill level of law graduates and provide an educational benefit for aspiring lawyers that is too good to pass up.¹¹¹ Skills training is thus a method that should be used to close the current skills gap in the legal profession; as Kanaki notes, “skills training is a bridge across a widening gap”.¹¹² Being at the forefront of this shift is key for university faculties as both current and future law students are looking for leaders who are committed to the training of the next generation of lawyers.¹¹³

Furthermore, I have described methods that can be used to integrate skills training in doctrinal courses. This integration provides a way for skills training to be delivered to students without making it the sole responsibility of under-resourced law clinics already operating at capacity. Indeed, Kok and Oelofse also support the integration of skills training in all courses and note that “to have standalone courses focused entirely on theory and which do not point out the value of legal skills in different contexts will confuse students and even be counterproductive”.¹¹⁴ The incorporation of the methods set out in this article would ensure that LLB graduates develop the full skill-set they require in order to be productive in the legal profession.

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¹¹¹ Tokara et al. (2014) at 35.

¹¹² Kanaki (2025).

¹¹³ Braswell M “Legal training in the age of AI: A leadership imperative” (30 April 2025) *Thomson Reuters* available at <https://www.thomsonreuters.com/en-us/posts/ai-in-courts/legal-training-ai-leadership/> (accessed 15 September 2025).

¹¹⁴ Kok & Oelofse (2020) at 11.

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