

The influence of technology on the learning styles of millennial law students

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OPSOMMING

Die invloed van tegnologie op die leerstyle van milleniër-regstudente

Een van die mees algemene verklarings vir die groot generasiegaping tussen milleniërs en vorige generasies is die tegnologiese rewolusie, wat 'n paradigmitiese verskuiwing te weeg gebring het in die wyse waarop inligting verkry en sorteer word. Milleniërs se passie vir, en hulle vlotheid met tegnologie is waarskynlik die belangrikste verteenwoordigende eienskap van hierdie generasie – “dit is in hul DNS om na skerms te kyk”. Milleniërs se tegnologiese uitsonderlikheid lê nie net in hulle vaardigheid met elektroniese toestelle nie, maar ook in die manier waarop hulle sosiale lewens daarin versmelt geraak het. Teen die tyd dat milleniërs op universiteitskampusse aankom het hulle digitale toestelle 'n uitbreiding van hulself geword – onontbeerlike sosiale bykomstighede. Milleniërs betaal egter 'n duur prys vir hulle digitale voorkeure. Die bydrae ondersoek die maniere waarop rekenaars en selfone – en die konstante stroom van stimuli wat hierdie toestelle bied – 'n nuwe en diepgaande uitdaging daarstel vir studente se vermoë om te fokus en te leer. Daarna word die leerstyl van milleniër-regstudente ontleed, en maak hierdie bydrae beskeie voorstelle aan regsdosente om hul studente se leerstyl te herken, en om regsopleiding te bied wat lei tot die ontwikkeling van bekwame regsgeleerdes.

1 INTRODUCTION

As expounded upon in a previous contribution,¹ although the concept of a “gap” between generations is widely accepted, the distance between millennials and prior generations may be considered a chasm rather than a gap.² One of the most commonly accepted explanations for this is the technological revolution, which has resulted in a major paradigm shift in how we acquire and sort through information.³ Millennials’ passion for and fluency in technology are likely the foremost representative characteristics of their generation.⁴

Present-day law students grow up in a dramatically different world than that of as little as a decade ago. Their familiarity with and reliance on new technologies

1 Gravett “The generational traits of millennial law students” 2020 *THRHR* 67–82.

2 McGaugh “Generation X in law school: The dying of the light or the dawn of a new day” 2003 *Journal of Legal Writing Instruction* 122.

3 *Ibid.*

4 See Miller and Grace *Generation Z goes to college* (2016) 27.

shape the nature of their social relationships, study habits, and norms of interpersonal communication and decorum.⁵ These technologies not only empower students, but they also lend a heightened sense of immediacy.

The rapid pace of advances in technology during the formative years of the millennial generation has been astounding. Nevertheless, these advances constitute millennials' reality, and they experience such changes as "normal."⁶ Broadband Internet, smart phones and the management of one's social life through networking software have ceased to be novel luxuries and have become indispensable to millennials⁷ "It's in their DNA to look at screens."⁸ As millennial children grow up, their use of technology and the Internet encompasses music, entertainment, networking and communication.⁹ They often prefer to send text messages or use other technology-based communication, rather than make a telephone call or have a face-to-face conversation.¹⁰

2 "DIGITAL NATIVES"

Long-time professors have noticed that millennial students arrive on campus with a different set of cognitive skills and habits than past generations.¹¹ Millennial law students' relationship with technology is clearly different from that of most of their professors. In contrast to older generations, which best can be described as "digital immigrants,"¹² millennials are "digital natives,"¹³ who grew up never knowing what it means not to have easy, constant access to almost infinite online resources.¹⁴

Digital natives use technology to integrate their study material into their lives; they are not constrained by traditional ideas of studying.¹⁵ For these students, learning rarely happens in a library. They expect to be given instant access to information. They want entertainment and play integrated into their work, education and social life.¹⁶ Because Facebook, Instagram, Twitter and Snapchat have enabled millennials to instantly share and get feedback from their peers,

5 Frand "The information-age mindset: Changes in students and implications for higher education" 2000 *Educause Review* 15.

6 Wilson "The millennials: Getting to know our current generation of students" Fall 2008 *The International Journal of the Scholarship of Teaching and Learning* 4.

7 *Idem* 2.

8 High school principal as quoted in Richtell "Growing up digital, wired for distraction" *New York Times* (21-11-2010) available at <https://www.nytimes.com/2010/11/21/technology/21brain.htm> (accessed 30-05-2018).

9 Tapscott *Growing up digital: The rise of the net generation* (1998) 4-5.

10 George "Teaching the smartphone generation: How cognitive science can improve learning in law school" 2013 66 *Maine LR* 167.

11 Wallis "genM: The multitasking generation" (27-03-2006) *Time* available at <http://content.time.com/time/printout/0,8816,1174696,00.html> (accessed 08-06-2018).

12 Those for whom digital technology is a second language rather than a native tongue. Woempner "Teaching the next generation" (2006) *Mid-continent Research for Education and Learning* 2.

13 The term "digital native" is intended to reflect the technological adeptness and expectations of users who have grown up immersed in digital technology. *Ibid.*

14 Becker "Understanding the tethered generation: Net gens come to law school" 2015 *Duquesne LR* 10.

15 George 2013 66 *Maine LR* 168.

16 *Ibid.*

they expect light-footed feedback on assignments from their professors. They have a “need for speed” – that is, “technology has made rapid communication the new norm”.¹⁷ When contrasted with the manner in which most law professors of prior generations use technology, the rift in communication norms is wide indeed.

Millennials’ technological exceptionalism lies not only in their gadgets, but also in the way that they have integrated these gadgets into their social lives.¹⁸ By the time millennials arrive on university campuses, their digital devices have become extensions of themselves and are indispensable social accessories.¹⁹

However, millennials’ digital proclivities come at a price.²⁰

3 WIRED FOR DISTRACTION

Unfortunately, our students’ proficiency in the use of technology is rivalled only by their ability to be distracted by it.²¹ Students have always faced distractions and time-wasters. But computers and cell-phones – and the constant stream of stimuli which these devices offer – pose a profound new challenge to focusing and learning.²² Researchers say that the lure of these technologies, while affecting adults as well, is particularly powerful for young people.²³ The risk is that developing brains may become easily habituated to constantly switching tasks – and less able to sustain attention.²⁴

Michael Rich, an associate professor at Harvard Medical School and director at the Center on Media and Child Health in Boston, believes that millennials’ brains are rewarded, not for staying on task, but for jumping from one thing to the next.²⁵ Some experts assert that this near-constant engagement with technology alters the brain.²⁶ “The worry is”, Rich stated in an interview with the *New York Times*, that “we’re raising a generation of kids in front of screens whose brains are going to be wired differently”.²⁷

Neuroscientists have begun to understand what occurs in the brains of young people who are constantly online and in touch. Researchers at the University of California, San Francisco, have found that when rats have new experiences, such as exploring an unfamiliar area, their brains show new patterns of activity. However, it is only when these rats take a break from their exploration that they process those patterns in a way that seems to create a persistent memory.²⁸ In the

¹⁷ George 2013 66 *Maine LR* 168.

¹⁸ Pew Research Center *Millennials: Confident. Connected. Open to change* (2010-02-24) available at <http://pewsocialtrends.org/2012/02/24/millennials-confident-connected-open-to-change> (accessed 08-05-2018).

¹⁹ Wallis fn 11 above.

²⁰ See Donnison “Unpacking the millennials: A cautionary tale for teacher education” 2007 *Australian Journal of Teacher Education* 5.

²¹ Richtell fn 8 above.

²² *Ibid*; Wilson Fall 2008 *The International Journal of the Scholarship of Teaching and Learning* 9.

²³ Richtell fn 8 above.

²⁴ *Ibid*.

²⁵ *Ibid*.

²⁶ Wilson Fall 2008 *The International Journal of the Scholarship of Teaching and Learning* 9.

²⁷ Richtell fn 8 above.

²⁸ *Ibid*.

same vein, recent imaging studies in humans show that major cross-sections of the brain become surprisingly active during downtime. These brain studies suggest that periods of rest are critical in allowing the human brain to synthesise information, make connections between ideas, and develop a sense of self.²⁹ These are critical tools necessary to compete and succeed in modern life.³⁰ These studies have particular implications for millennials, whose brains have trouble focusing and setting priorities.³¹ So-called “multi-tasking”, and using ubiquitous, interactive and highly stimulating phones and computers, cause young, developing brains to become habituated to distraction and switching tasks – and not to focus.³²

4 SO-CALLED “MULTI-TASKING”

Human beings have always had the capacity to attend to several things at once. Mothers have done it since the hunter-gatherer era – picking berries while nursing an infant; stirring the pot with one eye on the toddler.³³ Electronic multi-tasking, therefore, is not entirely new: we have been driving while listening to car radios since they became popular in the 1930s.³⁴ But there is no doubt that the phenomenon has reached “warp speed” in the era of the Internet.³⁵

Each generation of adults sees new technology – and the social changes that it stirs – as a threat to the rightful order of things. Plato (correctly) warned that reading would be the downfall of the oral tradition and memory.³⁶ Each generation of teenagers embraces the freedoms and possibilities wrought by technology in ways that shock their elders.³⁷ These “digital natives” arrive at law faculties constantly “plugged in”, and able to access information at a moment’s notice, often during class time itself.³⁸ Yet, scholars agree that these students are entering law studies with weaker reading and reasoning skills than prior generations, due in large part to the way students “multi-task” through life.³⁹

“Multi-tasking” is an integral part of the millennial lifestyle.⁴⁰ As a landmark survey found, millennials between the ages of 8 and 18 report using multiple media simultaneously – computers and the Internet at the same time as video games, print media, music and cell-phones.⁴¹ Accustomed as they are to multiple stimuli, millennials report being bored in traditional classroom settings.⁴²

29 *Ibid.*

30 *Ibid.*

31 *Ibid.*

32 *Ibid.*

33 Wallis fn 11 above.

34 *Ibid.*

35 *Ibid.*

36 *Ibid.*

37 *Ibid.*

38 George 2013 66 *Maine LR* 164.

39 *Ibid.*

40 Barnes *et al* “Teaching and learning with the net generation” 2007 *Innovate: Journal of Online Education* 3.

41 The 2005 Kaiser Family foundation study as cited in *Ibid.* On average, the millennial students conduct the equivalent of 8.5 hours of media usage in 6 hours. Benfer and Shanahan “Educating the invincibles: Strategies for teaching the millennial generation in law school” 2013 *Clinical LR* 10.

42 Barnes *et al* 2007 *Innovate: Journal of Online Education* 3.

Millennials' techno-centric focus has led some researchers to refer to theirs as a "hypertext" mind-set – they bounce from activity to activity and person to person.⁴³

In his book, *The Shallows*, Nicholas Carr writes about the way in which we read and research information, and the impact this has on the information we retain and process:⁴⁴

“Whether I’m online or not, my mind now expects to take in information the way the Net distributes it: in a swiftly moving stream of particles. Once I was a scuba diver in the sea of words. Now I zip along the surface [as if] on a Jet Ski.”

Carr is of the opinion that the Internet is “chipping away [at his] capacity for concentration and contemplation”, and he is not alone in his trouble to focus on longer written pieces – one researcher dubbed his thinking as having absorbed a “staccato” form.⁴⁵ However, some view this “high-speed data processing” ability to quickly scan copious amounts of information as an efficiency tool that is making individuals more sagacious.⁴⁶ Other researchers have found that the rapid pace of technology is leading to a future in which most people are shallow consumers of information and that “immediate gratification” is the default response.⁴⁷

According to Carr, the “Google Generation” of students does not read from front to back, rather they are “skilled hunters for information”.⁴⁸ Instead of reading a document through once to understand the context of the work, because students often read on a screen, they tend to click on hyperlinks and move to other cross-referenced material, jumping from text to text, sometimes without reading the original document even once all the way through.⁴⁹

These skilful “Googlers” can pluck facts out of the ether at lightning speed. Millennials’ use of the Internet for immediate access to information has taught them to expect immediate answers.⁵⁰ On the whole, this conditioning has made them less likely to accept delayed gratification in learning, both in the classroom and when they enter law firms.⁵¹ But access to information does not always beget wisdom, or even minimal understanding.⁵² The problem is that this has effectively led to millennials conflating (and confusing) mere information management with knowledge.⁵³ They enter university believing that the skills necessary to conduct a Google search are the same skills needed to conduct thorough and accurate legal research.⁵⁴

43 Feiertag “Training generation N: How educators should approach the net generation” 2008 *Education and Training* available at <https://www.emeraldinsight.com/doi/full/10.1108/00400910810901782> (accessed 26-07-2018).

44 Carr *The shallows* (2010) 7.

45 *Idem* 6–7.

46 *Idem* 8, 16.

47 George 2013 66 *Maine LR* 169.

48 Carr (2010) 9.

49 *Idem* 8.

50 Barnes *et al* 2007 *Innovate: Journal of Online Education* 2.

51 *Ibid.*

52 Bohl “Generations X and Y in law school: Practical strategies for teaching the MTV/Google generation” 2008 *Loyola LR* 776.

53 See Barnes *et al* 2007 *Innovate: Journal of Online Education* 4.

54 Kaplan and Darvil “Think and practice like a lawyer: Legal research and the new millennials” 2011 *Legal Communication and Rhetoric* 163–164.

It seems that deep learning, which involves constructing new knowledge through the critical thinking process, has fallen victim to millennials' consistent multi-tasking and need for instant gratification – instantaneous answers that do not require deliberation or examination.⁵⁵ Of course, ingrained habits of instant gratification and shallow thinking will not endear millennial lawyers to supervising partners, and are most definitely not conducive to success in a career in law. For their part, millennials often maintain that the problem is lack of time, not lack of attention span or critical thinking ability that prevents them from slowing down, focusing and contemplating material deeply.⁵⁶

“Multi-tasking” has monumentally shifted the way in which students process information.⁵⁷ It is not uncommon to see students “media multi-tasking” – listening to music, working on an assignment and texting a friend, all at the same time. This “multi-tasking” is going on in the law classrooms as well. Texting has become such a routine part of students' class time that many of them do not even bother to do it surreptitiously. Students' bodies may be present, but their minds are not. At one time distracted students might have doodled during class, but Internet access has opened up a panoply of distraction: Facebook, Twitter, YouTube, Instagram, WhatsApp, and a variety of news blogs, to name a few. Some law faculties – including the likes of Harvard and Chicago no less – have blocked Internet access during class.⁵⁸ The trend of Internet-banning also seems stronger in law schools than other postgraduate or even undergraduate programmes, because in law school discussions and understanding the material are vital to academic success.⁵⁹

It is not difficult to understand that millennial students' “multi-tasking” habit may impair their ability to develop the ability to focus deeply, as well as be deleterious to their reading and reasoning skills.⁶⁰ This is problematic, because the study of law is inherently a deep-thinking experience, involving skills such as reasoning and solving complex problems. One of the major challenges for law faculties therefore is to educate today's Google-generation, net-savvy, media multi-tasker – who is used to non-linear, shallow thinking – in a way that allows for the development of deep thinking and reasoning skills.⁶¹

5 LIMITS OF ATTENTION

Many millennial students pride themselves on being efficient multi-taskers.⁶² Although many aspects of the networked life remain scientifically uncharted, there is substantial literature on how the brain handles multi-tasking. And, fundamentally, it does not.⁶³ It may seem that the millennial student is writing a text message, burning a CD, and telling her mother that she is working on her

55 See Barnes *et al* 2007 *Innovate: Journal of Online Education* 4; Benfer and Shanahan 2013 *Clinical LR* 9.

56 *Idem* 10.

57 George 2013 66 *Maine LR* 170.

58 Mortkowitz “More colleges, professors shutting down laptops and other digital distractions” *Washington Post* (25-04-2010) GO3.

59 *Ibid.*

60 George 2013 66 *Maine LR* 171.

61 See George 2013 66 *Maine LR* 172.

62 *Idem* 171.

63 Wallis fn 11 above.

assignment – all at the same time – but what is in fact occurring is rapid toggling among tasks, rather than simultaneous processing.⁶⁴ In essence, although the millennial student believes that she is doing more than one thing, she is in fact ordering the different activities and deciding which one to do at any one time.⁶⁵ Unless the tasks being performed are automatic (such as walking while chewing gum), most people who think that they are multi-tasking are actually “task-switching”, where the brain divides its attention between the tasks and attention shifts back and forth between them.⁶⁶

This switching from one task to another activates different neural circuits and different parts of the brain.⁶⁷ Students deeply focused on a goal or project use the pre-frontal cortex,⁶⁸ the brain’s manager, located behind the forehead.⁶⁹ It is important for maintaining long-term goals and achieving them. By contrast, “stimulus-driven” attention is more instinctual and automatic, and it engages the parietal cortex, deeper in the brain, which is always seeking new information and stimuli from the environment.⁷⁰ Stimuli that grab our attention – such as the ping from our smartphones announcing the arrival of a new e-mail or text message – attract the same part of the brain used to scan our environment for danger.⁷¹ The brain is wired to attend and respond to these seemingly important stimuli.⁷² Thus, each time students respond to a distraction, they lose some of the focus in which their prefrontal cortex was engaged. These distractions interfere with memory and the reasoning process.⁷³

Time and efficiency are lost each time the brain shifts tasks.⁷⁴ Researchers have found evidence that even more time is lost because of the so-called “restart cost” – the time required for the brain to get back to the point where it was when it left the first task.⁷⁵ The restart cost increases when the brain is interrupted from tasks that are more demanding and require more attention – such as, for example, a lawyer who answers the phone while reviewing a draft contract.⁷⁶ Experimenters have also concluded that there is a “response selection bottleneck” that occurs when the brain has to attend to more than one task at a time.⁷⁷ Time is lost when the brain has to decide which task to perform.⁷⁸

64 *Ibid.*

65 *Ibid.*

66 Enquist “Multi-tasking and legal writing” 2009 *Perspectives* 7–8.

67 Rosen “The myth of multitasking” 2008 *New Atlantis* 107.

68 Specifically, a region referred to as Broddman’s Area 10 in the brain’s anterior frontal cortex. Wallis fn 11 above.

69 Buschman and Miller “Top-down versus bottom-up control of attention in the prefrontal and posterior parietal cortices” 2007 *Science* 1860.

70 *Idem* 1862.

71 Jacobson “Paying attention or fatally distracted? Concentration, memory and multi-tasking in a multi-media world” 2010 *Legal Writing* 430.

72 Jacobson notes that “[h]umans’ evolutionary survival depended on noticing the flash of bright light, the thudding noise, the movement in the trees, the rush of water, or the unusual smell because novel or sudden changes could indicate an intruder, a food source or danger”. *Idem* 429.

73 *Idem* 430.

74 Rosen 2008 *New Atlantis* 107.

75 Waszak “Task-switching and long-term priming: The role of episodic stimulus-task bindings in task-shift costs” 2003 *Cognitive Psychology* 400, 406.

76 *Idem* 400.

77 Rosen 2008 *New Atlantis* 107.

78 *Ibid.*

There are other troubling aspects to “multi-tasking” in addition to this lost time and efficiency. It requires constant shift and switch, “energiz[ing] regions of the brain that specialise in visual processing and physical coordination”, and simultaneously “appear[ing] to shortchange some of the higher areas related to memory and learning”.⁷⁹ This leads to an increase in errors that can be directly related to multi-tasking.⁸⁰ It is not a stretch to conjecture that the lawyer who answers the phone while reviewing a draft of a contract is more likely to overlook an important provision than the one who gives the contract her undivided attention. In fact, accuracy can be reduced by as much as 20–40%, with the greatest reductions occurring when the task switches involve intellectually demanding work such as that which law students and lawyers perform – reading, reasoning and problem-solving.⁸¹

Law students and lawyers need to be able to engage in higher-order thinking skills – in-depth thinking and sophisticated legal work. Yet, multi-tasking may have a detrimental effect on the area of the brain that engages in deep thinking, since that part of the brain which is activated by distractions and task-switching, is the part that is not meant for deep focus.⁸² Carr writes:

“Just as neurons that fire together wire together, neurons that don’t fire together don’t wire together. As the time we spend scanning Web pages crowds out the time we spend reading books, as the time we spend exchanging bit-sized text messages crowds out the time we spend composing sentences and paragraphs, as the time we spend hopping across links crowds out the time we devote to quiet reflection and contemplation, the circuits that support those old intellectual functions and pursuits weaken and begin to break apart.”

Developing brains – such as those of millennials – can become more easily habituated than adult brains to constantly switching tasks – and less able to sustain attention.⁸³ It becomes a vicious cycle in which brains overloaded by distraction become even more susceptible to distraction.⁸⁴ In sum, when people try to perform two or more related tasks, either at the same time or alternating rapidly between them, errors increase significantly, and it takes far longer – often double the time or more – to complete the tasks than if they were completed sequentially.⁸⁵

According to David Meyer, director of the Brain, Cognition and Action Laboratory at the University of Michigan, despite millennials’ “mystique” as expert multi-taskers, with complicated tasks one will never be able to overcome the inherent limitations in the brain for processing information during multi-tasking. “It just can’t be, any more than the best of all humans will never be able to run a one-minute mile.”⁸⁶

79 Kirn “The autumn of multitaskers” (01-11-2017) *Atlantic* available at <http://www.theatlantic.com/doc/200711/multitasking>. <http://www.theatlantic.com/magazine/archive/2007/11/the-autumn-of-the-multitaskers/306342>.

80 George 2013 66 *Maine LR* 178.

81 Jacobson 2010 *Legal Writing* 430.

82 Carr (2010) 8.

83 See also Richtell fn 8 above.

84 Jacobson 2010 *Legal Writing* 441–442.

85 Wallis fn 11 above.

86 As quoted in *Ibid*.

Despite the emphasis on technology to define the millennial generation, it may also be seen as a metaphor for their perspective.⁸⁷ The focus is on doing, not knowing; what matters is action – the activity. For example, “text” is considered a verb and not a noun. The very nature of the World Wide Web – equality of all sources and the immediate face-value regardless of true validity – has presented millennials with greying lines between right and wrong, fact and fiction.⁸⁸

6 DECLINING ORAL COMMUNICATION SKILLS

Older generations of legal practitioners lament the fact that law graduates lack practical skills: They do not write well, have poor research skills, and are generally unprepared to practice law.⁸⁹ This perception does not bode well for law graduates to secure employment in law firms, because the practice of law is changing. Under growing pressure from clients to do more with less, law firms cannot as easily use the provision of legal services as a training opportunity for high-priced (or even low-priced) candidate attorneys and junior associates. For legal education this new economic reality suggests that law students are expected to enter the profession with well-defined skills and capabilities.⁹⁰

Despite being in constant contact with others through digital technology, the ability to communicate effectively seems to be lost in the millennial generation.⁹¹ What matters is how you express yourself, rather than whether others can understand what you have expressed. Thus, notes one professor, millennials “might be whizzes on their many communication devices, but their communication skills – both in writing and in person – have a long way to go”.⁹² As any public speaker knows, delivering a message effectively requires an understanding of the audience. Information technology is just a tool. And, as with all tools, if used properly, it can be an asset; if used improperly it can become an obstacle to achieving its intended purpose.⁹³ What matters then is an understanding of how to discern good information from bad, and to see it all in perspective.⁹⁴ This is defined as information literacy. Even more important is information fluency – the ability to grasp information literacy and apply critical thinking skills.⁹⁵

The ability to communicate effectively underlies every aspect of skilful legal practice. Effective communications skills, including oral, written and interpersonal skills, are foundational to individual and organisational success. When millennial lawyers start to practice, they must be able to understand their clients’ concerns and build rapport in order to develop the attorney-client relationship.

87 Feiertag fn 43 above.

88 *Ibid.*

89 Kaplan and Darvil 2011 *Legal communication and rhetoric* 157. With regard to the complaints by judges and practitioners with regard to the LLB degree, see generally Gravett “Pericles should learn to fix a leaky pipe – Why trial advocacy should become part of the LLB curriculum (Part 1)” 2018 *PELJ* 1–32; Gravett “Of ‘deconstruction’ and ‘destruction’ – Why critical legal theory cannot be the cornerstone of the LLB Curriculum” 2018 *SALJ* 285–323.

90 Floyd *et al* “Beyond chalk and talk: The law classroom of the future” 2011 *Ohio Northern Univ LR* 277.

91 Feiertag fn 43 above.

92 As quoted in *ibid.*

93 *Ibid.*

94 *Ibid.*

95 *Ibid.*

They must be able to listen carefully to the client and other parties to be able to conduct fact-investigations and interviews; they must know their audience and alter their writing and presentation styles accordingly; and their oral advocacy must be persuasive, thoughtful and on-point.⁹⁶

However, the type of communication expected in legal practice – oral communication especially – can be extremely difficult for millennial students, who are accustomed to communicate briefly and spontaneously via text-message or e-mail. Many millennials describe electronic communication as more comfortable than and preferable to face-to-face interactions, because they are sheltered from the visual reaction of the recipient.⁹⁷

7 LEARNING STYLES OF MILLENNIAL LAW STUDENTS

7.1 Introduction

Teaching millennial students is the subject of much discussion among legal educators.⁹⁸ Academic research into student learning is vast. Adult learning theory, educational philosophy, cognitive psychology and effective instructional design have become large and complex academic fields.⁹⁹ Thus, although I touch upon particular classroom techniques briefly, they are not the focus of this contribution. Rather, I am concerned with the broader and more fundamental attitudes of millennials which are likely to create even greater challenges to our efforts to educate lawyers.

The principal question that arises is whether this generation's defining traits warrant changes in the way we educate its members? This issue sparks intense emotions for both faculty and their customer service-oriented students.¹⁰⁰ "Tech-savvy millennials have lots of gadgets, like to multi-task, and expect to control what, when and how they learn."¹⁰¹ An American legal educator summarises the expectations of millennial students as follows:¹⁰²

"Change your teaching style. Make blogs, iPods and video games part of your pedagogy. And learn to accept divided attention spans. A new generation of students has arrived – and sorry, but they might not want to hear you lecture for an hour."

Millennials expect to be able to choose what kind of education they purchase, and what, when and how they learn.¹⁰³ To meet their demands, millennials expect universities to rethink the way in which they operate. Millennials would like to see more videos (and even video games), classes that meet electronically to fit students' schedules, students who choose to learn from each other rather than a professor, and course materials, search engines and library databases that are animated, image-based and interactive.¹⁰⁴

⁹⁶ Benfer and Shanahan 2013 *Clinical LR* 33.

⁹⁷ *Ibid.*

⁹⁸ See *Idem* 5 n18 and the sources cited there.

⁹⁹ Floyd *et al* 2011 *Ohio Northern Univ LR* 263.

¹⁰⁰ Feiertag fn 43 above.

¹⁰¹ Carlson "The net generation in the classroom" (2005-10-07) *Chronicle of Higher Education* available at <https://search-proquest-com.uplib.idm.oclc.org/printviewfile?accountid=14717> (accessed 30-05-2018).

¹⁰² Carlson fn 101 above.

¹⁰³ *Ibid.*

¹⁰⁴ *Ibid.*

A significant number of writings exist about the learning styles of millennials and the implications of these styles for classroom pedagogy.¹⁰⁵ Growing up in the era of laptops, smartphones and tablets allows millennials to be (or, rather, allow them to believe to be) expert multi-taskers. Thus, the single “talking head” approach to traditional law school classrooms may not serve these students well. These students may also expect greater visual content than the traditional law school classroom provides, because they were raised on streaming video and high-resolution video games. Others have contended that this constant exposure to advanced forms of technology has shortened the attention spans of millennials compared to previous generations.¹⁰⁶

7.2 From “sage on the stage” to “guide on the side”

From educational experts we learn that millennials need self-directed learning opportunities, interactive environments, multiple forms of feedback, and assignment choices that use different resources to create personally meaningful learning experiences.¹⁰⁷ Millennials tend towards independence and autonomy in their learning styles, and making conscious choices about what learning techniques work best for them.¹⁰⁸ They want more hands-on, inquiry-based approaches to learning, and are less willing and able simply to absorb what is put before them in auditory format, such as a lecture.¹⁰⁹ Multi-media is the millennial student’s favourite mode of learning.¹¹⁰ They are more engaged if the lesson is entertaining and exciting. Millennial students respond best to simulations and real-life opportunities.¹¹¹ This revolution in learning styles has grown out of the ingrained habits of seeking and retrieving information from the Internet – which marks a striking contrast to previous generations of students, who tended to acquire information from authority figures.¹¹²

Price sums up the millennial’s ideal learning environment as: (i) utilising a multi-media format, including podcasts, online activities, video and PowerPoint; (ii) consisting of “real examples” that are “relevant” to their culture; and (iii) being “interactive” and “participatory”.¹¹³

We now see what can be described as a drift toward a pronounced student preference for “self-service education”.¹¹⁴ Today, the capacity to acquire information, shop, trade, and do almost anything without human mediation is

105 See Berenson “Educating millennial law students for public obligation” 2008–2009 *Charlotte LR* 53 n15 and the sources cited there.

106 *Idem* 53–54. Eleven percent of American millennials have been diagnosed with ADHD. Mohan “PS: If you’re 20 or younger, you are NOT a millennial” (2016-04-25) *The Boston Globe* available at <https://www.bostonglobe.com/business/2016/04/25/who-are-generation/Zd6TMLIRYKgH0xvbLNFh8O/story.html> (accessed 08-05-2018).

107 Barnes *et al* 2007 *Innovate: Journal of Online Education* 2.

108 *Ibid.*

109 *Ibid*; Bohl 2008 *Loyola LR* 784–785.

110 Benfer and Shanahan 2013 *Clinical LR* 10.

111 *Ibid.*

112 Barnes *et al* 2007 *Innovate: Journal of Online Education* 2.

113 Price “Why don’t my students think I’m groovy?: The new ‘R’s for engaging millennial learners” August 2009 *Teaching Professor* 32.

114 See Gardner “Professionalism and self-denial” (2012-07-25) *The Faculty Lounge* available at <http://www.thefacultyounge.org/2012/07/professionalism-and-self-denial.html> (accessed 08-05-2018).

conceived of as a right or, at a minimum, a new baseline norm. I am concerned that many of our students not only would prefer to acquire as much of their legal education as possible without human interaction, but that many of them are flummoxed by interpersonal contact with other human beings, especially ones that they do not know well. I find this trend worrisome as it relates to training lawyers to function proficiently in professional environments.¹¹⁵

Of course, millennials' resistance to established pedagogy is not without merit. Much of university instruction is loosely organised, with undefined outcomes, in classes that emphasises passive listening to lectures that transmit low-level information, and assessments that demand only the recall of memorised materials or low-level comprehension.¹¹⁶

Millennials are even less inspired than prior cohorts of students by the expectation that students memorise and regurgitate unapplied knowledge-level factoids, and may actively rebel against doing so.¹¹⁷ This is especially true in the wired age when most "facts" are readily retrievable online from any cell phone.¹¹⁸ Incorporating facts into theory, applying theory to real life, and demonstrating the worth of information can improve students' critical, creative and practical thinking skills.¹¹⁹

It is not always easy for experienced teachers to recognise that the way in which they were taught and the way in which they have taught are not effective for millennial students. In 1993, Alison King coined the phrase "sage on the stage" to describe the age-old common pedagogy of the university teacher as the expert and the student as the recipient of information.¹²⁰ The instructor acting as the "sage on the stage", especially when those lectures share only knowledge-level information, is a discredited model that provides an educationally ineffective service.¹²¹ King called for a move away from this model to one in which the teacher instead becomes the "guide on the side" – a model of active and collaborative learning in which teachers act as facilitators of a learning environment co-constructed with students.¹²² In this model, the teacher's role is rather to help students learn from outside sources and from each other, than to leverage the teacher's knowledge and experience to the direct learning enterprise.¹²³

Other educators, however, object to the pressure of reshaping higher education to meet millennials' expectations.¹²⁴ For example, Naomi Baron, a professor in world languages at American University, believes that the move to incorporate technology, reduce lecture time, and reshape assignments to engage impatient

115 *Ibid.*

116 Taylor "Generation NeXt comes to college: 2006 Updates and emerging issues" in *A Collection of Papers on Self-Study and Institutional Improvement Vol 2 Ch 2* (2006) 2:49.

117 *Idem* 2:52.

118 *Ibid.*

119 *Ibid.*

120 King "From sage on the stage to guide on the side" 1993 *College Teaching* 30.

121 Taylor (2006) 2:51.

122 King 1993 *College Teaching* 35.

123 Berenson 2008–2009 *Charlotte LR* 61. See also Kronman *The lost lawyer: Falling ideals of the legal profession* (1993) 264.

124 Barnes *et al* 2007 *Innovate: Journal of Online Education* 2.

millennials merely caters to their lack of discipline.¹²⁵ Baron explains that millennials have very short attention spans, in part because of the media that their parents and educators have encouraged them to use, and in part because we have not taught them to have longer attention spans.¹²⁶ Baron states:¹²⁷

“It’s very common to hear people say, Here’s the Millennial or the digital generation, and we have to figure out how they learn. Poppycock. We get to mold how they learn.”

The problem is that anyone today can be some kind of information broadcaster via media such as websites, blogs and podcasts. Fewer and fewer people cultivate the skill crucial to practicing law – just to listen.¹²⁸ Education, for better or worse, used to be founded on the premise that the person in front of the class had something to share. Now they have become nothing more than facilitators of group discussions among students.¹²⁹

That means that millennials are products not only of a constant barrage of information, but also of an educational system that has lost the ability to impart skills.¹³⁰ Overwhelmingly, Baron is concerned that universities cater to a generation that wants to move faster and faster. University teachers are abandoning a core lesson: Teaching students how to think on their own; how to be contemplative.¹³¹

“We are not teaching students, Sit by yourself, take a walk by yourself and think – think through a problem. I don’t mind group work . . . [b]ut some of this you have to learn to do on your own, and it takes quiet.”

We, as law teachers, have an important obligation to instill in our students the benefits of slowing down, focusing, and to teach our students how to think on their own and to communicate their ideas clearly.¹³² After all, these are the skills that will become of paramount importance when they enter law firms. It is highly unlikely that law firms will adjust their expectations and practices in light of millennials’ digital characteristics, such as having a sense of immediacy, a short attention span, and a propensity to boredom.¹³³

Some legal educators take a lighter stance on the question of how millennials learn, and consider altering their delivery to some degree.¹³⁴ While they are resistant to major change, there seems to be considerable agreement that the cliché of the tweed-wearing, lecturing professor at the front of the room may not meet the end-goal of educating millennial students.¹³⁵ This generation, for better or worse, does not respond well to lectures and has become accustomed to inter-activity. To millennials, regurgitation of facts is just data and not learning.¹³⁶

125 *Ibid.*

126 *Idem* 3.

127 Carlson fn 101 above.

128 *Ibid.*

129 *Ibid.*

130 *Ibid.*

131 *Ibid.*

132 Barnes *et al* 2007 *Innovate: Journal of Online Education* 3.

133 Donnison 2007 *Australian Journal of Teacher Education* 6.

134 Feiertag fn 43 above.

135 *Ibid.*

136 *Ibid.*

Adapting to millennials' learning styles should not be seen as pandering to consumer-oriented students; rather, it reflects and respects the realities of how people learn and what is required to help students make meaningful changes. After all, at the heart of learning is attention, because without it there can be no memory.¹³⁷ Thus, holding students' attention in class is imperative to learning.¹³⁸ This model certainly does not advocate for a "dumbing down" of the curriculum. It may actually help students to move to higher-order thinking and more sophisticated learning goals.¹³⁹

7.3 Teaching must be goal-oriented

There are many ways to motivate students, but the best motivation occurs when the learning is goal-oriented.¹⁴⁰ The goal of a module, and each component of a module, should be made clear to students.¹⁴¹ In addition, "adult learners" (a term that includes university students) need to see the relevance of the subject-matter to their lives. It is crucial for millennial law students to see the real world application of the knowledge and skills to their future careers.¹⁴²

The immediacy of information for millennial students is in drastic contrast to members of previous generations who experienced information as difficult to acquire.¹⁴³ For Baby Boomer and Generation X students, information was in distant libraries or waiting to be discovered in a stack of papers. These older generation students, thus, strove to retain information, and, as part of the retention process, to organise and synthesise it.¹⁴⁴ Millennial students do not become interested in specific information until they see the need for it. In other words, millennials, already awash in information from omnipresent technological resources, must feel that facts or concepts are of some immediate usefulness before they will be retained.¹⁴⁵ This tendency leaves them less likely to build a broad understanding of a specific area of law.¹⁴⁶ Moreover, millennials prefer to conduct research on the Internet to using books, which often results in a more fragmented understanding of the law.¹⁴⁷

Millennials are willing to work hard, but they want to produce the work as quickly as possible, and receive a distinction for their efforts.¹⁴⁸ Millennial students do not value information for information's sake.¹⁴⁹ Any topic or lecture that cannot demonstrate its utility and meaning to millennial students will be immediately suspect.¹⁵⁰ An approach of "you have to know this because it will

137 George 2013 66 *Maine LR* 173.

138 *Idem* 175.

139 Taylor (2006) 2:52.

140 Floyd *et al* 2011 *Ohio Northern Univ LR* 268.

141 *Ibid.*

142 *Ibid.*

143 Bohl 2008 *Loyola LR* 782. See also McGaugh 2003 *Legal writing* 120.

144 Bohl 2008 *Loyola LR* 782.

145 Ingham and Boyle "Generation X in law school: How these students are different from those who teach them" 2006 *Journal of Legal Education* 289.

146 McClellan "Externships for millennial generation law students: Bridging the generation gap" 2009 *Clinical LR* 268.

147 *Idem* 269.

148 *Ibid.*

149 Price August 2009 *Teaching Professor* 33.

150 Taylor (2006) 2:52.

be tested” or “you must take this module because it is part of the core curriculum” is guaranteed to discredit both the information and the instructor. To millennials, it tends to demonstrate that there is no use for the information other than to meet meaningless requirements without concern for the students’ needs.¹⁵¹ It is essential for each instructor to articulate a rationale for the necessity of her subject, based on real-world application, and making learning outcomes relevant to millennials’ professional futures.¹⁵²

8 Conclusion

Law professors teaching prior generations were purveyors of information, revered for the information they could impart. Information, knowledge and wisdom seemed inextricably connected.¹⁵³ For millennial students, instant access to information through technology has severed this connection. Millennial students are expert gatherers of information, or so they perceive themselves to be.

Millennial students block out information that they do not perceive as immediately necessary. By the same token, however, they show profound enthusiasm for learning that they perceive as useful, relevant and timely.¹⁵⁴ Thus, law teachers should engage students with personal insight, experience and energy. Information is just a click away. The effective law teacher must demonstrate to millennial students that she is more than merely the sum of her knowledge. She can breathe life into the information and so synthesise it into a meaningful whole.¹⁵⁵

As law teachers we become more effective when we inject our individual experience and energy into the classroom experience. We need to communicate information about ourselves and our professional experiences. We can tell illustrative anecdotes. We can recount our own misunderstanding or failures as law students.¹⁵⁶ Our experiences and insights might provide students with information that they perceive as immediately helpful to them.

University law faculties expect law firms and other legal employers to train their graduates to be practitioners.¹⁵⁷ However, because of difficult economic times and increasing expectations from candidate attorneys regarding entry-level salaries, many law firms are less interested in playing this role, and are frustrated with millennial lawyers’ lack of training and skills.¹⁵⁸ Other law firms have been forced to implement training boot camps for candidate attorneys. This reflects poorly on both new attorneys and the law faculties they emanate from.

Most law students receive little guidance in their professional development – including their professional identity and interpersonal skills – because law faculties focus on doctrine and analytical skills.¹⁵⁹ Curriculum choices could, to

151 *Ibid.*

152 *Ibid.*; Price August 2009 *Teaching Professor* 33.

153 Bohl 2008 *Loyola LR* 791.

154 *Idem* 796.

155 *Idem* 793.

156 *Idem* 794.

157 Kaplan and Darvil 2011 *Legal Communication and Rhetoric* 161.

158 *Ibid.*

159 Vinson “Hovering too close: The ramifications of helicopter parenting in higher education” 2013 *Georgia State Univ LR* 447.

some extent at least, be informed by professors' awareness of the difficulty that millennials have with transitions into higher education and the professional world.¹⁶⁰ Exposure to law practice and employers – through clinics, expert speakers and skills training throughout the curriculum – can help educate, acclimate and prepare law students for the rigours, demands and expectations of entering law practice upon graduation.¹⁶¹ Moreover, law professors can help their millennial students transition into the workplace by explaining that assignments, policies and deadlines in a course are grounded in the realities of the practice and procedures that students will face upon graduation.¹⁶²

Faculty should engage in self-reflection and consider whether they are engaging in helicopter teaching by constantly reminding students of deadlines, continuously checking up on them, being reachable by cell phone or e-mail at all times, constantly giving students extensions – rather than see their students falter.¹⁶³ Better for students to learn some of the hard lessons in the relative cloistered environment of the law faculty, rather than in practice at the client's expense. After all, our goals as educators include teaching law students self-reliance, confidence, independence and self-awareness.¹⁶⁴

Whether we like it or not, the millennial learner is the new generation of law student whom we must teach and serve. We must, however, do more – we must also inspire this generation. And to aid us in this challenging endeavour we should perhaps continually remind ourselves of the aphorism of Plutarch: “The mind is not a vessel that needs filling, but wood that needs igniting”.¹⁶⁵

160 *Ibid.*

161 *Idem* 448.

162 *Ibid.*

163 *Ibid.*

164 *Ibid.*

165 Plutarch *Essays* (Robin Waterfield trans) (1992) 50.