



South African University Law Clinics Association
(Previously known as AULAI “Association of University Legal Aid Institutions”)

2015 SAULCA Workshop, Durban

Conference Report

1. Planning and Preparations:

The Planning Committee consisted of the following members:

1. Shamiel Jassiem
2. Eddie Hanekom
3. Chrisna Landsberg
4. Marc Welgemoed
5. Daven Dass
6. Sakkie Muller

The Planning Committee met on 4-5 March 2015 at Durban. The rest of the planning was conducted via e-mail and telephone conferences.

2. General Overview of the Conference.

The 2015 SAULCA Conference was held in conjunction with the Society of Law Teachers of Southern Africa (SLTSA) conference at the Durban North campus of Varsity College from 7-9 July 2015.

Delegates from 17 university law clinics attended the workshop. The represented universities were North West University (Potchefstroom Campus), North West University (Mafikeng Campus), University of Cape Town, University of the Free State, University of Stellenbosch, University of the Western Cape, Nelson Mandela Metropolitan University, Rhodes University, University of the Witwatersrand,

University of Johannesburg, Fort Hare University, University of Limpopo, University of Pretoria, University of South Africa, University of Venda, Walter Sisulu University and University of KwaZulu-Natal, Durban Campus.

The conference consisted of two parts. The SLTSA conference where, *inter alia*, papers were presented on Clinical Law and the SAULCA workshop and Annual General Meeting.

2.1 The SLTSA Conference.

Delegates arrived in Durban on 7 July 2015 and were shuttled from the airport to the Balmoral Hotel and thereafter to the conference venue at the Varsity College, Durban North Campus. After registration delegates attended sessions of their choice and received instructions regarding arrangements for the Lexis Nexis Dinner held at the Breakers Resort in Umhlanga.

Day 2 commenced with delegates being shuttled to the conference venue. During the morning session delegates attended the plenary sessions with the parallel Clinical Law Session commencing at 10:30 chaired by Sakkie Muller. Papers were presented on the following topics:

- The incorporation of justice education through clinical legal education in the LLB programme design – Prof. J. Cambell, Rhodes University.
- Quo vadis the ‘Bleeding Heart’ Law Clinician – welcome to the real world – Prof. J. Bodenstein, Rhodes University.
- Assessment of students in law clinics: Choose best practises for specific circumstances – Mr. E.J. Hanekom, University of Johannesburg.
- The use of Pre-trial Conferences in South African Criminal Matters – Mr. N. Chetty, University of Fort Hare.
- Does awarding rights of permanent residence in terms of Section 31 of the Immigration Act amount to circumvention of the Attorneys Act? – Mr. P. Nkala, University of Pretoria.
- The attorney’s intervention in a student’s law clinic experience: A reality check – Mrs. E Radley, University of Johannesburg.
- First do no harm – Best practice for clinical law supervisors – Ms. J. Hillier, Rhodes University and Mr. M. Welgemoed NMMU.

The papers delivered were all of high quality and relevant and the presenters are congratulated for their efforts. Noteworthy is the fact that clinicians not only managed to fill a full parallel session at such a prestigious conference but that the papers delivered were of such high standard and further taking cognisance of the fact that three of the papers presented were delivered by first time presenters. This concluded

the SLTSA part of the programme apart from the gala dinner hosted by Juta at the Sibaya Casino and Entertainment Centre.

2.2 SAULCA ANNUAL GENERAL MEETING

The annual general meeting took place the afternoon of the 8th of July 2015 (day 2) after all the delegates were welcomed by the president, Prof. Jobst Bodenstein. The minutes of the previous AGM held on 2 July 2013, the President's Report, the Secretary's Report and the Treasurer's Report were approved by the members.

It was resolved that Mr. Nelis Coetzee be appointed as SAULCA's accounting officer in compliance with the statutory requirements for registration as a Non-Profit Organisation, including the necessary application for tax exemption in accordance with the mandate given to the executive committee at the previous AGM in that regard and further to effect the necessary changes to the constitution. On 7 July 2015 the executive committee received an e-mail message from the Department of Social Development indicating that SAULCA's application for registration as an NPO is incomplete with regards to governance and financial transactions. This necessitated that a special general meeting be convened to approve the required amendments to the constitution. Due to the short notice members were requested to dispose with the required notices for (1.) convening a special general meeting; and (2.) the amendments to the Constitution. It was resolved that a special general meeting will be convened for 9 July 2015 at 09:00 at Varsity College, Durban.

It was further resolved that the annual membership fees for 2016 will be increased to R 1500,00 per law clinic and that regional division and representation must be considered for the next AGM.

The elections of the SAULCA executive committee then took place. No nominations were received for the position of Assistant Secretary and five nominations for additional members. The elections were presided over by Mr. Schalk Meyer and the following members were elected to the executive committee:

Shamiel Jassiem (University of the Western Cape) as President
Eddie Hanekom (University of Johannesburg) as Vice-President
Chrisna Landsberg (North West University, Potchefstroom Campus) as General Secretary
Delecia Adams (University of the Western Cape) as Treasurer
Sakkie Muller (University of the Free State) as Additional Member
Varni Moodley (University of Cape Town) as Additional Member
Daven Dass (University of Witwatersrand) as Additional Member
Frik Grobler (University of Pretoria) as Additional Member

These elections heralded the end of the term of the outgoing president Prof. Jobst Bodenstein as President and Ms. Jaylynn Hillier and Mr. Marc Welgemoed as additional members. The outgoing members of the executive committee were thanked for their invaluable leadership, contributions and hard work during their respective terms. The newly elected President thanked the members and the meeting was adjourned. The day ended with members enjoying the Juta Gala Dinner.

2.3 SOCIAL GENERAL MEETING

A Special General Meeting was held on the 9th of July 2015 in order to effect the required changes to the SAULCA Constitution in order to comply with the requirements for registration as a NPO. The members were welcomed by the President, Shamiel Jassiem. The following was resolved at the meeting:

1. An additional section to the Constitution to be added regarding the **Governance** of SAULCA stating that the executive committee will manage the association, that the office bearers will be elected according to the Constitution and what the compilation of the office bearers of the executive committee will be.
2. Should it be necessary to change the wording in the Constitution, the phrase “executive committee” be replaced with “management committee”.
3. An additional section to the Constitution to be added regarding **Financial Transactions** to the effect that SAULCA’s financial transactions shall be conducted by means of a banking account.
4. The executive committee will determine the placing of the additional paragraphs in the Constitution and vary the numbering of paragraphs in the Constitution as needed.

The members were thanked for their support and the meeting adjourned.

2.4 THE WORKSHOP

The promulgation of the Legal Practice Act (LPA) and the discussions regarding the LLB degree, ushered in fundamental changes to the legal profession in its entirety. These changes profoundly affect the functioning of university law clinics and the importance of clinical legal education (CLE) programmes which warrant further discussion and require input from clinicians. Bearing the above in mind as the broad theme, the workshop was more specifically directed at receiving and collating inputs from members regarding funding proposals to the LLB Task Team and representations to the National Forum on the Legal Practice Act which will be discussed in more detail below.

As a point of departure Prof. Jonathan Campbell addressed the delegates on the National Review of the LLB giving a brief overview of the topic. Prof. Campbell indicated that during the 2013 LLB Summit it was agreed:

1. To set up an LLB Task Team to address, *inter alia*, the duration / structure of the LLB; liaison between academia and the profession; challenges encountered at practical legal training (PLT) schools; funding levels for law schools and clinics. The task team is now ‘on ice’ in view of the national review of the LLB.

2. To develop a qualification standard for the review of the LLB degree with the view to a national review. The standard was developed by a working group after consultation with stakeholders in each province. He indicated that final approval of the standard by the Council on Higher Education (CHE) is imminent.

Prof. Campbell stated that all programmes leading to the LLB will be reviewed against this qualification standard with the envisioned end result being a decision by the Higher Education Quality Committee (HEQC) in respect of re-accreditation of each programme.

The process will involve extensive, evidence based self-evaluation reports to be drafted by all faculties and a review panel visiting faculties to do assessments culminating in a report containing recommendations regarding various matters for example the duration of the LLB degree and the national funding formula. He indicated that the LLB is on the bottom rung of the funding formula which is inappropriate considering the expense of properly maintaining a law clinic. The review is not intended to directly address the LLB curriculum.

Of great importance for law clinics is clinicians familiarising themselves with the aspects of the Standard relevant to clinics and actively engaging with their respective deans and to participate in the process and make contributions. The content of the Standard relevant to law clinics are:

- The Preamble (transformative constitutionalism; social justice)
- Purpose (preparation for practice; the values and principles of the constitution; application of knowledge to professional contexts)
- Knowledge (there is specific reference to CLE)
- Skills (critical thinking and research skills have some relevance to CLE)
- 'Applied competence', (CLE has a role in most of these, including: ethics and integrity; communication skills and literacy; numeracy; problem-solving; self-management; transfer of knowledge; agency, accountability and service to the community)
- Assessment (CLE offers a wonderful array of innovative assessment methods: oral and written, individual and group, mostly formative but also summative).

After tea the members were introduced to and given some background regarding the current status of the topics for the group discussions by Daven Dass and Eddie Hanekom being:

1. Funding proposals to the LL.B Task Team, and

2. Representations to the National Forum on the Legal Profession.

The objectives of the discussion groups were to receive composite inputs from members for proposals on law clinic funding to the law representatives on the LL.B Task Team and the positioning, structures and funding of law clinics to the respective Law Society representatives on the National Forum. The envisaged outcome of the group discussions were to collate the inputs and to draft a coherent document suitable as motivation by SAULCA to the LL.B Task Team and in respect of the National Forum either directly by SAULCA or through the representatives from the various Law Societies. Members were then divided into groups with the request to discuss the various issues contained in a working document prepared for this purpose.

The feedback regarding the first topic of discussion indicated above may be briefly summarized as follows:

1. Members listed the core needs to be able to operate a functional clinic. These include suitable premises (office) funded by the university including adequate space for members of staff, the basic office equipment required to function effectively, staffing needs and transport.
2. Members indicated that different clinics have different views on the payment of disbursements. Some clinics require clients to pay it directly and some require clients to pay a deposit at the law clinic. Of importance is to have funds available in the budget to cover these expenses where clients fail to pay them.
3. Members were in principle agreeable that SAULCA present a budget to the LLB Task Team. The funding formula will depend on whether the live client model or simulations are used and the student / supervisor ratio, with a suggested maximum ratio of 1:40 for the live client model.
4. Members agreed that a good relationship should exist between the dean of the respective faculty and the law clinic for purposes of communication with the LLB Task Team and that SAULCA should preferably lobby on behalf of law clinics as collective bargaining would be more effective.
5. The proposal reached was that law clinics should have a basic model regarding the core requirements to run a law clinic. Uniformity regarding these basic requirements is important. When lobbying, the importance of the courses offered by law clinics and the value of the work done should be stressed whether lobbying individually or collectively through SAULCA.

The feedback regarding the second topic of discussion indicated above may be briefly summarized as follows:

1. Members expressed different views regarding the requirement to have a trust account and Fidelity Fund Certificate. Some were of the opinion that the LPA is accepted as it is and the trust account is simply not used. The audit requirement of the trust account will lead to expenses in this regard for law clinics. Others were of the opinion that law clinics like Legal Aid South Africa should be exempted from the requirement. It was noted however that as long as a law clinic accepts money from clients a Fidelity Fund Certificate is required.
2. All the groups were *ad idem* that provision should be made for 10 Candidate Attorneys per law clinic Principal.
3. The groups all agreed that due to the fact that 'community service' is not properly defined in the LPA this issue may be problematic and this issue should be addressed.

The conclusion reached at the end of the group discussion were that well researched and substantiated submissions need to be drafted and these submissions be presented to the National Forum.

In conclusion it can be said that the 2015 SAULCA workshop proved to be a successful endeavor. The members that presented papers at the Law Teachers Conference are congratulated with the quality of the work presented and thanked for the positive and valuable contribution made to the field of Clinical Legal Education. The inputs of the attending members are of critical importance during this period of change to the legal profession and of utmost importance in the ongoing efforts of SAULCA to address the issues affecting law clinics.

The Executive Committee wishes to convey its gratitude to the AULAI Trust for their generous financial support without which events like these would not be possible.

