



South African University Law Clinics Association

2019 SAULCA Workshop

University Law Clinics' (ULC's) experiential navigation of the changing legislative landscape in the context of 4th Industrial Revolution

1. Planning and Preparations

The Executive Committee of SAULCA hosted the 2019 SAULCA Workshop. The executive committee consisted of the following members:

- Shamiel Jassiem
- Eddie Hanekom
- Chrisna Landsberg
- Simon Rasikhalela
- Marc Welgemoed
- Daven Dass
- Matilda Smith
- Schalk Meyer

The Executive Committee met on 27 – 28 March 2019 at the University of KwaZulu-Natal, Durban Campus Law Clinic to plan the upcoming workshop. The rest of the planning was conducted via e-mail and telephone conferences.

Lizelle du Pisani, North-West University, Potchefstroom Law Clinic attended to the logistical arrangements for the workshop.

2. General Overview of the Workshop

The 2019 SAULCA Workshop was held at the Venue Country Hotel, Broederstroom from 18 – 20 November 2019.

Delegates from 17 university law clinics (hereinafter referred to as ULCs) attended the workshop.

The represented ULCs were the University of Fort Hare, Nelson Mandela University, University of Johannesburg, University of Witwatersrand, University of Pretoria,

Rhodes University, University of the Free State, North West University (Potchefstroom Law Clinic), North West University (Mafikeng Law Clinic), University of KwaZulu-Natal (Durban Law Clinic), University of KwaZulu-Natal (Pietermaritzburg Law Clinic), University of Venda, University of Cape Town, University of Stellenbosch, University of the Western Cape, Walter Sisulu University and the University of Limpopo.

The workshop endeavoured to reflect on the following:

- How the Legal Practice Act changed the landscape for ULCs.
- What the future challenges are and how SAULCA position itself to be a major role player for ULCs?
- Access to Justice: the nebulous concept of “community service” for candidate legal practitioners and practitioners and how ULCs can contribute and / or may benefit from such developments?
- Interpretational issues surrounding the admission of attorneys and advocates with reference to section 115 of the Legal Practice Act.
- The advent of the section 34(2)(a) advocate that will be in possession of a Fidelity Fund certificate and a trust account.
- Access to justice, how do we raise the voice of ULCs, e.g. in the debate on legal costs?
- The new Code of Conduct: its impact on ethics and professional responsibility.
- Is there other legislation e.g. the Protection of Personal Information Act (POPI) that currently must be considered to have an impact on the operations of ULCs.
- How ULCs can improve and reposition for 4IR teaching and learning, as well as access to justice, through the use of technology and blended learning.
- In what ways do ULCs already implement technology?
- How can ULCs improve their operations in the future by embracing technology?
- Alignment to the strategic mission and vision of the Constitution of SAULCA.
- Review and configure the language of the whole Constitution in light of the changing legislative framework.
- Requirements for membership and an annual membership registration form.
- Executive Office Bearers: Nomination, Election and Removal.
- The inclusion of Independent / Private Higher Education Institutions’ Law Clinics’ eligibility for SAULCA membership.

The workshop was aimed at formulating an implementable plan and guide which will see the positive positioning of ULCs as well as facilitate the modernization of clinical legal education offered by ULCs in the wake of the changing landscape of the practice of law, both from a uniquely South African perspective, based on the dynamic changes to the law and from an international perspective brought on by the 4th Industrial Revolution.

This report attempts to collate the input and considered reflection of delegate clinicians into a single document that can serve as a non-binding general guideline to SAULCA and South African ULCs on how to approach the issues debated at the workshop.

The comments raised and views shared at the workshop inform SAULCA's mandate from its constituents as to how to address these pertinent and relevant issues which affect ULCs.

3. Day 1 of the Workshop

3.1 Arrival and registration

Delegates arrived on 18 November 2019 at the Venue Country Hotel, Broederstroom. After registration, welcome address, introductions and housekeeping delegates attended an address by Deputy Minister of Justice and Constitutional Development, Mr. John Jeffery.

3.2 Deputy Minister of Justice and Constitutional Development, Mr. John Jeffery

Mr. Jeffery reflected on several aspects such as the extreme poverty and inequality that most universities in Africa are surrounded by, resulting in ULCs not being able to afford purely simulated clinical legal education programmes as is sometimes done in more developed countries (David McQuoid-Mason, University of KwaZulu-Natal). He referred to the 2018 Foundation for Human Rights' Baseline Survey of Constitutional Awareness which indicated that higher levels of poverty are often linked with lower awareness of the Constitution and the Bill of Rights. Access to constitutional rights are not enjoyed equally by all and very few can afford legal fees of private legal practitioners, or they live in rural and deep rural areas and legal assistance is not available or easily accessible. This results in a lack of access to justice for vulnerable and marginalised people.

Mr. Jeffery affirmed that ULCs are an essential part of making access to justice a reality in our country. He confirmed that through providing free legal services to indigent communities and practical legal education of senior law students and candidate legal practitioners, ULCs contribute towards ensuring access to justice and fostering public confidence in the law.

The Legal Practice Act recognises ULCs and to a certain extent regulates the functioning of ULCs by way of section 34 of the Act (together with rules 36 and 37). In terms of section 29 of the Legal Practice Act community service is to be performed as part of practical vocational training for candidate legal practitioners, as well as for the continued enrolment of legal practitioners. The duration, places where and types of community service that may be rendered must still be prescribed by regulation by the Minister after consultation with the Legal Practice Council. SAULCA members were invited to submit comments on such regulations, however only the University of Johannesburg submitted comments.

The Legal Practice Council may also advise the Council for Higher Education regarding relevant matters including the desirability of including in LLB curriculum a form of community service to be performed by law students.

Most members of the parliamentary committee agreed that legislation for community service should be passed for candidate legal practitioners and legal practitioners. Draft regulations for the above mentioned will be published in due course for public comment.

It is agreed that community service should be seen as an important way to give back to society (to be a vehicle to serve the community). It is important to take into account that one size does not fit all. Smaller law firms should not be overburdened with community service. Community service should enhance access to justice and sensitise legal practitioners to the needs of the indigent.

In terms of the Rules of the former Law Societies, attorneys had to perform 24 hours of pro bono services at structures recognised by Law Societies. The Law Societies seems to have generally accepted that these structures where attorneys could comply with their 24 hours, included ULCs and Community Advice Offices. It is envisaged that the same would apply in the new rules regulating community service.

Mr. Jeffery also addressed the question of whether ULCs must be in possession of Fidelity Fund Certificates and operate trust accounts. The Legal Practice Act determines who must possess Fidelity Fund certificates and allows for exemption of a person in the full-time employ of the Human Rights Commission or the State as a state attorney or state advocate, as well as Legal Aid South Africa. Previously ULCs were exempted by the Attorneys Act.

Mr. Jeffery recognised that it is not possible to keep a trust account in the universities' financial environment. The cost implications for auditing of the trust accounts could also have a negative impact on the functioning of ULCs.

Legal services rendered by ULCs to the public are done free of charge, except that the ULC may recover any amounts disbursed on behalf of the recipient of such services and the ULC may recover costs awarded to the successful litigant.

Mr. Jeffery acknowledged that it would be in the public interest to empower the Legal Practice Council to, on a case by case basis, approve applications for the exemption of a legal practitioners' requirement to obtain a Fidelity Fund Certificate. As such an amendment to the Legal Practice Act has been proposed to allow for such.

Mr. Jeffery also spoke about the Community Advice Office Sector and the recognition and regulation of the Community-Based Paralegals. He recognised that some ULCs support advice offices with technical support, whilst others provide training and back-up legal services to advice offices. With regards to the recognition and regulation of Community-Based Paralegals he mentioned that:

- A draft policy paper is being drafted which will be presented at national consultative workshops.
- That paralegals working at a private or commercial law firms, ULCs and Legal Aid South Africa will not be subject to regulation at this stage, as they are regulated by the code of ethics of the specific employer.

Mr. Jeffery recognised the ongoing debate relating to education versus access to justice: whether ULCs should primarily teach students or serve clients? This impacts how resources are allocated, used and managed to give effect to both aspects. Mr. Jeffery affirmed that both are important and achievable, that both contribute to access to justice and that they are complimentary goals to ensure access to justice.

Mr. Jeffery concluded that ULCs are essential to access to justice and democracy. ULCs deal with issues that affect the vulnerable in a real and imminent manner. Although most ULCs began as general practices, some ULCs have established specialist units and others have stepped up in public interest litigation matters. Clinical legal education provides an opportunity for access to justice to the public, over and above those assisted by professional legal practitioners.

Mr. Jeffery commended ULCs on the services rendered and their contribution to social justice and offered support to ULCs. Mr. Jeffery stressed that his door was open to communication with ULCs through SAULCA or even directly from specific ULCs. In this vein he provided his personal cell phone and email details to the delegates.

3.3 Group discussions: Legal Practice Act

Delegates were divided into groups to discuss several topics relating to access to justice, marketing and the changing legislative landscape.

The feedback regarding these topics is briefly summarized as follows:

Should ULCs charge fees to members of the public on a certain scale of income, this may include the “missing middle”? The income threshold for what qualifies as the “missing middle” is to be agreed, if the consensus is that fees may be charged together with devising a proposed formula for the calculation of fees.

Section 35 of the Legal Practice Act determines that fees in respect of legal services rendered by legal practitioners, juristic entities, law clinics or Legal Aid South Africa must be in accordance with the tariffs made by the Rules Board for Courts of Law. This will remain the status quo until the South African Law Reform Commission completes its investigation and makes recommendations to the Minister regarding the issues as set out in Section 35(4), including the manner in which to address the circumstances giving rise to legal fees that are unattainable for most people.

One of the circumstances to be considered by the South African Law Reform Commission is whether it is desirable to establish a mechanism that will be responsible for determining fees and tariffs payable to a law clinic in respect of litigious and non-litigious legal services rendered? Currently, ULCs are allowed to recover from the recipient of its services any amount that is actually disbursed by the ULC on behalf of the recipient, as well as to take cession from the litigant of an order for costs in favour of the litigant, when the ULC acts for a successful litigant in litigation, to recover the costs for their own account.

During group discussions, delegates expressed concern relating to access to justice for “middle class” people. The following suggestions were made in this regard:

- That ULCs should not only look at the client’s income, but also the client’s necessary living expenses.
- That ULCs could use an alternative means test than the one Legal Aid South Africa uses to be more flexible in our approach.
- That ULCs should consider using a sliding scale contingency – in this regard, it should be noted that legislative changes would need to be implemented to be able to charge fees in this regard.

Delegates highlighted that we are still not reaching the poorest of the poor in rural communities and that we should first ensure access to justice to them, before targeting the middle class.

The majority of delegates agreed that we should not charge fees to the public and rather take into account a client’s necessary living expenses in the means test. There are currently no provisions with regards to the means test in the Legal Practice Act and as such means tests could be adjusted to cater to the above mentioned. It is suggested that SAULCA ask the Legal Practice Council for directives in this regard.

The viability of servicing additional members of the public and the impact on the core function of ULCs

It is noted that ULCs should be careful when embarking on marketing campaigns, as well as lobbying for legislative changes to include services to middle-income people. SAULCA should first establish whether individual ULCs could accommodate more clients by taking into account time and budgetary constraints.

It is agreed that with current budgetary cuts ULCs would not be able to take on more work. An increase in student numbers should also play a factor as clinical legal education takes up a lot of time and is a compulsory subject at many universities.

Is the operation of a trust account by ULCs and issuing of Fidelity Fund Certificates to ULC practitioners viable?

To operate trust accounts and obtain Fidelity Fund Certificates for ULC practitioners would be an administrative barrier to access to justice. ULCs would need to appoint a bookkeeper, pay auditors, pay banking costs, etc. Managing trust accounts would be a massive administrative burden on ULCs. Each practitioner working at ULCs would need to obtain Fidelity Fund Certificates, undergo practice management courses and be liable for payment of additional expenses (tax implications). The current university financial environment does not allow for the operation of trust accounts and even if they should allow it, ULCs would have no control over the systems as it is centralised, payments can take a long time to be processed, vendors need to be registered on the system before they can be paid, interest earned on the money is not paid to clients (however most universities do not have interest bearing accounts), etc.

There could however be some benefits for ULCs to operate trust accounts, such as being able to assist members who qualify for our services with transfer of property (legislative changes would have to be made to allow for such services). It is however agreed that the disadvantages outweigh the benefits in this regard.

Some members expressed concern with regards to law clinics still charging disbursements from clients, whilst others don't. Some members stated that the disbursement should actually be held in an interest-bearing trust account. Since the passing of the Legal Practice Act, some ULCs have stopped taking disbursement deposits (as they believe that it would be a violation to take trust monies without a Fidelity Fund Certificate), however other ULCs continue to do so. These members request clarification with regards to the correct application of the Legal Practice Act in this regard.

It is agreed that ULCs should not operate trust accounts or have to obtain Fidelity Fund Certificates for Legal Practitioners employed by the ULC.

The LLB degree is a specialist degree with a law clinic as a laboratory for student learning – Rhodes University implemented a “special levy” on all LLB students to fund the Law Clinic (similar to the laboratory levy charged to B.Sc. students). This is something that individual ULCs can investigate.

Mandate on addressing the issue of pro bono hours applicable to ULC practitioners?

ULCs are the ideal place to facilitate community service for legal practitioners by, *inter alia*, referring matters to private legal practitioners dealing with specific issues. Alumni could be approached, for example previous students that are admitted as advocates could be approached to assist ULCs with High Court appearances or legal opinions on complicated matters. SAULCA could also

motivate that private legal practitioners can supervise law students in their private law firms as part of their community service.

It is complicated to perform community service outside of the ULC environment. Some of the big commercial law firms rotate their candidate legal practitioners with the Public Defender's Office and take on a Legal Aid SA candidate legal practitioner for the period of the rotation as a contribution towards community service. If ULCs took on candidate legal practitioners from big firms that may solve the manpower crisis at ULCs, but brings with it logistical problems such as who will supervise these candidate legal practitioners and who is responsible for them (injuries, malpractice, etc.). This option is therefore not practical due to logistical issues.

As it stands, what contributes towards community service is a grey area. Currently, legal practitioners employed by ULCs are paid salaries to do community service / pro bono work. Overtime work for the ULC could contribute to community service.

It is suggested that we lobby for an exemption or a decrease in the number of community service hours performed. With regards to the latter for example, the General Secretary of SAULCA could claim to work for SAULCA as community service hours.

Mandate on addressing the issue of pro bono hours applicable to private legal practitioners and whether ULC legal practitioners should comply with same.

It is also suggested that we do away with the 24-hour limit as legal practitioners cannot help a person with a matter in 24 hours. There should rather be a requirement that each legal practitioners should at least assist one client free of charge in a litigious matter per annum. Private legal practitioners should therefore take instruction from beginning to end of the case. Proper reflection is required at the completion of the mandate to determine whether the client received effective and efficient legal assistance in the matter. A centralised database should also be maintained to keep track of legal practitioners who have completed their required community service hours. Another suggestion that could be investigated is that private legal practitioners could buy their community service hours from ULCs – in this way they make a financial contribution to the ULC to further the access to justice agenda of the legal profession.

Private law firms do not see candidate legal practitioners as profitable, as these candidates are limited to a small scope of work. ULCs are ideally situated to employ candidate legal practitioners to do community service and rotation programmes with private law firms are something that can be investigated. Law students should also be required to perform compulsory community service. This could be mutually beneficial as students are exposed to real issues faced by clients (social awareness) whilst rendering a much-needed service to the public

(increase access to justice). This could be done by letting students work in various offices in court.

The new Code of Conduct requires all legal practitioners to furnish new clients with a mandate letter (confirming the client's mandate, the scope of the work to be done, the anticipated costs, the anticipated time period, whether counsel will be briefed, etc.). We should require students to draft these letters so that they are ready for this in practice. A one size fits all approach cannot be used and the needs of all legal practitioners must be taken into account (smaller law firms vs. big commercial firms with pro bono departments). In the past, the Law Society published the outcomes of disciplinary hearings against legal practitioners. Sanctions must be implemented against legal practitioners not adhering to the Code of Conduct and community service requirements.

The overwhelming majority of delegates were of the view that legal practitioners employed at ULCs should be exempted from performing community service.

Strategy on educating the legal fraternity and wider community on the role, capacity and resource limitations of ULCs

It is suggested that ULCs send correspondence and reports to the Judge President, Regional Court Magistrates and Chief Magistrates regarding our capacity and the services that we render. It is also suggested that member ULCs attend stakeholder's meetings and deliver these reports during the meeting to inform stakeholders regarding our capacity. It is also suggested that ULCs make contact with the provincial office of the Legal Practice Council.

Furthermore, a general newsletter could be distributed locally to inform NGOs and other stakeholders of the services being offered, as well as the operating days and times of the ULCs. This newsletter could also inform the stakeholders of recent developments at ULCs and could be used as a marketing tool. SAULCA could assist with regards to the visibility of ULCs. SAULCA could also investigate a newsletter to go out to important stakeholders, such as the Legal Practice Council, Legal Practitioner Fidelity Fund and Legal Aid South Africa.

It is noted that ULCs should be careful when embarking on a marketing campaign of this nature and firstly establish whether the individual ULC could accommodate more clients by taking into account time and budgetary constraints.

In rural areas brochures could be used as a marketing tool, however ULCs should be careful that the brochures are not overpowering and consider the effects of language barriers. Local radio stations could be used as an effective method of marketing the services of the ULCs, as well as educating the community of their rights and responsibilities.

SAULCA should also keep the South African Law Deans Association up to date on the work that ULCs do.

What are the challenges faced by ULCs and how do SAULCA position itself as a serious role player for ULCs

It is suggested that SAULCA develop a measuring tool to identify where ULCs are struggling. ULCs have different challenges. This could relate to resource constraints, demographics, time constraints etc. SAULCA should investigate sharing resources (templates, examples, etc.) on a database / platform accessible to its members. ULCs should also be available to act as correspondents to other ULCs.

The Legal Practice Act created more administrative issues for ULCs, especially with regards to trust accounts.

SAULCA should be the voice for ULCs and enhance the visibility of ULCs (this could be done by advertising the work of ULCs, however the individual capacity of ULCs must be taken into account as discussed above). Clinicians however recognised that they also have the individual responsibility to provide inputs when called to do so. It is also suggested that SAULCA could do more to assist ULCs with funding.

Certification and accreditation of ULCs is a huge challenge. These issues include: that no call for applications is given, no due date for submission of applications is given, no guidance as to the requisite form of the application is provided, typically no acknowledgement of receipt is given and no feedback is provided, etc. Also, the non-payment of funds received from the Legal Practitioners Fidelity Fund has serious implications for many ULCs. SAULCA should make known to the Legal Practice Council on what the role, function and capacity of ULCs are.

Another challenge that could be faced relates to how ULCs will offer practical legal education should universities decide to offer the LLB degree online in the future.

See the discussion above regarding the strategy on educating the legal fraternity and wider community on the role, capacity and resource limitations of ULCs.

Is there other legislation e.g. the Protection of Personal Information Act (POPI) that currently must be considered to have an impact on the operations of ULCs?

It is agreed that ULCs will have to drastically reform. Personal information should be protected. Currently, ULCs are non-compliant to POPI regulations. The personal information of clients is not secure and students have access to this personal information of clients as they work on client files. Seminars on POPI should be hosted by SAULCA. SAULCA could also investigate and / or develop how a competent tool could be developed to measure, protect and evaluate data. The executive committee needs to follow up on suggestions and / or

proposals made. A strategic plan needs to be implemented from the University's part.

3.4 Mr. Stefan Kruger (Juta – Recent 4IR developments)

Juta is in the process of revamping its current Jutastat Library to which all universities have access. Raven Technology is in the process of being implemented. This would entail that costs be drastically reduced. Jutastat, through the use of the new technologies, will include more features in the future, including the visualisation map and knowledge gain features. The visualisation map draws inferences from that unit of information to any other units of information on the system. Knowledge gain is a tool used to visually link key concepts, the counsel for the parties, legislation referred to, the judge, etc. ULCs will have the opportunity to use this type of interconnected systems.

The new functions were demonstrated to delegates by Mr Stefan Kruger from Juta. The new version of Jutastat is projected to be available from February 2020.

3.5 Book Launch: Law Clinics and the Clinical Law Movement in South Africa

The SAULCA / Juta book launch took place on the evening of 18 November 2019. The programme started off with a welcoming address by the president, Mr Shamiel Jassiem. Prof Schalk Meyer, Programme Manager of the AULAI Trust, thereafter addressed delegates on the history of the book and the role and involvement of the AULAI Trust in this regard. Prof Jobst Bodenstein, the editor of the book, addressed delegates on the initial conceptualisation of the book, the significance the book has on the work that ULCs do, the process of editing the contributions made by writers and the eventual publication of the book by Juta.

Ms Subendri Naidoo and Mr Stefan Kruger represented Juta at the book launch. Ms Naidoo addressed the attendees on behalf of Ms Marlinee Chetty who was instrumental in the finalisation of the book. Mr Daven Dass addressed the attendees on behalf of the contributors / writers of the book.

Mr Eddie Hanekom attended to the closure and thanks of the event where after attendees enjoyed a dinner sponsored by Juta.

4. Day 2 of the Workshop

4.1 Dr Lynn Biggs (Nelson Mandela University, Faculty of Law, Deputy Dean)

Dr Biggs delivered a presentation on Blended Learning: Digital Learning and Teaching. Dr Biggs referred to several projections made, including Thomas Frey on the future of colleges and universities, McKinsey Global Institute on Jobs lost, jobs gained: What the future of work will mean for jobs, skills and wages, as well as a Deloitte education report.

Frey projects that 50% of colleges and / or universities would no longer exist by 2030 owing to the advent of digital learning and that the world's largest company will be in education. McKinsey suggests that up to 375 million people will have to change occupational categories and learn new skills due to displacement by automation. A Deloitte education report projects that 50% of youth will not have the skills to participate in the workforce.

Daniel Burrus refers to the three digital accelerators, namely bandwidth, storage and processor speed. These technological advancements increase exponentially every year and that due to advancing technology they will continue to do so. Bandwidth and storage capacity are seen doubling every 6 months. Processor speeds and / or power of computers increases exponentially every couple of years (Abiding to Moore's Law¹).

Dr Biggs asked delegates to reflect on the following questions in determining whether we should provide more blended learning opportunities to our students:

- Who are our learners?
- How do they learn or would they like to learn?
Dr Biggs stated that most learners make use of YouTube videos dealing with the subject matter (in the South African context) to study.
- Do they use technology?
Dr Biggs stated that most learners have access to a Smartphone and as such we should adjust our teaching and learning methods to use Smartphone technology.
- What type of technology will they use?

Dr Biggs referred to Moody's Investors Service, 2019 Sector in-Depth Report which shows an exponential increase in exclusively online enrolments in public, private non-profit and for-profit educational institutions.

There has also been an increase in online short courses or short learning programmes offered by universities / colleges. Online courses are becoming one of the fastest growing enterprises in the world (see courses available on GetSmarter and Khan Academy).

Dr Biggs also requested delegates to reflect on the following questions to determine the needs of ULCs:

- Who are our educators?
- How do they teach?
- Do they use technology?
- Are they able to teach using technology?

¹ The number of components in integrated circuits would double every two years. As a result, the size would decrease while processing power increased. Another element was added to the original law basically saying that as processing power doubled, the price would be cut in half at the same exponential rate.

- What type of technology do they use?

In conclusion, Dr Biggs stated that the use of PowerPoint slides and Data projectors are no longer sufficient and that teachers will need new skills to adapt to the changing landscape of education.

Most universities already make use of Learning Management Systems (LMS) such as Moodle, eFundi or Blackboard, Sakai, etc. The extent to which it is currently used is however limited to information sharing, assessment (online tests / examinations), feedback (surveys) and statistics. In future educators would continue to use these systems, as well as other functions on these systems (predictors / analysis). Educators would however need to incorporate other technologies as part of their teaching and learning methodologies, such as podcasts, voice recordings and video clips (using applications such as Padcaster for live-streaming events like webinars). Academic support would need to be provided to the learners and educators in this regard.

Dr Biggs suggested 3 simple steps for now:

1. Train teachers – Digital Pedagogy and provide support
2. Define the tech ecosystem – Tools
3. Write FAQs and Manuals – for students and teachers

Furthermore Dr Biggs raised the possibility to digitise client files as an option to consider in future.

Dr Biggs concluded by asking delegates to reflect on what skills our learners will need for the future world of work. Only then we will be able to determine what skills educators would need to equip learners for the future world of work.

4.2 Mr. Lourens Grové (University of Pretoria Law Clinic)

Mr. Grové delivered a short presentation on possible uses of technology that could benefit ULCs. One of the possible benefits includes the use of advanced electronic signatures (not only for clinicians, but also for all legal practitioners). It was suggested that SAULCA could lobby the Legal Practice Council to be the host electronic verification service provider for legal practitioners. The Legal Practice Council would then have to establish a database to provide such a service. This would allow the Legal Practice Council to verify signatures during the service of pleadings via email, etc.

Mr. Grové reported that Judge Dustan Mlambo envisages that paperless courts in certain jurisdictions will be effective within the next year. Skype is already being implemented as a method of conducting hearings (for example examination of a witness). Dictation software (such as Dragon Natural Speaking (speech recognition and transcription)) is being used by some legal practitioners and clinicians.

Structured Queried Language (SQL) is also already implemented at several universities.

Chatbox (a multilingual messaging platform where businesses create and automate personalised, results-orientated conversations across texting, chat and social channels) could be used as an interpretation service.

Already many international ULCs are experimenting with distance learning activities for clinical legal education.

4.3 Group discussions: Fourth Industrial Revolution (4IR)

Delegates were divided into groups to discuss several topics with the aim of:

- Identifying the technological advancements applicable and implemented or imminent to a legal practice and in legal education and training, as well as the challenges, advancements or restrictions and how to address those.
- Adaptation of teaching and learning methodologies to keep abreast and ensure the training received by students are appropriate for modern-day legal practice.
- Development and Training requirements for clinicians to ensure effective teaching and learning goals.

The feedback regarding these topics is briefly summarized as follows:

The use and application of electronic methods of communication and assessment (computer-based tests) in ULCs: what are currently used?

Starting with basics, ULCs all use emails, internet (Google), databases and templates of pleadings and correspondence. It should be noted that the methods discussed herein require electricity and access to the internet.

All ULCs are using the LMS systems of their respective universities (such as Moodle, eFundi or Blackboard, Sakai, iKamva, Vula, RUconnected, ClickUP, etc.). It is agreed by ULCs that the current LMS systems could be used more effectively.

Some ULCs also make use of SMS-communication systems with students and clients (bulk SMS's packages). In this regard, clients cannot reply to the SMS received, which causes some confusion.

Some ULCs make use of WhatsApp groups for internal communication and communication with student groups.

Zoom, Skype, Adobe Connect and similar applications are useful for making conference calls. This could be a useful tool to conduct regional meetings or conferences.

Some ULCs make use of electronic assessment methods or computer-based tests (multiple-choice tests before / during lectures with prescribed reading material, etc.). Some ULCs use .pdf templates for assessment of student work. It is suggested that SAULCA create a shared database accessible to all clinicians containing templates, precedents, assessment forms, etc. made available by all ULCs.

A virtual tour at the ULC and the process of applying for legal assistance at the ULC could be made and linked to the ULC's website. Similarly, virtual tours of court processes could also be made.

Simulated files are an effective method for standardised assessment. This would entail that a simulated file is given to a student at the beginning of the year and that student would have to work on the file until the end of the term. This file will also then be continuously assessed. Students could also be divided into small groups to work on simulated files as part of a firm, thereby also improving their ability to work as a team.

Some clinicians argued that live-client teaching and learning is dependent on the student-supervisor ratio and as such often results in a situation where there is no proper supervision. In these instances, simulation could be beneficial.

UWC is using an application called Two-Ticks, however they are reluctant to fully implement it. With this application a client's information is loaded onto a database detailing: personal information, recent updates and current status of the file. This is beneficial in that when the Secretary at the ULC receives a call from a client, they don't have to draw the client file to provide an update on the file, thereby saving time.

Legal Serve (electronic court filing) is being used for electronic service of court documents in South Africa.

Do you have any experiential knowledge of the positive and negative aspects of twinning Clinical Legal Education methods?

There are opportunities to interact with international ULCs. This could be a positive experience for both ULCs, however these ULCs often do not know how the other works and the different ways or procedures each follows.

ULCs in the same region could also work together. Private law firms could be approached and students could be placed at the private law firm. The negatives involved with the latter include that the ULC would not have control over the students' learning experience.

Some ULCs pair students to work together, often an academically weaker student would be paired with a stronger student.

Do you use streamlined methods of dealing with student interaction, for instance Google Drive, interactive computerised training “games” (or simulations), PowerPoint based back-up teaching and learning systems and the use of videos as training aids?

Google Drive is seen as beneficial for candidate legal practitioners. Standardised templates and precedents are saved on Google Drive and made available to them. Office memos could also be placed on Google Drive or other centralised cloud-based storage systems. This system could also be used for students. Podcasts are also being used by some ULCs.

Other Google applications that could be useful, include Google Docs, Google Forms, Google Slides, Google Jam, Google Podcasts, etc. It is suggested that a seminar be held relating to Google Docs specifically.

In addition to the above mentioned, not all clinicians are aware of the more advanced features that could be used by programmes and applications already being used (for instance PowerPoint has a recording function for recording narration to the slideshow (audio and video)). In addition to the above mentioned programmes such as Screencast-O-Matic allows for free and easy-to-use screen recording (to capture any area of your screen with the option to add narration from your microphone or video from you webcam).

Some ULCs do use videos as training aids. The use hereof has a positive effect on teaching and learning. The negatives hereof are that we often have to use international content (such as UK Inns of Court videos, TED talks, etc.), which is not necessarily effective and appropriate within the South African context. It is suggested that we look at a way to create our own content and share it amongst ULCs. One ULC could for instance record and share videos relating to Domestic Violence and Maintenance, whilst another record and share videos relating to Divorce and Parental Rights and Responsibilities.

Data and access to an active internet connection remain an issue. ULCs should be sensitive to the needs of students in this regard.

Games could also be used as a teaching method (for example the game provides you with a simulated file and the student must choose the appropriate methods and procedures to assist the client).

Online learning and computer-based tests create many opportunities, however it also opens up the potential for cheating. Turnitin is not always a guarantee. It is suggested that the current LMS systems be used and that computer-based tests only be made available for a certain period of time, that the lecturer creates a database of questions and answers, that the questions for each student are randomised (no student will receive the same set of questions) and that the answers to the questions only be provided after the deadline for the test. Should computer-based tests be made available somewhere during class, it could also

be used as class attendance register (those that complete the test were in class). These tests could be marked automatically thereby saving time for the lecturer. The results could then be downloaded to an Excel sheet.

Interactive Whiteboards / Smartboards could be used as an interactive method of teaching and learning. These Whiteboards / Smartboards allow the presenter to (using different types of electronic pens / stylus) move objects around or to write notes on the presentation.

Some of the above-mentioned technologies could be implemented to offer lectures online. At some universities technical assistance is provided for lecturers to record lectures. These videos are then posted on the LMS for students, thereby decreasing the number of physical lectures to be given, a form of blended learning. One of the negatives in this regard is that this could demotivate students from coming to class, should there be a physical lecture. ULCs would therefore have to decide whether these videos should be seen as supplementary or replacement videos. Students would still want to interact and it is therefore suggested that these videos be used as supplementary tools.

ULCs would need a tech-savvy person to implement more electronic measures for teaching and learning and access to justice.

Should ULCs create step-by-step self-help legal assistance plans on websites of ULCs, similar to that of government and private firms of legal practitioners?

The development of these step-by-step self-help legal assistance plans would cost a lot of money. The literacy levels of our clients should be taken into account. A lot of clients also do not have access to the internet, computers and in some cases even electricity. A one size fits all approach would therefore not work and the human element of the role of a legal practitioner should not be replaced. This could be useful to clients and the public in certain contexts for instance in Small Claims Court matters or for the completion of the prescribed divorce forms held at the Regional Court.

Some ULCs already have step-by-step self-help guides that could be shared. Videos could illustrate the processes and could be displayed in the waiting rooms of ULCs.

Should these materials be used, there should be a disclaimer so that ULCs don't open themselves up for liability. Intellectual property rights could also become an issue. All clinicians and ULCs form part of the Universities and thus the documents, videos and other material belong to the respective University.

These step-by-step self-help legal assistance plans could be extremely useful for students. Some students might however not benefit at all as they would not apply their minds and improve their critical thinking and problem-solving skills.

Does our ULC use electronic document & e-mail management systems where the same file is electronically accessible (from anywhere in the world) by everybody involved in that file?

Only some ULCs have electronic document management systems (discussed above) – most common systems used are Google Drive, Google Docs, One-Drive, Two-Ticks, NextCloud, etc.

It is suggested that SAULCA host training for clinicians on how to operate Google Docs and relevant applications.

With the high staff turnover rate at ULCs, confidentiality could be at risk and correspondence could be lost (for instance emails sent for a specific file, the clinician leaves the ULC and now the information is lost). Some ULCs have a separate email account for the ULC. All incoming and outgoing email correspondence is then managed through that email address. Each ULC should discuss the creation of similar email accounts with their relevant IT Departments. It should be noted that the ULCs should still be able to archive the emails for future reference.

It is suggested that the University of the Western Cape provide clinicians with more information with regards to the Two-Ticks system as it can store emails sent for each file.

Does your ULC use speech recognition and transcription software and if so, is it effective?

The newest version of MS Word has speech recognition and transcription features, however it lacks certain functions (such as when you say full stop, it types “full stop”). This software assists with typing more complete records and could be of assistance to clinicians who struggle to type. Some software has issues with recognising different accents.

For simple things, this software is amazing, time-saving and very accurate. For deeper, research-orientated matters it remains a challenge. It is also costly.

Very few ULCs make use of speech recognition and transcription software (Dragon Natural Speaking) and it is suggested that it should be investigated.

Do you use document review software: to ensure due diligence? (Think of the JUTA demonstration)

Some ULCs make use of LexisNexis Citator, which analysis the precedential value of cases and shortens research time. This feature provides you with a short description of the latest cases relevant to the matter.

MS Word’s spelling and grammar features are used by most ULCs. Grammarly (a digital writing tool using artificial intelligence and natural language processing

to eliminate grammar errors) is also being used by some ULCs and is more effective than MS Word's grammar checker.

Do you use electronic statistical record keeping and time recording? Examples?

Some ULCs still conduct hardcopy recordkeeping and physical file counts when calculating statistics, whilst others have databases and systems in place for generating file numbers and automatically calculating statistics.

Most ULCs use the old method of making hardcopy records and then transferring it to an MS Excel sheet.

Every ULC is doing something uniquely different and useful and it is suggested that we share ideas and information relating to electronic statistical record keeping and time recording.

Systems such as the ones used by Legal Aid SA should be investigated. It is also suggested that stats and time record keeping could be done by creating an application specifically designed for this purpose.

Do you use contract & template generation systems with standard clauses? Examples?

Most ULCs use questionnaires that must be completed in hard copy. The information from the questionnaire is then later used to draft summonses or affidavits, etc. Consultation notes are more beneficial than the mere completion of questionnaires. If students just have to complete a questionnaire it will become difficult to assess the work of the students.

In conclusion, it was agreed that each ULC is doing something uniquely useful and that we should collaborate and share information more often than just every 2 years at a SAULCA workshop. It was also suggested / resolved that SAULCA:

- Host a workshop on the use of Google Docs and similar technologies that can be implemented at ULCs.
- Should approach the Legal Practice Council with regards to electronic signature of pleadings – to propose that the Legal Practice Council becomes the certification authority of electronic signatures of legal practitioners.
- Create a platform for clinicians to engage more regularly and foster a collaborative culture amongst all ULCs.
- Share resources (templates, examples, videos, etc.) on a database / platform accessible to its members (could be done on the SAULCA website for instance).

4.5 Special General Meeting

A special general meeting took place on 19 November 2019 to deal with proposed amendments to the Constitution and Regulations of SAULCA.

The following amendments to the Constitution of SAULCA were approved:

- Deletion of clause 6.2.4 and 9.12.4 relating to the appointment of the assistant secretary on the executive committee of SAULCA;
- Amending clauses 6.2.6 and 9.12.6 by decreasing the number of additional members on the executive committee of SAULCA from 4 to 2;
- Amending clauses 8.1 and 8.3 to include other public or private Higher Education Institutions and to add a requirement that the Law Clinic must be accredited by the Legal Practice Council as a ULC;
- Amending clause 9.9 a) for clarification purposes;
- Inserting a new clause 10.5 to include provisions in the event that no nominations are received for any one or more of the available positions on the SAULCA executive committee, by requiring the general secretary to, within one week of nominations having closed, send members notice of this fact;
- Inserting a new clause 10.6 to allow the general secretary to receive additional nominations solely to provide for the nominations as mentioned above;
- Inserting a new clause 10.7 to prescribe the procedure to be followed in the event that no additional nominations are received as set out above;
- Amending clause 12.3 for clarity purposes; and
- Amending clause 12.6 to adjust the number of votes required to remove an executive member from office in relation to the new composition of the executive committee.

The following amendments to the Regulations of SAULCA were approved:

- Amending the heading to reflect the date and venue of amendment; and
- Amending clause 2 to include provision for the executive committee of SAULCA to allocate any public or private Higher Education Institution not listed in the regulations to a region as determined by the executive committee.

The following suggestions were made for consideration of future amendments of the Constitution of SAULCA:

- Nominations for the executive committee members should be made from the floor – some clinicians felt that they do not know all the clinicians and only identify possible candidates when they get to meet them at the workshop;
- Submission of annual membership registration forms to be added as a requirement for membership;

- Member ULCs have two votes at the meeting, however only one clinician can sometimes attend – to look at the possibility of including proxy voting in the Constitution (the proxy has clear instructions on the votes to be cast); and
- The President's, Secretary's and Treasurer's Reports are to be combined into a consolidated annual report.

4.6 Annual General Meeting

The annual general meeting took place on 19 November 2019. Delegates were welcomed to the meeting by the president, Mr. Shamiel Jassiem. The minutes of the annual general meeting held on 12 July 2017 was approved.

The President's -, Secretary's – and Treasurer's Reports were delivered and approved by the annual general meeting. The Financial Accounting Officer delivered the Annual Financial Statement for the year ending 31 December 2017 and 31 December 2018 respectively and both were approved by the annual general meeting.

Samantha Yell (University of Pretoria) and Neo Mahlako (University of Witwatersrand) were appointed as the independent election officers for the election of the incoming executive committee.

The following members were elected to the executive committee of SAULCA for the term 2019 to 2021:

President	Mr. Eddie Hanekom
Vice-President	Mr. Daven Dass
Treasurer	Mr. Shamiel Jassiem
General Secretary	Ms. Chrisna Landsberg
Assistant Secretary	Mrs. Zaida Essop
Additional Members	Dr. Dave Holness Prof. Jonathan Campbell Ms. Göksen Effendi Mr. Shaun Bergover

These elections heralded the end of the term of the following outgoing executive members: Mr. Shamiel Jassiem (elected as Treasurer), Mr. Simon Rasikhalela, Mr. Marc Welgemoed and Ms. Matilda Smith. The outgoing members of the executive committee were thanked for their contributions and hard work during their respective terms. The newly elected president thanked all members present and the meeting was adjourned

5. Conclusion

Day 2 ended with members enjoying a barbeque. Delegates were shuttled to their respective departure airports on Day 3.

The 2019 SAULCA workshop proved to be a successful endeavour. The inputs of attending members are of critical importance to SAULCA to address the issues affecting ULCs on a national level.

The executive committee wishes to convey its gratitude to the AULAI Trust for their continued and generous financial support.

