

Covid lessons to incorporate in simulated teaching at university law clinics

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Abstract

South African University Law Clinics permanent structures were forced to drastically change with the COVID pandemic in March 2020. The pandemic shifted the focus of ULC's to simulated learning. Converting the practical clinical legal education module into an online simulation was a great achievement across many universities. Supervisors and students utilised various tools to achieve the simulated experiences of a real ULC with the advent of the 'Online University Law Clinic'. There were many challenges, especially for those who struggle with technology. The impact of COVID has expanded the tools and use of technology in South African ULC's. The question addressed in this paper is what lessons and recommendations can be utilised from the pandemic to further promote skill building for law students. In unpacking this question, the University of Johannesburg's Auckland Park ULC is explored as a case study. The Online ULC promotes skill building through simulation, which will ultimately improve the overall basic legal foundation at universities and impact the resilience of ULC's in the face of any future pandemics.

Keywords: university law clinic; online law clinic; simulation; online learning.

Introduction

South Africa currently has twenty-one recognised University Law Clinics (ULC)¹ that form part of South Africa's University Law Clinic Association.²

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¹ University Law Clinics hereafter referred to as 'ULC'.

² South African University Law Clinic Association hereafter referred to as 'SAULCA'. The recognized ULC's in South Africa are listed in no particular order: 1. Rhodes University Law Clinic; 2. UCT Law Clinic; 3. University of Fort Hare Legal Clinic; 4. University of Johannesburg Law Clinic (three separate offices); 5. University of KwaZulu-Natal Law

South African University Law clinics practically train students in clinical legal education (CLE).³ This methodology promotes experiential learning that contains a social justice dimension.⁴ The CLE methodology is implemented as means to learn by doing, also known as the live-client method.⁵ The methodology promotes blended/integrated learning. CLE is an accredited course which forms part of the LLB curriculum; it is either an optional or compulsory elective at most South African universities.⁶ The module contains a theory and practical component. Not all South African universities have law clinics nor do all law clinics espouse a standard model, as the aforementioned functions vary in the manner they are implemented.⁷

Law clinics developed from a need to address public injustices and have adapted beyond the community needs, to the demands of 'educational institutions, funders and the legal profession'.⁸ Despite the incorporation of CLE and an increase in practical training in many universities, the legal profession continues to highlight the shortcomings of legal education.⁹ The late Justice Arthur Chaskalson's words continue to resonate,

Law students can leave a university with an LLB degree without ever having seen a client, without ever having been in court, without knowing how to interview a witness or draft a contract, or prepare an argument or address a court. The result

Clinic; 6. University Law Clinic, Pietermaritzburg; 7. Stellenbosch University Law Clinic; 8. University of Limpopo Law Clinic; 9. University of Pretoria Law Clinic; 10. Unisa Law Clinic; 11. Unizulu Law Clinic; 12. Univen Law Clinic; 13. Wits Law Clinic; 14. University of Free State Law Clinic; 15. Potchefstroom Law Clinic; 16. Mahikeng Law Clinic; 17. Walter Sisulu University Law Clinic; 18. UWC Law Clinic; 19. Mandela Law Clinic; 20. IIE Varsity College Community Law Clinic; 21. Vaal University of Technology Law Clinic. SAULCA 'Law Clinics' <<https://www.saulca.co.za/law-clinics>> accessed on 26 August 2024.

³ M A. Du Plessis, 'Clinical legal education: determining the mission and focus of a university law clinic and required outcomes, skills & values' (2015) *De Jure* at 312. The course name varies across universities. Clinical Legal Education hereafter referred to as 'CLE'.

⁴ P. Maisel, 'Expanding and Sustaining Clinical Legal Education in Developing Countries: What We Can Learn from South Africa' (2008) *Fordham International Law Journal*, 30, 2 at 377.

⁵ R. Lewis 'Clinical Legal Education Revisited' (2000) *Dokkyo International Review* 13, 149 at 7.

⁶ M A. Du Plessis, see n. 3, 316. P. Maisel, see n. 4, 379.

⁷ J. Bodenstein, *Law Clinics and the Clinical Movement in South Africa* (Juta and Company (Pty) Ltd 2018) at 16.

⁸ *Ibid.*

⁹ *Ibid.*

is that law graduates emerge from the university with a theoretical training, but without any basic knowledge of, or practical training directed specifically to, the practice of law. I do not believe that there is any profession other than the law in which students leave university as ill-equipped as this to pursue their chosen career.¹⁰

This is becoming even more evident as technology advances, law students need to develop and acquire new skills with the advancement of technology.¹¹ Globally, technology is changing ‘the economic, social, cultural and human context we live in’.¹² This paper aims to engage with COVID lessons that can be incorporated in simulated teaching at ULC’s. The aim of addressing this question is to engage with how ULC’s will adapt with the advent of the ‘Online University Law Clinic’ and to utilise what worked in the pandemic to further promote skill building for law students. In exploring lessons from the COVID pandemic, the University of Johannesburg Law Clinic¹³ based in Auckland Park, Johannesburg, South Africa (APK) will be utilised as a case study and further examples are drawn from other South African ULC’s, SAULCA¹⁴ and the author’s own clinical experience.

In examining this question, ULC’s will briefly be defined, alongside the CLE methodology. Secondly, the University of Johannesburg’s APK¹⁵ ULC’s program prior to COVID will be examined. Thirdly, the impact of COVID on the APK ULC and fourthly, the general lessons learnt from COVID at ULC’s. Thereafter, the present status of ULC’s in general in South Africa and finally, future recommendations for ULC’s will be explored within the South African context. The focus will be on lessons that can be incorporated in simulated teaching in an Online ULC’s.

However, before we proceed, we must clarify what is meant by a ULC, an Online ULC and ‘simulation’. A ULC refers to the University Law Clinic, which usually has a physical office at the University or near the local community. The physical space is utilised by Law Clinic staff, students and

¹⁰ A. Chaskalson, ‘Responsibility for practical legal training’ (March 1985) *De Rebus* 116.

¹¹ A. Carrel, ‘Legal Intelligence Through Artificial Intelligence Requires Emotional Intelligence: A New Competency Model for the 21st Century Legal Professional’ (2019) *Georgia State University Law Review*, 35, 4, 4 at 1155.

¹² K. Schwab, ‘The Fourth Industrial Revolution’ (2016) *World Economic Forum* at 8.

¹³ Hereafter ‘UJ’ or ‘UJ ULC’ and/or ‘APK’.

¹⁴ Hereafter referred to as ‘SAULCA’.

¹⁵ Hereafter ‘APK’.

clients, while an Online¹⁶ University Law Clinic is a virtual ULC, which can be created by various means. The APK case study exemplifies utilising accessible South African learning management systems¹⁷ (LMS), such as Blackboard to teach CLE in an online environment, while in other jurisdictions, such as United Kingdom, distance learning is more common, utilising advanced case management systems and secure web portals to operate their Online Law Clinics.¹⁸ ‘Simulation’ in the context of CLE, refers to creating an environment where law students can actively engage in professional practice activities and learn new skills in a safe space.¹⁹ Simulation is a useful tool in teaching large student numbers in Online ULC’s and ULC’s, which is illustrated below by the University of Johannesburg Law Clinic.

University of Johannesburg, Auckland Park Law Clinic Program Prior to COVID

Traditionally South African ULC’s have two primary components, clients and students. Students attend a series of lectures that provides theory and practical skills training, such as communication skills, consultation skills, drafting letters and legal documents, file management, legal research, professional responsibility, ethics, substantive law and trial advocacy.²⁰ Depending on the chosen module, the students typically consult with live clients and then if it is a matter that the ULC can assist with a file is opened. Students thus have an opportunity in most cases to engage with a live client, develop various skills, such as consulting, drafting, communication etiquette and perhaps even negotiation, under the supervision of a supervising attorney, also known as a clinician. This is the moment where the puzzle fits, theory and practice come together, many legal concepts now make sense.²¹

UJ’s ULC is open five days a week and only closes to the public during campus vacations and December holidays, as students primarily consult with the

¹⁶ Online University Law Clinic can interchangeably be referred to as a ‘virtual’ University Law Clinic.

¹⁷ Hereafter ‘LMS’.

¹⁸ F. Ryan (2020) ‘A virtual law clinic: a realist evaluation of what works for whom, why, how and in what circumstances?’ *The Law Teacher*, 54, 2 at 240.

¹⁹ K. Barton, P. McKellar & P. Maharg, ‘Authentic Fictions: Simulation, Professionalism and Legal Learning’ (2007) *Clinical Law Review* 14, 143 at 182.

²⁰ M A. Du Plessis, see n.3, 316.

²¹ G. Effendi ‘Sustainability of South African Law Clinics in a technology driven world’ (21 January 2020), Southern African Law Teachers Conference 2020, Skakuza, South Africa, Conference Presentation.

public. During semester final year law students would attend Law Clinic once a week on their allocated day from 8am to 1pm at their allocated Law Clinic, which could be in Auckland Park, Soweto or Doornfontein in Johannesburg, South Africa. During this time students would work in pairs, receive one physical open file which is stored in office cabinets, consult their supervisor and critically engage with a plan of action to proceed with client's mandate. In addition, students would consult live clients, regularly work on their files, contact their client/s, complete the necessary tasks and submit their case files for assessment at 1pm daily. They would serve one semester at the ULC, and throughout the year attend the Applied Legal Studies course²² and complete written assignments, as well as exams for the theory part of the module. Supervisors would assess the clinic work and proceed with the necessary legal steps to ensure the clients' legal matters are finalised.²³

Students would be assessed weekly on their clinic submissions and receive detailed feedback. Supervisors must ensure close supervision and a manageable caseload, where students are supported and challenged in their work.²⁴ The approach requires continuous reflection, students are required to research and make mistakes. Through supervision students are taught to improve their skills. Students begin to develop their professional identity.²⁵ This process often results in fewer cases being taken on due to large student numbers and to ensure the student- supervisor load is manageable, this is further impacted by student-supervisor ratios.²⁶

Prior to COVID and subject to university resources, legal education began to incorporate technology with skill building in a limited form. Fortunately, for many ULC's there are not any funding constraints when purchasing basic software, such as Microsoft Office or online database subscriptions, which are paid for by the university generally. Each computer in the ULC has access to

²² The subject is offered as a module and is referred to by multiple names, according to the university course code, such as 'Applied Legal Studies' at the University of Johannesburg. It is the theory part of UJ Law Clinic module.

²³ G. Effendi 'The APK Law Clinic approach to COVID' (6 October 2020) The University of Johannesburg, Law Faculty, Johannesburg, South Africa, Webinar, Online.

²⁴ J. Giddings, 'Contemplating the Future of Clinical Legal Education' (2008) *Griffith Law Review*, 17, 1 at 17.

²⁵ S. Suellyn, 'The Role of Clinical Programs in Legal Education.' (1998) *Michigan Bar Journal*, 77, 7 at 675.

²⁶ D. Nicolson, 'Reviewed Article: Clinic, the University and Society: "OUR ROOTS BEGAN IN (SOUTH) AFRICA: MODELLING LAW CLINICS TO MAXIMISE SOCIAL JUSTICE ENDS"' (2016) *International Journal of Clinical Legal Education*, 23,3 at 674.

Microsoft Office and legal databases for research.²⁷ APK ULC provided 14 students per day with their own desk, USB, telephone, computer and a general printer. While the Soweto office provided 18 students with the same tools required for the students to complete their work for their live clients.²⁸

The current technology in most ULC's, which remains relevant and is utilised in varying degrees at present consist of telephones, Wi-Fi, computers, printers, cell phones, SMS systems, e-mail, the internet and online search engines, online databases and platforms, Google drive, One drive, Microsoft Office, USB's for storage, video clips, online lectures, Uber, WhatsApp chat groups and learning management systems. Some of these forms of technology are used within the broader law faculties and universities. SAULCA provides a shared resource hub for clinicians to utilise online and shared resources for teaching known as SAULCA's 'Intranet'.²⁹ Legal education has begun to recognise and 'incorporate skill building in data and technology platforms'.³⁰

When considering the impact of COVID on ULC's it must be kept in mind that the UJ's ULC is a much larger Law Clinic than many other ULC's. The UJ ULC has three offices and Applied Legal Studies is a compulsory course for all final year law students to complete before graduation. Not all ULC's are able to provide each student with a computer and desk. For example, UCT ULC has a small work room, with a few computers and a shared desk space, where students often utilise their own devices due to the lack of computers.³¹ However, students utilising their own devices provides other challenges, which arose during COVID.³² The impact of COVID on UJ's ULC will be explored below.

²⁷ G. Effendi, see n. 21.

²⁸ G. Effendi, see n. 23.

²⁹ SAULCA 'Intranet' <<https://www.saulca.co.za/intranet>> accessed 27 August 2024.

³⁰ A. Carrel, see n. 11, 1153.

³¹ UCT is a Law Clinic at the University of Cape Town, Cape Town, South Africa. It is a much smaller clinic and has fewer staff and students, despite being the first Law Clinic in South Africa. The module is far less structured in terms of workspace usage and students can freely use the workspace according to their own schedules. However, when the space is busy there is not always an available computer and students prefer to use their own devices.

³² G. Effendi, see n. 21.

The impact of COVID on the University of Johannesburg, Auckland Park Law Clinic

In South Africa ULC's were initially shut down and not considered an essential service at the start of the COVID pandemic.³³ ULC's permanent structures were forced to drastically change with the COVID pandemic in March 2020. Offices shut, matters were places on hold and teaching was to be continued. But the big question was how? This is where we saw clinicians find innovation and simulation come to the forefront as the Online ULC's³⁴ were created in varying forms. Prior to the pandemic, ULC's were challenged by the fourth industrial revolution³⁵ and the technological barriers students faced within the ULC. As a result of the pandemic, the focus shifted to barriers with simulated learning in an Online ULC. Converting the practical CLE module³⁶ into an online simulation was a great achievement across many universities in South Africa, possibly globally. Many ULC's adapted to the change in varying degrees. Supervisors and students utilised varies tools to achieve the simulated experiences of a real ULC.

At the UJ's ULC, everything was paper based and online learning management systems were not utilised. While the clinic program was on hold, clinicians attended a short session on how to use Blackboard and then each clinic built their own simulated Online ULC. The clinicians were given two weeks to move their program online. The Online ULC contained simulations that students would engage for the duration of the semester. The APK Blackboard module virtually presented the Online ULC, it contained a module overview with weekly instructions from supervisor's and several tabs for different functions. These tabs simulated office spaces.³⁷

There was a tab labelled 'filing cabinet', containing client references with soft files. Students were allocated a reference and accessed the soft file, containing all their clients' particulars, such as facts, pleadings, e-mails, telephone call

³³ D. McQuoid-Mason, 'Clinical Legal Education: International Perspectives' (10 July 2020) National Law University Odisha, Faculty of Law, Manav Rachna University and VM Salgaocar College of Law, Webinar, Online< <https://nluo.ac.in/news/webinar-clinical-legal-education-international-perspective/>> accessed 20 November 2023.

³⁴ Hereafter 'Online ULC'.

³⁵ Hereafter '4IR'.

³⁶ The subject is offered as a module and is referred to by multiple names, according to the university course code, such as 'Applied Legal Studies' at the University of Johannesburg.

³⁷ G. Effendi, see n. 23.

notes, file notes and letters. The students would critically engage weekly with their file and check for updates and/or messages from their simulated client and thereafter consult their supervisor. Another significant tab was Blackboard Collaborate, which operated as a virtual meeting room. The submission tab would be important for students to upload their weekly tasks, which was referred to at APK as submission 'products'.³⁸

To ensure the students were adequately prepared for the online medium, they received training in terms of an online presentation on their first day, which showed them step by step how to utilise all the necessary tools and tabs. This allowed students time to reflect and become familiar with the new platform. In addition, students received a weekly written brief and verbal instructions from their supervisor, alongside a weekly supervision meeting via WhatsApp and/or Blackboard Collaborate.³⁹ Students were also given the opportunity to perform a simulated consultation, where they listened to a consult, and could thereafter ask additional questions to the client. The Online ULC was an attempt to give students the same live client experience through simulation and ensure skill building continued. The students' primary resources were the internet, electricity, a device or smart phone to actively participate in the Online ULC. Students at APK were actively learning the same skills merely through a new forum.⁴⁰ The lessons learnt through implementing the Online ULC are considered below.

The lessons learnt at the University of Johannesburg, Auckland Park Law Clinic during COVID

There were many challenges such as load shedding, connectivity, a shortage of data, a lack of adequate devices and for some students, as well as supervisors the technological gap broadened. Many people prefer paper to computers, but this can no longer be the norm or the only tool in a practical environment or in a pandemic. There were many lessons learnt from the impact of COVID, which has expanded the tools and use of technology in South African ULC's, specifically APK ULC. There are five lessons that are highlighted bearing in mind the socio-economic factors that impact South African ULC's and their students:

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

Access to Adequate Training and Tools

The first lesson from COVID is that access to adequate training and tools is necessary to deliver an Online ULC, which includes a learning management system, devices and online material. Lynn Biggs⁴¹ suggests that there should be three simple steps: Firstly, train clinicians and lecturers in the digital pedagogy and provide support, secondly define the tech ecosystem by explaining what tools you are going to use and thirdly, write manuals for students and clinicians to utilise the technology.⁴² Biggs advocates for creating a sustainable model in South African ULC's.⁴³ Giddings suggests that when Law Clinics objectives are realistic, the variables that impact the process are recognised and a model is chosen that accommodates for those variables, the clinical experience can be sustainable within Law Clinics.⁴⁴

The clinician's approach to creating APK's Online ULC exemplifies the three steps advocated by Biggs and Giddings realistic objectives for sustainable ULC's. This highlights how the same principles applied to creating a sustainable physical ULC, similarly can be applied to creating an Online ULC. In the South African context, there are multiple socio-economic factors that impact the chosen model and student skills building. For some their engagement with technology starts at university. A socio-economic reality is that for many first-generation university students, the first time they have an opportunity to use a computer is at university. This is often primarily, students who come from rural areas, villages or schools where computer facilities are non-existent.⁴⁵

Examples can be drawn from the APK ULC, whereby many students are unable to utilise Microsoft Office, specifically Microsoft Word and Microsoft Excel in the fourth year of their LLB. Initially, the student work is not presented well in terms of layout and repeated mistakes. This impacts their efficiency when learning and completing tasks/ products. The student often requires more time to do basic tasks. Another example would be a student who has limited

⁴¹ Dean of Law at Nelson Mandela University during 2019.

⁴² L. Biggs, 'Blended Learning – Digital Learning and Teaching Faculty of Law, Nelson Mandela University' (2019) South African Law Clinic Association Conference 2019, Johannesburg South Africa, Presentation<<https://www.saulca.co.za/file/5f044f4018566/SAULCA-WORKSHOP-REPORT-2019.pdf>> accessed 20 November 2023.

⁴³ Ibid.

⁴⁴ J. Giddings, see n. 24, 23.

⁴⁵ G. Effendi, see n. 23.

exposure to technology, will have a below average typing speed. This results in the student spending more than an hour to type a basic letter. This can also be illustrated when students struggle and have an inability to engage with LMS's, such as Black Board, Vula and Moodle. Students often are not able to fully utilise the resources despite the university providing basic training.⁴⁶

Another socio-economic challenge is that some students do not have their own device, such as a computer, laptop, tablet or even a smart phone to complete the necessary tasks in an online environment.⁴⁷ There are many students who have limited or no access to a computer and WI-FI when at home.⁴⁸ This is further supported by the fact that only about 24.7 percent of South African households in 2020, with persons between age five to twenty-four had computers in their homes.⁴⁹ While students who come from government schools or private schools are able to integrate more easily with the current technology available at university due to their exposure to technology prior to entering university.⁵⁰

While at the APK ULC there were fourteen computers utilised prior to COVID, which allowed equal access to tools when students are in the ULC building. No student has an unfair advantage when it comes to access to devices. Yet a student's technological ability remains different depending on their individual technological engagement prior and during university.⁵¹ This highlights that access and adequate training is essential to ensure students can utilise the necessary tools for skill building. As training and skill building aim to ensure students are upskilled once they graduate, training should be gradually introduced throughout the degree at various stages to ensure that no student is left behind.

⁴⁶ Ibid.

⁴⁷ G. Effendi, see n. 21.

⁴⁸ G. Effendi 'Sustainability of South African Law Clinics in a technology driven world'. (2020) Skakuza, South Africa, [unpublished documentary].

⁴⁹ R. Maluleke, 'Education series volume VIII: COVID-19 and barriers to participation in education in South Africa, 2020', Report No. 92-01-08 (*Stats South Africa*, 24 February 2022) <https://www.statssa.gov.za/?page_id=1854&PPN=Report-92-01-08> accessed 2 January 2025, x.

⁵⁰ Ibid.

⁵¹ G. Effendi, see n. 21.

Issues with Wi-Fi connectivity, data and electricity

Limited access to WI-FI, data or electricity were exacerbated by COVID hindering the use of technology on and off campus, as well as access to learning materials. Weak signal and connectivity commonly arose when servers were overloaded, weather-dependent due to heavy rain, load shedding and when students are off campus the affordability of data and resource issues became more prominent.⁵² The ULC's location is another factor, especially when it is located off campus.⁵³

Students will be unable to download learning materials and engage with course content or restricted to do so only in WI-FI zones at campus. Students who are too reliant on technology experience challenges in completing work when there is no WI-FI or electricity, they cannot complete their work.⁵⁴ Globally this is a common problem for developing countries, as about 1.3 billion people have not yet accessed electricity, and about 4 billion people have yet to access the internet.⁵⁵ In South Africa in 2020, about seven percent of households with persons between age five to twenty-four had internet access at their homes. Smart phones were the primary tool or medium utilised by about 66.8 percent to access the internet while at home.⁵⁶ Issues with WI-FI connectivity, data and electricity need to be managed within the context of the CLE module. There should be alternative solutions, flexibility and adaptability within the ULC program to allow for any technological issues or barriers that may arise to ensure the ULC continues to operate effectively.⁵⁷ This is exemplified with the conversion of the CLE module and traditional ULC into an Online ULC.

Converting the CLE practical course to an Online ULC

Converting the practical course online is possible, as the live client can be an inspiration for simulated material. For example, at APK there were two main stages for the development of the Online ULC. In March 2020, the first initial group of students had worked at the office and needed to be moved online. They received several briefs with different sets of facts. Each week on their allocated day, the students would meaningfully engage virtually with the

⁵² G. Effendi, see n. 48. G. Effendi, see n. 21.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ K. Schwab, see n. 12, 11.

⁵⁶ R. Maluleke, see n. 49.

⁵⁷ G. Effendi, see n. 23.

relevant legal issues and feedback from the previous week, draft different legal documents to assist their client, as well as three progress journals for the semester, while being supervised by a clinician. WhatsApp, Blackboard Collaborate, and e-mail were primarily utilised for supervisor, student and client communication.⁵⁸ A challenge for most ULC's was the existing clients and that staff did not initially have access to their office files due to the national shutdown.⁵⁹ Fortunately, some clients could be contacted via e-mail and others by telephone, as APK had an online database. There were other client and access to justice challenges during the lockdown period, which is beyond the scope of this paper.

The second stage of the development of the Online ULC impacted the subsequent semesters during COVID, which was completely online and required more in-depth online training for students. The physical orientation for students, which is their first day at the ULC was converted to an online training, incorporating the LMS, explaining to students how to utilise the new tools, resources, communication etiquette and where to submit products online. Students were required to check the weekly overview to prepare, then engage in a group consultation via Blackboard Collaborate to reflect on the previous week and manage expectations for the day, this encouraged discussion on common errors and student improvement.⁶⁰

Each student received a different set of facts for a simulated soft file (their old file/current client), which they would need to assist and work on until the matter was closed, or semester ended. Students would consult weekly with their supervisor in an online platform. Each student would engage with one new simulated client in a group consult via Blackboard Collaborate. This was so effective that some students believed there was a real client, which reflects the importance of having realistic facts that can be relatable to students. Blackboard Collaborate, WhatsApp and e-mails remained the main means of communication. At 1pm at the end of their allocated day students would ensure they upload their weekly submissions to the relevant tabs, as well as three reflective journals during the semester.⁶¹

⁵⁸ Ibid.

⁵⁹ D. McQuoid-Mason, see n. 33.

⁶⁰ G. Effendi, see n. 23.

⁶¹ Ibid.

This Online ULC module allows supervisors to utilise the weekly submissions to build the students' skills, from letter writing, drafting, communication and even negotiation in a simulated environment. Feedback is given in a safe space where the student can improve, without the risk of impacting a live client's case. Furthermore, of the three journals, the first journal was due on the first day to allow the student to reflect on their expectations. The second journal was due mid-way through the program for the student to reflect on their progress. The final journal was due at the end of semester to allow students to reflect on their overall progress at the Online ULC.⁶² Reflection is a useful life-long learning tool for students to hold themselves accountable and utilise to improve their work.⁶³ Online learning and simulation are useful to manage large student numbers, especially where there are few supervisors. Alternative products or submissions can be created for skill building and to manage the supervisor marking load. Student collaboration and group skills can be enhanced with meaningful supervisor engagement.

Clinicians (Supervisors)

Clinicians are the primary resource for student engagement. There can be alternative forms of consultation to the traditional in person consultations, such as Zoom, Google Meets, MS Teams, Blackboard Collaborate, WhatsApp and telephone calls. At the same time clinicians must be careful of the faceless supervisor, as students need to identify with the person, they are interacting with to develop a supervisor-student relationship of respect and trust. Supervision needs to be continuous in that students must receive weekly feedback, not just a mark but actual written feedback so they can improve. Utilising rubrics and providing them to students can assist in consistency and creates transparency with students, this manages student expectations.⁶⁴ Rubrics further promote an objective criteria, whereby learning outcomes are clear for students.⁶⁵

⁶² Ibid.

⁶³ J G. Anon, 'How Do We Assess in Clinical Legal Education: A "Reflection" about Reflective Learning' (2016) *International Journal of Clinical Legal Education*, 23,1, 48 at 50.

⁶⁴ G. Effendi, see n. 23.

⁶⁵ J G. Anon, see n. 63, 50.

General Administration and Marking

General administration and marking can be manageable with the selected model, such as minimising the products, preparing material in advance and creating rubrics. Student supervisor ratios also need to be managed to ensure supervisors can give students adequate feedback and assess, alongside live client obligations.⁶⁶ The chosen teaching methodology must be examined, alongside ensuring the needs of CLE and access to justice are met. Depending on the clinical module there will be duties to live clients, as well as other challenges where solutions can be found by carefully selecting how your simulated model is implemented. In implementing innovation, one must be aware of the socio-economic context, to ensure the realities of indigent clients and disadvantaged students who need assistance to develop basic skills is not neglected. These students may need continues training to be on par with students who have a better footing. For clinicians there needs to be a balance in the supervisor-student ratio to ensure a supervisor can adequality help their allocated students. In light of the above lessons learnt let us briefly consider the impact on South African ULC's post-COVID below.

South African University Law Clinics Post-COVID

Post Covid, due to large student numbers, we saw a combination of simulation exercises and live client, a move towards a blended learning approach in many ULC's. However, some ULC's have merely resorted to the old way of doing things. This does a disservice to the potential of skill building in simulated teaching in an Online ULC and simulation in general. Staff resorting to old ways and the resistance to technology often stems from a personal inability, lack of skills or training.⁶⁷ The fear that technology will result in labour substitution. The resistance to new technology by staff is based on the fear that technology will reduce jobs and make certain roles redundant.⁶⁸ There is a truth to this fear in that many processes have and can become automated.⁶⁹ This stems from the idea that humans may be replaced by robots and perhaps merely an inability to utilise the new technology.⁷⁰

⁶⁶ G. Effendi, see n. 23.

⁶⁷ L. Biggs see n. 42.

⁶⁸ A. Carrel, see n. 11, 1157. K. Schwab, see n. 12, 39.

⁶⁹ K. Schwab, see n. 12, 11.

⁷⁰ A. Carrel, see n. 11, 1159.

There remains resistance by many clinicians to incorporate change, such as new technology. An example is the preference to use paper when an online source or document can be uploaded on a LMS or sent via e-mail. This results in excessive paper wastage.⁷¹ The view that ULC's current technology is sufficient in that each student has access to WI-FI, a computer and online databases was perhaps adequate prior to COVID. Technological advancement will improve the overall basic legal foundation at universities and impact the resilience of ULC's in the face of any future pandemics. However, one must remain cognisant of the realities of indigent clients and disadvantaged students who need assistance to develop basic skills and the need for continues training to be on par with students who have a better footing. The recommendations below could perhaps assist in the sustainability of South African ULC's.

Recommendations for South African University Law Clinic's

Recommendations for ULC's are context-dependent but the following may be applied across jurisdictions:

Up Skill Students and Staff

The first recommendation is that technology can expand the roles, and the skill set of lawyers.⁷² Technology has the potential to enhance skills and not necessarily replace us with robots.⁷³ There are certain tasks that require human contact or control. By enhancing students and staff skill set, students become more employable and staff become comfortable with the use of technology. Clinicians must be trained in digital pedagogy and be provided with support. The tech ecosystem must be defined so that clinicians are familiar with the tools they will utilise to teach students.⁷⁴

Blended Learning Approach

The second recommendation is a blended learning approach whereby a LMS is implemented or a casefile management system. Technology improves efficiency and workflow,⁷⁵ such as online case management and storage,

⁷¹ G. Effendi, see n. 23.

⁷² A. Carrel, see n. 11, 1157.

⁷³ Ibid, 1159.

⁷⁴ L. Biggs see n. 42.

⁷⁵ A. Carrel, see n. 11, 1160.

generating automated documents for clients.⁷⁶ The LMS can be used for announcements or to submit products, which saves paper. It can also be used to provide and read feedback, as well as track the overall student and file progress. This provides faster ways to communicate with staff, students and clients.⁷⁷ Other communication mechanisms such as e-mail, WhatsApp and text messages could be utilised.⁷⁸

Students no longer need to post a letter to clients but can utilise faster means of communication depending on the clients' resources. In the same way, lecturers no longer need to place notices on physical notice boards. Technology can conserve time and automate certain tasks.⁷⁹ Reflective journals for students are useful to manage expectations, progress and experiences, and can be uploaded online. Online storage via an LMS allows an alternative way to ensure security of work within the university's framework and guidelines.

Supervision

The third recommendation is that supervision could be a combination of in person/face to face element with online supervision. Supervision fosters a relationship of trust and can provide a context that gives students purpose and improves learning.⁸⁰ WhatsApp groups are not recommended but rather other online platforms could be utilised, such as MS Teams or Google Meets. This allows healthier boundaries for work and life balance for staff and students. Clinicians should not utilise personal phones and should distinguish between home and work tools to promote work life balance, which is essential in ULC's.⁸¹

Consultations

The fourth recommendation is that consultations should be a combination of simulation and live client. Simulated consultation in the Online ULC can be utilised to build and test consultation skills.⁸² Thereafter a minimum of one live client, to build the students' confidence and consultation skills, as well as

⁷⁶ Ibid, 1156-1157; K. Schwab, see n. 12, 51.

⁷⁷ A. Carrel, see n. 11, 1158.

⁷⁸ G. Effendi, see n. 48.

⁷⁹ Ibid.

⁸⁰ D. Maranville, 'Passion, Context, and Lawyering Skills: Choosing among Simulated and Real Clinical Experiences' (2000) *Clinical Law Review*, 7, 123 at 136.

⁸¹ G. Effendi, see n. 23.

⁸² Ibid.

promote access to justice. Some American Universities have incorporated this strategy to ensure students have sufficient lawyering skills before consulting a live client.⁸³ The incorporation of simulation and technology in the curriculum cannot be at the cost of core lawyering skills⁸⁴ and values, such as empathy, ethics, client consultations, basic eye contact, multicultural lawyering, team work, decision making skills can be improved with a live client.⁸⁵ Students require not only knowledge of the law but behavioural skills, alongside being able to utilise technology in order to be well-rounded in a technologically driven world and employable.⁸⁶

Online University Law Clinics

The fifth recommendation is that an Online ULC can be utilised to lay the foundation earlier in the law degree to enhance and build the skill set of our students. In delivering and designing the online module it is important to ensure an environment that is inclusive, conducive for students to actively participate online and promotes positive learning.⁸⁷ For future lawyers to be competent they must now possess more than an 'in-depth legal knowledge and skills but an understanding of data, technology, project management, and process improvement'.⁸⁸ First year university students receive some form of entry level training to assist with technology, such as workshops on how to utilise learning management systems and research techniques to utilise online platforms. Students participating in some form of ULC work at an earlier stage in their degree promotes skill building. Furthermore, an Online ULC improves efficiency, workflow,⁸⁹ is cost effective, environmentally friendly, promotes flexibility and innovation.

All five recommendations expand the tools that students utilise in learning and thus promotes skill building. The image below is an example from an Online

⁸³ D. Maranville, see n. 80, 130.

⁸⁴ A. Carrel, see n. 11, 1153. Amani Smathers coined this term to describe the new T-shaped lawyer.

⁸⁵ *Ibid*, 1170

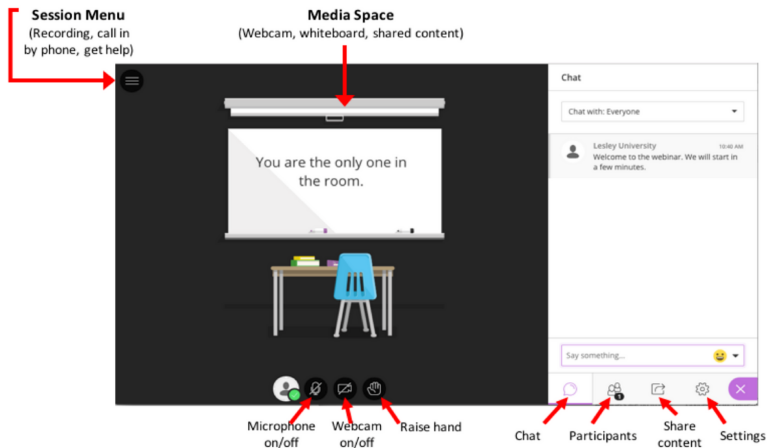
⁸⁶ *Ibid*, 1174.

⁸⁷ K. Howells, 'Simulated and Real-World Experience - The Challenge of Adapting Practice in Clinical Legal Education in Unprecedented and Challenging Times' (2020) *International Journal of Clinical Legal Education*, 27,196 at 200.

⁸⁸ A. Carrel, see n. 11, 1153.

⁸⁹ Workflow is improved with online case management and storage, generating automated documents for clients. Technology can conserve time and automate certain tasks. The service of pleadings is much faster in that you can e-mail a pleading, you no longer require the sheriff to serve a pleading. This saves time and money.

ULC, a screenshot of a consultation.⁹⁰ The image illustrates how building the Online ULC can work in practise via the Blackboard LMS:



A primary purpose of the CLE methodology is skill building, where students engage in moot courts, mock trials, research, critical thinking, problem solving, consultation, communication, negotiation, ethics, community advocacy, social justice, workshops and training, live-client consults, office consults and community outreach, drafting, pleadings, letter writing, opinions, typing, video presentations and even YouTube. These lawyering skills are common in ULC courses and law school simulations, with tasks aiming to teach varied strategies and techniques.⁹¹ The listed skills are transferable to a simulated environment and can be developed in an Online ULC, as useful practical skills. Simulation is merely changing the tools to teach the same skills. Many academics, legal professionals, supervisors and clinicians have engaged with one or more of the above listed skills during their practice and teaching of law, all these skills are transferrable to the online space.⁹²

Sustainability of ULC's with the incorporation of technology advancements requires an expansion of skills training within the legal education curriculum at various stages of the law degree. Amani Smathers, 2014 T—Shaped Lawyer Model promotes inclusion in the legal education curriculum, not only a deep

⁹⁰ The image is from an Online Law Clinic created by the author at UJ Law Clinic.

⁹¹ D. Maranville, see n. 80, 129-130.

⁹² G. Effendi, see n. 23.

understanding of the law but an additional ‘shallow understanding of complementary areas such as data analytics, process improvement, and technology’.⁹³ These skills need to be expanded each year to ensure the student stays abreast of technology advancements. Some international schools have developed ‘new courses, centers, labs that equip students with changes in technology’.⁹⁴

However, despite the current technological advancements and facilities, many South African universities are unable to assist students from disadvantaged backgrounds that are not equipped with basic computer skills and have not seen a computer.⁹⁵ The COVID shift to online learning highlighted the socio-economic inequalities prevalent in South Africa’s education sector, as only those with access were able to swiftly transition to the online environment and others risked being left behind.⁹⁶ We need to be cognisant of the past and current socio-economic context in South Africa, acknowledging the environment and backgrounds of students.⁹⁷ Each student comes from a diverse background, their level of training and access to technology differs. Therefore, there must be more training initiatives to upskill students.⁹⁸

Training initiatives equip students with the necessary skills for success once students graduate from universities.⁹⁹ In expanding the skill set and competency of our students, they must now be able to utilise technology and the impact of technology. Students’ use of technology in a ULC must be ethical, secure and with the requisite emotional intelligence when assisting clients.¹⁰⁰ When students are in their final year their practical skills can be developed and enhanced in the ULC, which provides human contact and access to justice, as they meet real clients.

Conclusion

In concluding, we need to stay abreast of technology developments in order to prepare our students for the changing landscape. Online ULC’s provide an

⁹³ A. Carrel, see n. 11, 1168-1169.

⁹⁴ Ibid, 1166.

⁹⁵ A computer course is often offered in first year but this is not sufficient to improve skills, such as typing.

⁹⁶ R Maluleke, see n. 49, x and 20.

⁹⁷ L. Biggs see n. 42.

⁹⁸ G. Effendi, see n. 23.

⁹⁹ A. Carrel, see n. 11, 1167.

¹⁰⁰ Ibid, 1157 and 1162.

alternative and innovative way to promote skill building. Despite multiple socio-economic challenges in South Africa to implementing an Online ULC, there are positive lessons. The COVID lessons highlight how an Online ULC is the solution to large student numbers and supervisor-student ratio. Most ULC's have access to some form of LMS, electricity, WI-FI and computers on campus provided by the university. The permanent structure of the ULC can be flexible, with students being able to work from home or anywhere at campus. Blended learning allows students to adequately develop practical skills with the available technology and promote access to justice.

Training will aid clinicians and promote blended learning that creates mass appeal and stays relevant to address the advancements in technology. Incorporating alternative forms of technology in our LMS's can minimise the technological gap in South Africa. Increased and continuous training ensures the sustainability of ULC staff and students to operate more effectively. The end goal is not merely imparting knowledge of the law but life skills, so that these students will be equipped when they graduate from universities, whichever career path they choose. In the South African context and countries similarly situated Online ULC's can assist to combat multiple socio-economic factors that impact legal education and student skill building. This will improve the overall basic legal foundation at universities and impact the resilience of ULC's in the face of any future pandemics.