Traditionally, the practical training of South African lawyers was regarded as the preserve of the profession. As a result, persons wishing to qualify as attorneys were required to serve articles of clerkship of at least two years under the guidance of an experienced attorney known as a “principal.” Law schools were required only to provide a “sound legal education,” which was interpreted to mean a grounding in theoretical precepts. As stated above, the system has been changing with the lines between school and the profession becoming blurred. Now we have an increase in the use of skills training in both the law school curriculum and post graduate practical training programs, the shortening of period of articles, and the creation of community apprenticeships.

To give you a sense of how this system has and still operates, I will share my experiences as a black female seeking to become an attorney in South Africa. Such a description should be relatively complete since I have served in all the different types of settings available for the training of aspirant attorneys in both the old and current forms of our legal system. Further, I have lived in South Africa all my life, a society rich in diversity in terms of language, culture, ethnic origin, religion, as well as social and political experience. This diversity encompasses both negative experiences (particularly during the apartheid repression years) as well as positive (both before and after the advent of the constitutional democracy). Through my personal experiences, I will demonstrate the practical aspects of a South African lawyer’s education and qualification as an attorney through four stages: university education for four years leading to an LLB degree; attendance at a practical training school (PLTS); serving articles of clerkship under a practicing attorney; and employment in a public interest law firm. In the final section I will also discuss the four part bar examination an attorney must pass for admission.

Before describing each of these stages, I will briefly complete the picture of my legal career so far. Thus, after my admission into the attorney’s profession in 1999, I trained as a property lawyer or conveyancer for two years and wrote an exam to be registered as the first

---

*Attorney and the Deputy Director of the University of Natal Campus Law Clinic, Durban, South Africa.

1 See the description of South Africa’s divided bar and brief legal history contained in the companion article to this one written by Prof. Peggy Maisel at pp. ?-?

2 Yusuf Vawda, Director, Law clinic University of Durban Westville
black woman and one of only three black conveyancers in the whole Eastern Cape Province. Beginning in 2001, I obtained my current position as the Deputy Director of a University based law clinic. The Clinics goals are to supplement and compliment other indigent legal services available in the province; improve legal education by providing practical skills and experience; encourage students to pursue public interest law careers, thereby enlarging and strengthening the public interest bar; and increase the number and skills of black legal professionals.  

**Law School**

After leaving high school in 1989, I attended law school at Fort Hare University, a traditionally ‘black’ university for two years. I then spent five years at the University of Natal, Durban (UND), a ‘traditionally’ white University, where I was awarded both a B Proc and LLB degree. My experiences at the two law faculties have shaped my legal career and will always influence the way I practice law.

My two years at Fort Hare were filled with political demonstrations, protests and mass meetings. The focus was on the struggle for freedom, the popular slogan then was “Liberation first, education later”. Our activities resulted in class boycotts and the University closing down two times during the time of my study at the university. The academic work suffered resulting in a number of law students, including myself, failing a year and being excluded from the law faculty. I had to reapply the following year as an arts student majoring in law. It is at this University that I got a glimpse of broader societal issues in their relation to legal and political problems in our country. Regrettably this did not happen in the classroom but within student political organizations.

After my second year at Fort Hare I decided to transfer to UND because I wanted to get a qualification that I believed would enable me to better compete with my counterparts from ‘white’ faculties. Given the country’s history of prejudice and the under-resourcing of the

---

3 Golub, Battling Apartheid, Building a new South Africa, pg 38

4 The 1997 Qualification of Legal Practitioners Amendment Act discontinued the BProc degree. Now all law students graduate after four years of study with an LLB degree, instead of the 5 years previously required for the degree. The major reason for this change was to have only one route to qualification as an attorney so that students who could not afford five years of university education, mostly black, could compete on an equal basis with students graduating with a five year LLB degree. In moving to one degree, the law schools also agreed on a standard curriculum, supplemented by electives that would be required for graduation from any law school. Ibid note 1 at 209.

5 South Africa’s twenty–one law faculties produce about three thousand law graduates annually, the majority of whose intention is to enter the attorney’s profession. One of the accomplishments of post 1994 decade has been the increasing access of the previously marginalized groups of students to tertiary education. During apartheid, South Africa had separate universities for Africans, Indians and so called ‘coloureds’ or people of mixed race origins. These universities are still called historically disadvantaged universities, for convenience, I shall refer to the institutions as ‘HDUs’. Although the percentage of black students at ‘historically white universities’ has in some cases increased to more than 50% of the total intake, a third of all law graduates qualify through HDU’s.
It is common knowledge that HDU faculties have suffered in the past as a result of insufficient resources, lack of support networks and their location, which is often far from the main centers. Because of this these universities often have difficulty in introducing new programs or systems. They then can not compete with the more advantaged faculties, or even other legal institutions, in the recruitment of sufficiently qualified and/or experienced staff.

A professor of mine at the University of Natal once wrote: “Apart from the social justice courses in Jurisprudence most other law courses teach students how to operate in the First World commercial legal environment rather than a Third World poverty law situation. Poverty Law is often neglected in the formal law curricula which tends to focus on ‘rich people’ law.”

David McQuoid-Mason, “Teaching social justice to law students through community service: The South African experience”

I might be called a previously disadvantaged individual, because I am black and a woman, but I came from a family that could afford the finer things in life. It was easy for me to forget about the broader societal issues because I was not faced with the reality for the majority of South Africans, both on campus and at home.

The current requirements for admission as an attorney are an LLB degree and two years of articles of clerkship. The clerkship may be reduced to one year upon graduation from a five month full-time course at one of the Practical Legal Training Schools and 12 months of...
Practical Legal Training School (PLTS)

There are currently nine Schools for legal practice throughout South Africa approved by the provincial law societies. Currently all law school graduates are required to supplement their LLB degree with compulsory attendance at a five week practical course at one of them. A law graduate who is able to attend an additional five-month PLTS course need only serve one year of articles, instead of two. The objective of these courses is to supplement the training provided by law firms regarding the knowledge, skills and attitudes required of a competent candidate attorney. Emphasis is also placed on preparing for the Admissions Examination.

I attended the PLTS in Durban in 1996, its second year of operation. The bulk of the students were either previously employed law graduates, who remained partly trained, or recent law graduates who could not get articles or employment in law at all. There was an understanding that those with perceived inferior degrees or lack of contracts were made employable by such a course. The Fidelity Fund sponsored the majority of the students at the school, including me.

The curriculum covered subjects such as motor vehicle accidents and wills and estates and was practice oriented. Instructors were practitioners known for their experience and expertise. Students were divided into firms that ‘litigated’ against each other. The students’ progress is constantly monitored through testing at the end of each module, followed by appropriate remedial action. Various awards are presented for exceptional performance such as the special certificate awarded by the Law Society of South Africa awards. Students may be permitted to enroll for a special assessment program that focuses on learning more advanced skills and leads to receipt of an additional competency certificate.

My personal experience of the training and supervision at the school was very different from what I expected and had been told. More importantly, it did not achieve its goal for several reasons. First, the teaching methodology used by the practicing lawyers was similar to that at law school. Thus, the practicing lawyers also used the ‘chalk and talk’ model, and even though they shared some of their experiences, too much time was spent on substantive law and too little time on practical aspects.

Second, even though I took part as a witness in one mock trial prepared by our group ‘law firm’, I got little from the experience. There was an assumption that we could all work well in an unsupervised team, but this was not so. Rather, the more experienced members were generally impatient with the recent law graduates such as me, and the one or a few people who had previous knowledge or experience in the type of case we were assigned ended up doing the

community service at a public interest legal organization. The Legal Practice Bill 2002 recommends that attorneys be required to complete only one year of post-graduate vocational training in order to qualify for registration and admission to practice and as wide a range of practical training options as is possible will be provided. Ibid, note 4 at 209.

10 These schools were established pursuant to the Attorney’s Act, 1979 as amended in 1993.
11 Nic Swart, Director of the PLT Schools in South Africa, January 1998.
12 The attorneys Fidelity Fund funds practical legal training and law clinics in a nett amount of some R15 million per annum (this includes financing indigent graduates). Chair person of the Law Society of South Africa’s standing committee – November 2001.
bulk of the work. I therefore participated only minimally. I also believe that the competitive nature of these exercises did more harm than good because the focus was always on winning the best group prize at the end of the five-month period, not on learning skills. The reason was that we were made to believe that big law firms chose potential candidate attorneys and professional assistants from the winning group.

Third, no accommodation was made for the different educational backgrounds of the students. Thus, while recent law graduates from all backgrounds seemed to have difficulty with some aspects of the training at the PLTS, my observation is that Black students had much more. This was especially true for those from HDUs, but it also included students who had graduated from traditionally white universities but had studied previously under the Bantu education system. The problems arose mainly on tasks that required us to verbalize our thoughts and actively engage with ideas through consultation, discussion and feedback, or on written tasks such as the drafting of contracts or pleadings. Besides involving a form of learning that we had not been exposed to before, we were required to demonstrate a command of English that was difficult for many.

At the end of my six month period at the PLTS, I passed all the written modules because I had learned very good study and examination techniques at law school. Further, I was prepared for the attorney’s board exam since we had reviewed past papers and our lessons were presented with this specific outcome in mind. Unfortunately I was no more ready to practice law than when I left University. I had still not interacted with a live client and I was still learning mostly through lectures with one mock trial. Most importantly, I lacked confidence in my ability to perform my role as a lawyer, especially regarding my communication skills.

**The Articles of Clerkship: The Contract**

Every law graduate must enter into a contract of Clerkship with a principal, i.e., a senior attorney who has practiced for more than three years. In the present system this can occur at a private firm or a law clinic, justice center or public interest law firm. In the contract the candidate attorney undertakes to diligently, honestly, properly and confidentially serve the principal and the profession. The principal in return undertakes to use his/her best efforts to ensure that the candidate attorney is properly instructed in the practice, ethics and understanding of the profession.

---

14 This system of education has not ended. Most black students still study in segregated schools, that are underfunded and often staffed by teachers with less training.

15 An additional deficiency of PLTS training for me concerned my lack of experience in the use of library resources. I needed guidance on how to conduct legal research that should have been part of the skills training but was not.

16 This contract of employment normally terminate after the candidate attorney’s admission although the principal can dismiss the candidate if he or she does not serve articles properly, commits a breach of any of the terms and conditions of the agreement, or is guilty of misconduct.

17 Said instruction is to include opportunities for gaining practical experience in: Preparing legal opinions and brief for Counsel; Interviewing clients and witnesses and drafting of witness statements;
The candidate attorney is required to keep a diary or other written record of the training that she receives until she is admitted and must hold such diary or other record available for inspection by her principal, the Council of the Law Society or by the examiners responsible for conducting the Candidate Attorneys’ practical examinations. A registered candidate attorney has a right to appear in any court in the Republic, excluding regional courts or any division of the High Court. Finally, the principal agrees to use his/her best efforts to procure the admission of the candidate attorney, provided she has served her articles properly and is, in the Principal's opinion, a fit and proper person for admission to the bar.

The Legal Profession

Preliminary findings of an investigation into the supply and demand for attorneys indicate that there is an oversupply of attorneys against what the public and the state are prepared to pay. As a result, access to the profession is a major challenge for any law graduate, a situation that is even worse for Black graduates especially those from HDUs.

The reasons for these difficulties have been described earlier. White males dominate the profession, and subtle barriers such as differences in language, perceived incompetence, and educational discrepancies brought about by apartheid era education policies make it harder for Black candidates to get ahead. Further, it is not as attractive to seek articles with a Black law firm because discriminatory practices often limit the scope of their practice. For example, Black law firms in the apartheid era had little access to commercial work and like so much else that has been slow to change.

Law firms are under no obligation to register candidate attorneys and many simply decide not to because of the added financial responsibility. Contrary to popular belief, candidate attorneys are often seen by law firms as more of a financial liability than an asset. This leads to candidate attorneys receiving poor and insufficient training and being financially exploited. There is currently no basic salary set for candidate attorneys. Clerks are paid starting salaries

Identifying and applying appropriate legal principles to facts;
Arguing elementary cases before courts and tribunals and effectively presenting certain legal arguments;
Negotiating the settlement of disputes;
Drafting letters, contracts, wills and pleadings;
Keeping proper accounting records and handling of trust moneys;
Conducting routine office administration, including the proper handling of files and documents; and
  i. Preparing statements of account for clients and bills of cist for taxation. Contract:

  Articles Law Society of South Africa www.lawsoc.co.za

18 Section 14 of the Attorneys Act 53 of 1979.
19 Section 8 (1) (a) of the Attorney’s Act 53 of 1979.
20 There are four provincial law societies in South Africa, and every attorney must be a member of one of these. Their combined membership in 2002 was 14,437. In recent years South Africa’s law faculties have graduated about 2 700 students a year, while in 2002 some 2200 articles of clerkship and service contracts were registered. There are an average 2000 bar admissions each year. (The statistics in this section were supplied by the school of Legal Practice.)
ranging from nothing up to ZAR 6 500 (Currently about $870) per month in the big law firms in Johannesburg. These conditions have further limited opportunities for Black candidates to obtain articles and therefore skewed demographics in the legal profession even more.

**Law Firm Clerkships**

South African attorneys’ firms can be divided into three tiers: The first is small firms with four or fewer partners that comprise about 80% of the profession. They serve mainly individual clients and small commercial enterprises. ‘Black attorneys’ firms historically fell into this least prestigious category. Next are medium-sized firms with four to forty partners, the bulk of whose work has been commercially oriented, although not necessarily of a highly sophisticated nature. The post apartheid period has seen a growing number of black firms in this tier.

The top echelon includes what is often referred to as the top five or big five in Johannesburg; law firms with more than forty partners that have multinational and international clients. As could be expected, a recent study concluded that the percentage of Black attorneys in these firms is lower than the demographic profile of the profession as a whole. Although these firms may have been employing Black attorneys since the 1970’s, the study indicates that there has always been a ‘revolving – door phenomenon ’with a few Black practitioners moving in, but quickly moving out of the firms.

I was a candidate attorney in both a small and top echelon law firm. In this section I will attempt to illustrate through my experience and those of my colleagues the type of training and supervision we received and our experience in trying to obtain a clerkship.

During my final year of law school in 1996, I sent out applications to all the law firms in Durban I could find in our local attorney’s registry. I had my heart set on working for a ‘white law firm’ because I believed it would offer superior, highly sophisticated training opportunities in commercial law. To my surprise some did not even respond while the few that did all said that they already had a full staff compliment. I eventually gave up looking in Durban and decided to move back to Umtata, my small hometown in the Eastern Cape. There I again sent applications to all the law firms in town with the same result. By now it was mid 1997, and I was clearly one of many black graduates “roaming the streets” with an LLB degree and a PLT certificate. This was not supposed to be happening to me because I had studied at one of the so-called ‘best four’ universities.

My parents eventually approached an attorney at our local church who was a partner in a small local law firm. He agreed to register me as a candidate attorney but could offer me no financial remuneration because the firm already had five candidate attorneys who were receiving a nominal payment.

While the object of a contract of articles is the training of candidate attorneys, it is an open secret that small firms with candidate attorneys utilize them to take instructions and do court appearances, thereby leaving the principal to concentrate on getting more clients. It is

---

21 Study by Prof Pruitt , University of California, Michigan Journal of International Law (vol. 23 no 3), an article based on 75 interviews conducted with South African practitioners over an 18 month period.

22 The others besides the University of Natal are the University of the Witwatersrand (Wits), the University of Cape Town, and Rhodes University.
difficult for a single practitioners or small firms whose attorneys are often sitting in court for a whole day or conducting a trial, to run a law office. As a result most small firms hire candidate attorneys to alleviate most of their administrative burden. This is exactly what was happening at the law firm where I worked.

The firm was struggling financially and had limited resources. For example, there was only one secretary to serve the two partners and six candidate attorneys. She also doubled as the firm’s receptionist and had the only computer in the office. There also was little organization as exemplified by the fact that all legal workers kept his or her own filing system with most files on their desks.

The two partners, in addition to being in court, were running two satellite offices in rural towns outside Umtata. They therefore were effectively in the office for a very short time in a day. Between the five candidate attorneys left in the office, we saw all the clients who walked in from the street and took care of all the office administration. The firm’s policy on client intake was that we took every case so long as the client could pay for our services. The junior staff, more often than not, had to take the clients initial instruction, counsel them on their options and independently decide on the legal strategy to be followed. We signed our own letters but all court papers had to be signed by one of the partners, often in haste without having applied his mind to it.

The bulk of the law firm’s work came from cases paid for by Legal Aid Board (LAB) and therefore was therefore mostly criminal. Our firm also dealt with a large number of divorces, maintenance issues (child support), debt collection, some very simple sale contracts, motor vehicle actions, and administration of estates. The candidate attorneys were involved in legal research and drafting, drawing bills of costs, conducting negotiations and attending taxations.

In this setting, I finally interviewed my first client. Next I quickly found out that the secretary had precedents of every type of letter, court process and agreement that was used in the office. To ease the pressure of the work, I readily used these and often took instructions from a client in a manner that would fit the precedent I was going to use. The secretary would mostly change the names, addresses and amounts in the existing document. The procedure was the same for the drafting of letters, court process or contracts. Files that required any drafting that was complicated, or one for which we had no precedent, had to be handed over to one of the two partners.

Our interaction with the partners consisted mainly of them putting a note on a file usually in the evening that gave instructions without proper guidance to do some work or legal research for a case. When asked questions, the principal would likely give a hurried, unclear response.

We did get an opportunity to accompany the partners when they appeared in the magistrates court, regional courts and in the High Court, but this rarely provided much learning because we were never part of the planning and preparation of the case. The most that we

---

23 The LAB is the nationally funded organization charged to provide attorneys in both civil and criminal matters for people who are indigent. In practice, because of the need and desire to provide counsel to those facing a loss of liberty, the LAB mainly paid for criminal defense work. Until South Africa recently began a gradual changeover to a staff attorney model similar to legal services or public defender offices in the U.S., all of these cases were handled by private attorneys assigned by the court and paid by the LAB.
learned was court etiquette or, if the case was in the high court, we would be asked to prepare the brief for the advocate who would argue the case. I never got an opportunity of seeing a case from start to finish, and, during my entire stay at this law firm, I never had an opportunity to prepare and litigate a case of my own. I only appeared in court myself to postpone or adjourn matters for one of the partners, usually because they were appearing in another court.

I believe my principal at the firm never felt obligated by the contract of articles that he had signed. In reality he was doing me a favor, and he never felt pressured to give me or the other candidates registered under him proper training. In spite of everything, I believe it is at this law firm that I developed my potential to become a competent attorney and gained some insight into the profession. Thus I learned to be very resourceful and had the opportunity to develop my interviewing, case analysis and legal counseling skills. Finally, I often had to use alternative dispute resolution skills because the partners were never in the office.

At the end of my period at this firm, I felt I could not choose a career path that required litigation skills. I also wanted to practice in a less demanding area of law in order to be able to combine career and family life. I therefore decided to practice as a conveyancer, a move that required me to relocate to another town and find another principal. Moreover, to train as a conveyancer, I needed to work in a firm with an established conveyancing department, and that meant a ‘white firm.’ To try to avoid the trauma of rejection, we approached an advocate for help who had recently been appointed Judge President of the Province. He arranged a job interview with one of the big firms in the city.

Post 1994, white law firms in South Africa had and still have both a moral and legal imperative to hire and train black attorneys. The legal imperative is imposed by legislation such as the Employment Equity Act 55 of 1998, which compels employers to develop and implement internal equity plans. But even more importantly, these firms had an economic incentive provided by the post apartheid procurement policies imposed on public and private entities by the same Act. Further, many international clients were setting similar requirements that the firms had to integrate in order to get their work. It is for this reason I believe that I was hired into a law firm of ten white male partners. What they gained is having one of only two black conveyancers in the city working for them, a factor that would translate into more business coming from banks and government departments.

I started working for the firm four months before the end of my period of articles. I was one of two black professional staff in a firm that had about fifty employees. The agreement was that I would start out as a candidate attorney, and after my admission, continue my training to be a specialist conveyancing attorney. I was paid a nominal amount, and at the beginning, was seen as a financial liability mainly because I had never been exposed to the language and concepts of commerce.

Despite my lack of experience, there was a lot of pressure put on me both by the firm and myself to be the “Black superstar” who would attract business because of my skin color. Thus, at the first meeting of the professional staff that I attended, a lot of emphasis was placed on making money and on “profit per partner.” This was new to me because I had no financial responsibility in the previous firm. I was told that I had to look for ways of building my own client base to contribute to the budget of the property department.

All of this made me uncomfortable because I was in an environment totally different from any I had known before. On the other hand, for the first time I was sitting in a huge office by myself with my own computer that had access to the Internet and e-mail, my own telephone...
line, and every type of stationary resource imaginable. I also had my own secretary who was supposed to do all the typing for me. What was missing was the pile of files on my desk. I really felt like the affirmative action appointment that I was.

I received specialist training as the only candidate attorney under a principal who was the managing partner of the property department and who had been practicing as a conveyancer for over ten years. His method of training was very directive. I also spent some time working on some commercial law cases that were linked in some way to a conveyancing transaction in the property department. Beyond my legal work, I acted as the firm’s interpreter whenever anyone had to take instructions from a Xhosa speaking client.

My first day at the office, I was told to study several huge files full of conveyancing precedents that had been collected over the years. During the second week I was invited to watch the principal interview clients while he was taking initial instructions on what he called simple conveyancing transactions. After every such consultation, I was required to research and write a legal opinion on the conveyancing process to be followed.

After sitting in a number of initial consultations with him I was permitted to take initial instructions from Black clients on my own. He sat with me during the first consultation after which he critiqued the interview. Although I managed these files, I could not sign any correspondence or court process. Nevertheless, because I was undertaking similar tasks more than once, I was able to quickly develop expertise in this area of law. Also, I had constant supervision because my principal did not go to court and therefore was in the office most of the time. Finally, I quickly realized that I could learn a lot from the conveyancing secretaries in the office who knew more on some subjects than the principal. For simple transactions, for example, they could fill out all the relevant forms and only required a signature from the principal.

Taking part in all the traditions in the office was an important part of becoming part of the firm. One of the biggest was spending time at the office pub in the building after every working day and especially on Fridays after work. This was where we got to discuss our cases and ask for help from a colleague or another partner in the office. This was also the only place where you could relax and socialize with the other members of the professional staff.

While most of the training and supervision at this law firm helped my legal career, it is also necessary to present a balanced perspective. There is a perception that Black attorneys can never be integrated effectively into white institutions, and I would have to agree with this perception. While my principal was a good teacher who tried to ensure that I received proper training in the practice, ethics and understanding of the profession of a conveyancer, I always felt that not really interested in me as a person but only as the Black name on the letterhead that the firm required. With him I could never forget that I was an affirmative action appointment.

---

24 For example, I was not permitted to liaise with the clients or write a letter to them without his instruction or approval. The arrangement was that all the correspondence from me had to be on his desk at the end of each working day. He usually worked on these letters that same evening and they would be on my desk first thing in the morning with the corrections he wanted me to make. He had his own style of drafting and was critical of mine. He expected me to follow his style because this was what his clients had come to expect from his department. We had an hour long meeting each Monday morning during which the principal would give me instructions for the week and review my work from the week before. I was required to prepare for these meetings by setting an agenda and sticking to the items on it.
whose hiring was driven by commercial considerations on the part of the firm. Further, he expected me to be the first person to arrive at work and the last one to leave; this to him was a sign of a Black superstar in the making.

Things got even more difficult when one of the attorneys in the firm’s debt collection department was transferred to train under the same principal after he decided that he also wanted to be a conveyancer. This attorney quickly got much more involved in the department and most of the files that would have been allocated to me were allocated to him. Also, even though we were both newly admitted attorneys and had the same level of training, at some stage he was asked to supervise me and sign all my correspondence. Contributing to our different treatment was the fact that I did not play golf, and therefore when they organized golf days for big corporate clients, I always ended up being the outside. On the other hand, if we had to do anything that required contact with the government, or we needed to advertise the firm in a way that showed that it was politically correct, I would be put in the front line to make sure that my picture appeared in the papers.

When I raised my concerns about the different treatment at in one of our Monday supervision meetings, my principal stated that the different treatment was a result of my underperforming and not being assertive or intelligent enough to interact with his big corporate clients. In addition, he said he was holding back giving me more responsibility because Black people tended to leave white firms as soon as they qualified. His closing comment was: “I have a gardener at home and I like him. We get along very well. It does not mean that just because he works for me and sometimes with me in the garden I have to invite him to my house for dinner. People are different, and you just have to learn that it is just human nature that people will always take care of their own.” What made matters worse was that my peer in the Department passed the conveyancing exam the first time around while I didn’t. I’m sure this confirmed the principal’s assessment of my ability and dismissed any notion that his racism had anything to do with my failure.

I worked very hard during this time of my life and eventually passed the conveyancing exams, but I was an emotional mess. I had confidence in my abilities as a conveyancer but as a person my self esteem was at its lowest. A huge article was written about me in the local and provincial papers. Fortunately around that time I moved to Durban because of family commitments. I was released from the contract because I would not be using my skill in direct competition with the firm since I was living in a different province.

On my arrival in Durban, I sent out applications to organizations outside the profession. I also responded to an advertisement posted by the University of Natal Law Clinic. I interviewed and was offered a position at a major corporation in the city, the same day I interviewed at the Clinic. I accepted the latter position because I did not want to take on another position as an affirmative action employee in a white organization. I wanted to work in a place where my services were really needed.

The Community Service Apprenticeship Model in Public Interest Law Clinics

As described in the introduction, the South African Attorneys Act was amended in 1993 to allow candidate attorneys to obtain practical experience by undertaking community service at law clinics accredited by provincial law societies. These include public interest law firms such as the Legal Resources Centre, university based law clinics and justice centers run by the Legal Aid Board. As in law firms, the clinics are required to employ a principal attorney with a minimum
of three years practical experience to supervise law graduates in the community service program. The candidate attorneys appear in the district courts and the principals in the regional and the High courts.

I have now worked at the UND Law Clinic for the past three years as a principal supervising three candidate attorneys as well as a large group of law students enrolled in the clinic as one of their fourth year classes. At this point, I will discuss the training and supervision of the candidate attorneys at my law office and also give an overview of other opportunities for clerkships at public interest law firms such as the Legal Resources Centre and the LAB Justice Centres.

University Based Law Clinics and UND

The Association of the University Legal Aid Institutions (AULAI) represents 20 University based law clinics whose main goals are to provide free legal serves to indigent clients, promote the training of law students and graduates in the skills and values required to practice law, expose law students and candidate attorneys to the economic and social disparities that exist in South Africa, and recruit them to practice public interest law after admission.25

Although the apartheid system has been dismantled, as mentioned earlier, the legal profession still suffers its effects even in the public interest law field that until recently was largely dominated by white males. To address this imbalance, the law clinics, including the UND Campus Law Clinic (CLC) where I work, employ and train as many black graduates as possible and send the newly admitted attorneys onto the Legal Aide Board Justice Centres and the other public interest law organizations.26

At the CLC, we have specialized projects that have an admitted attorney who acts as the project manager and a maximum of two candidate attorneys under his/her supervision. The one exception is the Access to Land Project that has 5 candidate attorneys. The three senior attorneys in the office are the principals. One supervises the HIV/AIDS and the Law, Child Justice, Law and Gender, and Children’s Rights Projects; the second the Access to Land Project; and the third, the Access to Housing and the Legal Support to Small Medium and Micro Enterprises Projects.

There are currently nine candidate attorneys in the clinic, eight of whom are from previously disadvantaged backgrounds, and all of whom spend either one or two years working under the direct supervision of a senior attorney. The project managers and the candidate attorneys provide the bulk of the legal representation at the CLC, but despite the large volume of cases at the clinic,27 care is taken not to over burden the candidate attorneys. Instead, everything

25 Golub, Battling Apartheid Building a New South Africa, p 39
26 Dan Bengtsson, Justice for ALL, p. 19 Candidate attorneys who have qualified in the last three years that I have been at the CLC are either working at the Clinic itself, as legal advisers for the Department of Land affairs in the province, in the Aids Legal Network in Durban or at the Legal Resources Centre in Johannesburg.

27 In a developing country like South Africa, where there are vast economic and social differences between the rich and the poor and where the majority of the population does not have access to proper legal services, tension is created within clinics between the goals of training candidate attorneys and students vs. representing as many clients as possible. The danger is that
they do such as giving advice or preparing a document is scrutinized by the relevant supervisor, and when a case goes to court, the supervisor and the candidate act as co-counsel. Much of the supervision goes on during weekly file consultation sessions.

Candidate attorneys also participate in the CLC’s community outreach program that includes interviewing clients at locations up to 100km away on Saturday mornings at paralegal advice offices. During these circuit visits, the candidate attorneys also act as student supervisors. Further, the candidate attorneys attend and participate in all the clinical law lectures, and the file consultations that the students have with the supervising attorney once a week. Finally, because the candidate attorneys practice law only in their projects, they are required to attend staff forums that are held once a month where representatives from each of the projects share what they are doing. These forums build the confidence of the graduates and broaden their perspective of the law within a development law context.

Within their specialized practice, it is expected that wherever possible the graduates will be exposed to forms of advocacy beyond basic litigation that can address the root causes of poverty. These include impact litigation, legislative and media advocacy, and alternative dispute resolution. At the end of their tenure at the CLC, both the candidate attorneys and the law students will have been exposed to the real-life problems of disadvantaged people and also to types of legal practice that can lead to a shift of resources and a change in the power relations between the powerful and the poor.

**Other Opportunities for Candidate Attorney Training through Public Service**

The Law Societies have also approved several other public interest law firms as sites where candidate attorneys may do their clerkships. One is the Legal Resources Centre (LRC).
that was established in Johannesburg in 1979 during the height of apartheid as a non-profit organization working to defend the rights of historically disadvantaged people in this country using law in pursuit of social justice. 30 It is located in five cities31 and provides opportunities for 15 to 20 young black and/or female law graduates to gain experience in the practice of public interest law each year. The goals and type of supervision generally parallels that at the University law clinics.

By far the largest entity providing public service clerkships is the Legal Aid Justice Centers that are fully State–funded and staffed by persons in the employ of the Legal Aid Board (LAB).32 The number of legal aid offices has greatly expanded over the past five years as the Board decided to move from the judicare model of service delivery to a primarily staff attorney model. As a result of this change, the LAB currently has 58 Justice Centers around the country with more projected. 33 These offices primarily provide representation to persons accused of serious crimes,34 but limited representation is also provided in civil matters. In March 2003, the LAB employed a total of 288 candidate attorneys, a figure that is projected to rise to 602 by March 2004.

The Board Examination

In addition to serving a Clerkship after graduation from law school, Section n14 of the Attorneys Act 53 of 1979 (the Act) requires that a candidate applying for admission as an attorney must have passed a four pronged examination that include estates, ethics, bookkeeping and court procedure. These examinations may be taken at different times before and during the clerkship and are aimed at determining whether a law graduate has the necessary professional competence. Areas not covered in the exams are supposedly those it can not reasonably be expected from a candidate attorney to have competency at the beginning of her Practice.35

It is my belief that the attorney’s admissions examination should not be the final criterion to determine an individual’s ability to become an attorney because by their very nature, written exams are not scientifically proven mechanisms for determining a person’s knowledge of a particular subject.

I attempted the board examinations after graduating from the Practical Legal Training School. I passed accounting, ethics and administration of estates. I wrote the other two papers, Magistrates court practice and High Court Practice, after my articles in the small form in Umtata.

---

30 LRC,1998,p4 See the organization’s mission statement at  www.lrc.co.za
31 Cape Town, Port Elizabeth, Grahamstown, Durban and Pretoria.
32 Law and development: facing complexity in the 21st Century Essays in honor of Peter Slim p212, The Legal Aid Board is an independent statutory body established in terms of Section 2 of the Legal aid Act, 1969 (Stake holders forum 23 July 2003)
33 LAB stakeholders forum 2003
34 The National Prosecuting authority of Southern Africa finalizes an average of 400 000 criminal cases per annum. Of these, the Legal Aid Board is responsible for representing defendants in 220 000 matters. Legal Aid Board stakeholders forum- legal aid overview 23 July 2003.
35 The Chairman of the Law Society of South Africa (LSSA) Standing committee on Examinations, Chris Petty.
I passed the second time around because I had been doing the work so it was more than just theory.

The Law Society of South Africa (LSSA) is aware that there are deficiencies in the current examination system and has appointed a task team to investigate the whole area of assessment of candidate attorneys in order to ensure that only competent people are admitted to practice. The task team is expected to make submissions to the LSSA soon. It is hoped these submissions and recommendations will address the problems surrounding the use of an exam in assessing a candidate attorney’s competence to practice. I am a strong proponent of simply using an improved and effective training program that combines successful completion of the practical legal training course and one year of articles, preferably in a public interest context.

---

36 The Chairman of the Law Society of South Africa