# 4

# Online teaching, Covid-19 and the LLB curriculum: Looking back to look forward

*Dr Lorette Arendse\**
*University of Pretoria*

## 4 1   Introduction

> *Any real change implies the breakup of the world as one has always known it, the loss of all that gave one an identity, the end of safety.*[1]

In March 2020, the fabric of South African society experienced the start of a seismic shift when the government imposed a mandatory lockdown to curb the spread of Covid-19. The higher education sector was not immune to this change as thousands of students were compelled to leave their institutions and resume online learning from home. Similar to other universities, the University of Pretoria introduced emergency remote teaching (ERT), a rapid approach to teaching and learning as a means to ensure that the academic year could be completed remotely. Due to the inherent historical inequalities in South Africa, it soon became clear that "access to online learning [would be] uneven at best and lacking in most instances."[2] Predominantly Black and indigent students were forced to continue their studies in the face of dire circumstances, including limited access to laptops, data, network coverage and basic resources such as electricity. Many students, regardless of race, gender and socio-economic status experienced enormous difficulties to cope with their studies due to the psychological distress caused by the pandemic. Often overlooked by university management with tunnel vision on the well-being of students, academics were forced to silently cope with the overwhelming burden of online teaching.

---

\*    The views expressed in this paper are my own and do not reflect the opinions and beliefs of Tuks Law Faculty or the University of Pretoria.

1    Baldwin *Nobody Knows My Name: More Notes of a Native Son* (1961).

2    Bekker and Carrim "Education Lecturers' Perceptions of Organising Systemic Online Teaching and Learning During Covid-19 Pandemic Conditions in 2020 at Two Selected Universities in South Africa" 2021 *Journal of Education* 50.

In November 2021, I was invited by the Deputy Dean of the Law Faculty to participate as a guest speaker in a lecture series focused on teaching and learning during Covid-19. The question I was tasked to address, is the following: "Teaching under Covid-19: Did it compromise or enhance the LLB curriculum using technological innovations such as artificial intelligence?" This paper is my attempt to answer the question. The overall structure of the paper takes the form of four sections. Following this introduction, the second part draws primarily on the CHE Qualification Standard for the Bachelor of Laws,[3] in order to provide clarity on the broad purpose of the LLB, the skills law students must obtain to attain the qualification and the resources required to complete the degree. In the following section, I endeavour to answer the core question of this paper by addressing the impact of online education on the LLB curriculum. Finally, the conclusion provides my reflection on teaching in a post-pandemic context.

## 4 2    The LLB Qualification Framework

The term "information technology" is explicitly referred to in the LLB Qualification Framework. In terms of the framework, LLB graduates must be able to "access information efficiently and effectively; and use technology as a tool to research, organise, evaluate and communicate information".[4] It states further that, "IT resources are available to enable graduates to achieve the purposes of the LLB qualification."[5] The objective of the LLB qualification is not only to equip graduates with the skills required to discharge their "professional duties efficiently", but encompasses a rather momentous undertaking: to produce a legal profession capable of building a society steeped in the values of the broader democratic constitutional project.[6] These values include human dignity, equality and the advancement of human rights.[7] Thus, in light of this significant purpose, it is to be expected that the LLB qualification confers critical thinking skills on graduates who are cognisant of the specific societal context in which they find themselves in.

Fostering critical thinking is closely linked to the type of assessments imposed on law students as I will argue later in this article. For now, it is important to briefly discuss assessment as referred to in the Qualification

---

3    Council on Higher Education (CHE) "Qualification Standard for the Bachelor of Laws (LLB)" May 2015 (hereafter referred to as the "LLB Qualification Framework").

4    As above 10.

5    As above 12.

6    As above 7.

7    As above.

Framework which requires the implementation of a variety of formative and summative assessments throughout the duration of the LLB degree.[8] Specific assessments are not prescribed, but several examples are listed which include written and oral assignments, tutorials, essays, dissertations, moot courts, examinations, tests and multiple choice questions (MCQs).[9] The Qualification Framework emphasises that an adequate standard of teaching and learning resources, are made available to ensure the effective implementation of these assessments.[10] In the context of the topic of this article, "e-resources" and "IT resources" are included as particular resources necessary to meet the objectives of the qualification.[11] Academic staff are also expected to provide "regular and constructive feedback" so as to guarantee that graduates attain the "problem-solving, research, literacy and communication skills" envisaged in terms of the LLB degree.[12] As a final point, it is worth noting that students should be subjected to "meaningful assessment" in terms of the Qualification Framework.[13] The meaning of this concept is not explained anywhere in the text of the document. Therefore, it is submitted that this term be interpreted in light of the broader purpose of the LLB qualification. As noted above, it is envisioned that LLB graduates contribute to the crucial goal of transforming South African society into one immersed in the values of equality, dignity and the advancement of human rights. This suggests that LLB students should ideally be exposed to assessments meaningful enough to develop the critical skills required to meet the latter objective. However, as discussed in the next section, the road to achieving the purpose(s) of the LLB qualification becomes very difficult or even unattainable for students who are unable to access the necessary teaching and learning resources required to complete the degree.

## 4 3 Online teaching during the pandemic: The impact on the LLB curriculum

In this section I engage primarily with two studies documenting respectively how students and lecturers experienced online teaching and learning during the pandemic.[14] Furthermore, I draw on my own experience as

---

8    As above 12.

9    As above 15.

10   As above 12.

11   As above.

12   As above.

13   As above.

14   See Bekker and Carrim 2021 *Journal of Education* 48–66; and Pillay, Khosa, Campbell, Nyika and Sheik "African Female University Students' Experiences of Online Education at Home During the Covid-19 Pandemic" 2021 *Journal of Education* 31–47.

a lecturer involved in online teaching at UP's Faculty of Law during the height of Covid-19.

As is now a well-known fact, South Africa went into lockdown on 23 March 2020 to curb the spread of Covid-19.[15] Students across the country returned to their homes from where they were forced to continue their education via a virtual platform.[16] Many students, irrespective of race, class or gender were psychologically impacted by the sudden disruption in their daily routine, as well as the imposed isolation and physical distancing. A range of emotions were widespread among students, including anxiety, worthlessness, hopelessness, fear, and loss.[17] I noticed the damaging emotional impact of Covid-19 on my students who, almost on a daily basis, communicated that they were not capable of submitting their assignments on time (or at all) due to debilitating anxiety disorders. Their emails were usually accompanied by a medical report confirming a diagnosis of anxiety or depression. The detrimental psychological effect of the virus seemed to transcend race, class and gender, as far as I could tell.

However, socio-economic background, which may often intersect with race, played a key role in students' experiences of online teaching and learning as is elucidated below. It has been suggested that material conditions have a direct bearing on the learning experiences of students.[18] Ansurie Pillay, Martha Khosa, Bridget Campbell, Nicholas Nyika and Ayub Sheik studied the online education experiences of a group of African women during the pandemic.[19] Several of the students in the study identified deficient access to material resources as a factor which negatively impacted on their online learning experience. In particular, access to network coverage, data and electricity determined the extent of the students' participation in online teaching and learning.[20] As a result of sporadic network coverage and unstable internet connections, students often missed online lectures, could not check emails on a regular basis and failed to submit their tasks on time.[21] Regular power outages also resulted in a negative learning experience as some of the participants described "[living] without electricity for three days" as a normal occurrence.[22]

15    Pillay *et al* as above 32.
16    As above.
17    As above 34.
18    As above.
19    As above.
20    As above 37.
21    As above.
22    As above.

The issue of data "running out" due to the numerous modules students were required to engage in, also posed a significant hurdle to a successful online learning experience.[23] Due to their disadvantaged backgrounds, the participants could not afford travelling to public libraries or internet cafes in order to seek out alternative methods when resources at home left them in the lurch.[24] In light of these findings, the study concluded that the marginalised socio-economic status of the participants had a detrimental impact on them academically.[25] Seeing that these students are exclusively Black; race and socio-economic status thus became intersecting factors which fundamentally informed the participants' experience of online teaching during the pandemic.

The authors' findings correspond with the informal observations I made with regards to my students' experience of online education. White students rarely failed to submit a task due to a lack of access to data, electricity or poor network coverage. The obstacles to online teaching and learning that the latter cohort of students faced, were almost always psychological in nature. In comparison, most complaints about resources, such as an inadequate electricity supply, data running out and deficient laptops stemmed from Black students.[26] Therefore, based on recent research,[27] and also drawing on my own engagements with students throughout the last two years, it is undeniable that predominantly Black, indigent students experienced limited access to physical and e-resources during the pandemic. Although several universities, including UP, provided laptops to underprivileged students, the difficult socio-economic circumstances at home for many Black, poor students also contributed to a negative experience of online education for these students.[28] Therefore, if one adopts resources as a measure that has an impact on how online education is experienced,[29] I conclude that the latter group of students were subjected to a compromised LLB curriculum during the pandemic.

I will now shift the focus to the link between online education and assessments, in particular. Tanya Bekker and Nazir Carrim argue that the

---

23    As above 38.

24    As above.

25    As above.

26    As a point of qualification: Of course, it is entirely possible that white students at the University of Pretoria suffered from learning constraints due to a lack of material resources. However, I am speaking from my vantage point as a lecturer responsible for my specific courses.

27    Pillay *et al* 2021 *Journal of Education*.

28    As above.

29    Pillay *et al* 2021 *Journal of Education* 34.

quality of online education may have been compromised by ERT, which universities were compelled to adopt during the pandemic.[30] In their study which focuses on university lecturers' experience of online education, they note that the primary focus of ERT was to ensure that "learning takes place, no matter what.'[31] For this reason, the urgency of equipping students with the necessary resources to enable them to cope with the demands of online teaching often overshadowed "epistemological access, content and quality of online teaching and learning".[32] The authors contend that online access does not automatically translate into epistemological access.[33] In other words, having access to materials online does not mean that students will necessarily acquire a comprehensive conceptual and theoretical understanding of the knowledge in those materials.[34] The realisation of epistemological access depends on a variety of factors, including assessment practices and the extent to which students are engaged in knowledge construction.[35] A recent study has shown that the transition to online teaching resulted in lecturers engaging less with students than was the norm during the pre-Covid-19 era.[36] This finding is troubling since students' engagement in knowledge construction is a vital part of what facilitates their learning.[37] In the study performed by Bekker and Carrim note, almost half of the lecturers indicated that they reduced the content of their courses which in turn limited students' opportunities to engage with conceptual and theoretical knowledge through tutorials, debates, additional writing opportunities, and so forth.[38] This may have had a detrimental impact on epistemological access.

An additional factor which may have negatively affected epistemological access is the type of assessments preferred by lecturers. Although most lecturers reported that they did not reduce the amount of assessments for online teaching purposes, they admitted to preferring a specific format of assessment during the pandemic, namely MCQs.[39] Although MCQs can be utilised as a formative assessment in some instances, it is primarily

---

30 Bekker and Carrim 2021 *Journal of Education* 50.

31 As above.

32 As above 51.

33 As above 53.

34 As above.

35 As above 54.

36 As above.

37 As above.

38 As above 60-61.

39 As above.

regarded as a summative form of assessment.[40] Formative assessments such as research essays offer substantive feedback to students, which in turn opens up further opportunities for lecturer-student engagement.[41] This may have a positive impact on epistemological access because this type of engagement leads to a greater chance of knowledge construction taking place on the side of the student. In contrast, MCQs are predominantly product based, meaning that they provide a correct or incorrect answer to a question.[42] They limit lecturer-student engagement and constrain the potential to provide substantive feedback.[43] The utilisation of MCQs as the primary or only form of assessment, may therefore, adversely affect epistemological access.

On the one hand, I empathise with lecturers who chose to employ MCQs as the sole or main type of assessment for their courses. Their decision mitigated the overwhelming burden of online marking specifically and online teaching as a whole during a time when the focus of university management was primarily on students' well-being, to the detriment of lecturers, in my view. On the other hand, the exclusive or primary use of MCQs as a form of assessment is not an effective manner in which to evaluate students' knowledge of the LLB curriculum. I regard the fostering of critical thinking as crucial to the development of knowledge construction. Formative assessment practices, such as writing papers, allow students to engage with each other and their lecturer, which is crucial to developing critical thinking skills and ultimately developing a deep conceptual and theoretical understanding of course content. Consequently, the exclusive use of MCQs coupled with fewer writing opportunities and reduced lecturer-student engagement compromised the quality of the LLB curriculum for all students during the pandemic, in my view.

## 4 4 Online teaching and the LLB curriculum in a post-Covid context: Some ruminations

The broad purpose of the teaching and learning lecture series has not been only to engage and reflect on teaching and learning using technology during Covid-19, but also to map the way forward post-pandemic. For this reason and as I conclude this paper, I want to take the opportunity to engage with the topic in a slightly different manner. Instead of asking whether online teaching during the pandemic has enhanced or compromised the

40    As above 62.

41    As above.

42    As above.

43    As above.

LLB curriculum using technological innovations, I want us to consider asking a different question, namely: *Has the Covid-19 experience changed us to such an extent that universities are ready to seriously engage with broader societal issues that have been exacerbated as a result of the pandemic, such as the widening gap of inequality in South Africa through the LLB curriculum*?[44] Chris Brink writes that universities should ask itself two questions about their academic work: "What are we good at?" and "What are we good for?"[45] The first question is usually understood in terms of academic disciplines that straddle our teaching and research.[46] The standard response to this question is that we are good at producing research in medicine or law or engineering, for example.[47] And we measure how good we are through rankings, publications, citations, and league tables.[48] Another model answer in response to the first question typically relates to the quality of education offered in the faculties of a university, for instance, "We have a good law faculty". This type of answer is generally backed up by student surveys, important alumni, employment statistics or teacher rankings.[49]

Although many academics believe that the mainstream replies to the former question would suffice as appropriate answers to the latter one, Brink argues that the "good-for question" requires a response that speaks more directly to societal challenges.[50] For the author, civic engagement should be regarded as a core function of academia, similar to research and teaching. However, he cautions that civil society engagement is not detached from teaching and research, nor does it overlap with teaching and research. Rather, it should be regarded as "orthogonal" to research and teaching: engagement is purposeful in the sense that it is not merely directed at analysing societal issues, but aspires to address them. Brink calls on academics to "… deploy our expertise, the subjects and disciplines that we are good at, in order to be able to give a reasonable response to the question of what we are good for".[51]

---

44   The World Bank classified South Africa as the most unequal country in the world in 2022. See International Bank for Reconstruction and Development / The World Bank "Inequality in Southern Africa: An Assessment of the Southern African Customs Union" 2022 https://documents1.worldbank.org/curated/en/099125303072236903/pdf/P1649270c02a1f06b0a3ae02e57eadd7a82.pdf (last accessed 2022-08-08).

45   Brink *The Soul of a University: Why Excellence is not Enough* (2018) 285.

46   As above.

47   As above.

48   As above 285–286.

49   As above 286.

50   As above 287.

51   As above.

To some extent, the views expressed by Brink align with the Preamble of the LLB Qualifications Framework, which provides that:

[l]egal education as a public good should be responsive to the needs of … broader society [and] it must produce skilled graduates who are critical thinkers and enlightened citizens … who are advancing the course of social justice in South Africa.[52]

This momentous goal is not attainable in a post Covid-19 world, where technology may possibly be viewed as a replacement for contact lectures, in my opinion. Although technological innovation can be used as a tool to enhance the teaching of the LLB curriculum, it is an aid and not a substitute for contact lectures. The fostering of critical, enlightened LLB graduates who are responsive to the needs of our society cannot be attained through technological innovations alone but is significantly increased through the academic engagement offered in contact lectures and the social interaction in the broader campus community that often stimulate intellectual debates. This intellectual rigour – which is only possible through human contact, in my view – can contribute to the solution of societal problems which in turn, shifts the focus to the question: "What are we good for as the University of Pretoria?'

As explained elsewhere in this paper, the deployment of technology during the pandemic has placed a magnifying glass on the inequalities that exists in our student population and has contributed to a compromised LLB curriculum for many Black, poor students in particular. In addition, the harsh reality of online teaching during the pandemic has led to some academics taking some shortcuts which may have compromised the LLB curriculum for all students. Universities, of which UP is a prime example, tend to focus obsessively on the first question that Brinks asks, namely "What are we good at?", because higher education institutions are consumed with rankings, publications and citations. However, I agree with Brink that more focus should be placed on the second question: "What are we good for?" It is vital that this question be addressed through the teaching of the LLB curriculum, especially in light of the urgent needs of civil society in a post-pandemic world.

---

52  Council on Higher Education (CHE) "Qualification Standard for the Bachelor of Laws (LLB)" May 2015 7.