Editorial

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Our recent, and fantastically successful, conference at Stellenbosch University (thank you to our GAJE and SAULCA partners and to all participants!) focused on justice education, building resilience and strong connections. It is fitting that this first edition of 2023 has three articles which focus on Africa and continues our conference theme. Authors share innovative approaches and research on educational methods which promote social justice and show the value of strong connections.

We begin with Omoyemen Lucia Odigie-Emmanuel and Shiksha Dahiya's article on '*The role of legal clinics in promoting Human Rights*.' The authors provide insightful reflections using case studies from the Nigeria Law School Yenagoa Law Clinic, the Legal Support and Care Centre at GD Goenka University School of Law Gurgaon, India and Legal Aid Society at The Northcap University, Gurugram Haryana, India. The article explores how each clinic promotes human rights through their work in schools, prisons and communities.

Also using Nigeria as a case study, Emeke Chegwe's article '*Evaluating the role of a non-doctrinal legal research method on legal education and practice in common law Africa*' presents the results of a study which examines the link between non-doctrinal legal research method and the quality of legal education. The article explores this

relationship, concluding that there is a positive relationship the two and offers recommendations as a way of encouraging this type of research in Nigeria.

In Ngozi Maduafor's Practice Report '*Peace and conflict transformation through the Clinical Legal Education programme'*, the author provides an interesting summary of the history of Clinical Legal Education in South Africa, Nigeria and Uganda. She then goes onto explore ways in which clinical legal education is helping to curtail communal violence.

In our From the Field section Anahita Surya and Nupur's paper '*Harnessing- NGO internships for student learning: project report submission to the GAJE symposium 2021'* explores the experiences of the Centre for Social Justice in India, an internship program. The authors provide us with a really helpful overview of the programme and insights into how to strengthen this model of clinical legal education.

Finally, we have Zara Saeidzadeh, Bojana Cuckovic and Dragica Vujadinovic's paper '*Clinical legal education for gender justice in Europe'* which explores the challenges faced by Sweden and Serbia in achieving gender justice. The paper introduces us to the authors' research project LAWGEM (which is New Quality in Education for Gender Equality – Strategic Partnership for the development of Master's Study Program on Law and Gender) and explains the development of a Gender Equality Legal Clinic.

Finally, I'm delighted to say that this July (20th-21st) we will be doing something different in place of our traditional conference format. Our IJCLE event this year will

be focused on research in progress, hosted in the Law Society of Ireland's headquarters at Blackhall Place, Dublin. Over two days you will be invited to share their research, their methods and approach to analysis. The workshop will provide a forum for all participants to give and receive supportive feedback. Places on this workshop are limited with successful applicants receiving confirmation before the deadline of **31st March 2023**. For full details please see:

https://www.northumbria.ac.uk/about-us/news-events/events/2023/07/ijcle-dublin-2023

Reviewed Article

THE ROLE OF LEGAL CLINICS IN PROMOTING HUMAN RIGHTS: THE EXPERIENCE OF NIGERIA LAW SCHOOL YENAGOA LAW CLINIC AND THE LEGAL SUPPORT AND CARE CENTRE AT GD GOENKA UNIVERSITY SCHOOL OF LAW GURGAON INDIA

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ABSTRACT

Legal clinics are playing a very prominent role in promoting human rights and filling global access to justice gaps through justice education. In turn, they provide access to justice for the poor and marginalized in fulfilment of this social justice mandate. Clinicians realize that human rights and justice education is key to their social justice mission. Apart from adding statements about the importance of justice to their mission statement, clinics have in place programs fundamentally oriented around a vision of justice. Students in clinics play very important roles in achieving their clinics' social justice mission and goals by sensitizing youths, women, children, inmates and citizens to change thought processes and mold the social fabric needed for a just society, promoting a culture of lawfulness through generating solutions to several

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social issues that results in good citizenship, improved policies, good governance, access to justice and effective remedies. Generally, the objective of this paper is to share case studies from the Nigerian Law School Yenagoa Legal Clinic, the Legal Support and Care Centre at GD Goenka University and Legal Aid Society at The NorthCap University, Gurugram, Haryana, India of how legal clinics are promoting human rights, access to justice, a culture of lawfulness and sustainable development through their work in communities, schools and prisons. The first section lays a background on the role of law in shaping society, the second focuses on the conceptual and theoretical frameworks. The third section examines the framework that provides the mandate education for justice and human rights. The fourth section assesses the role of law schools and clinics in promoting education for justice, human rights and a culture of lawfulness while the fifth section deals with conclusions and recommendations.

KEYWORDS: Justice, Lawfulness, Legal Clinics, Rights

1. Introduction

The function of law in Nigerian and Indian societies can be seen from two perspectives, its normative function and its social function. According to Lord Sankey, '… the role of lawyers is a pervasive one, straddling the political, economic as well as

social life of the society'.[1] From the normative perspective, law can be viewed as a beacon towards which social action is directed by society - in that it can either guide to, or dissuade from, certain actions by expressing the desire that at such action being performed, certain undesirable legal consequences may follow. It defines relationships among members of society and defines acceptable behaviour.

In its social function, law protects society in general, ensuring that there is security for all, protects general morals and institutions, protects individual rights and ensures the adjustment of conflicting interest to derive an equilibrium through which society can function optimally. Law defines what society labels as crimes and provides legal sanctions for violators. Conviction and punishment for crime and violation of human rights whether by individuals, corporate entities or the state does not demand that you know you are committing a crime when the action was done.

The aggregate burden of crime borne by Nigeria and India, as a result of activities in Yenagoa and Gurgaon, India is enormous. Thus, it becomes imperative to focus on crime prevention rather than on citizen protection and correction. The cost of crime includes the cost of legal and judicial costs of prosecuting criminal cases, cost of running correction facilities, cost of providing police protection, indirect and indirect losses suffered by victims of crime and the opportunity cost of prisoners serving prison terms and costs posed and borne by those connected to them.

[1] Laurence Gower, 'English Legal Training'(1950) 13 *Modern Law Review* [137], [161]

Yenagoa Local Government Area of Bayelsa State has been identified as one of the major local government areas that had high cases of crime and human rights violation. A study conducted in Yenagoa revealed that theft and other stealing were the most common types of crime in the area accounting for 40.03%, assault accounted for 22.59%, while false pretences and cheating accounted for 9.63% and armed robbery for 6.82%. Murder had 4.47% while burglary and rape, indecent assault and house breaking was 4.02%, 3.71% and 3.64% respectively.[2] Another report states that the absence of police personnel and other security operatives in some hotspots for crime and gang-related crises in Yenagoa, has made residents vulnerable to attacks by cultists and armed robbers. Lives have been lost to cult-related violence, several cars have been hijacked and many persons sustained different degrees of injuries at the time of report.[3]

The Nigerian Law School Yenagoa Law Clinic programme is not only an opportunity for participating students to immediately put to use what they have learnt in class, it also enables students to strategize and identify social justice problems in the communities around the institutions so they can intervene, using the instruments of advocacy, training and legal counselling. Students have identified human rights

[2] Ekpo Effiong, Felix Iyiola, Isaac A. Gbiri, and Daukere Bitrus Eniyekenimi, 'GIS Approach in Analysis of Crime Mapping in Yenagoa Local Government Area of Bayelsa State, Nigeria' (2016) 5(10) *The International Journal of Innovative Research and Development*, <https://internationaljournalcorner.com/index.php/ijird_ojs/article/view/136427> accessed 13 March 2023

[3] Ebiowei Lawal, 'Crime Rate Increases In Bayelsa, As Police Abandon Duty Posts' Tribune (Lagos 13 Nov 2020) < https://tribuneonlineng.com/crime-rate-increases-in-bayelsa-as-police-abandon-duty-posts/> Accessed 02 November 2022

abuses and high crime rates as problems that could be addressed through education on human rights, justice and a culture of lawfulness and had over years developed strategies to achieve same. Education as a strategy for behavioural change has also been identified by several entities as being capable of creating change in levels of human rights abuses and high crime rate in Yenagoa. Recently, it was reported thus:

> Nigeria's youthful population, particularly in the Niger Delta region, are facing multiple challenges that include low level and quality of education and health care, poverty, and unemployment, which makes them more vulnerable to drug use, gang violence, cultism, piracy, riverine and other maritime crimes, all of which are prevalent in the Niger Delta region and are adversely affecting the life and safety of young people as well as the local communities and pose security risks.[4]

In August 2022, the United Nations Office on Drug and Crime organized a workshop on "Building youth resilience to violence and crime through social developmental approaches to crime prevention" aimed at enabling the development of the Crime Prevention strategy for Bayelsa State and building local capacity to effectively address violence and crime at the community level.

[4] United Nations Office on Drug and Crime, 'Building youth resilience to violence and crime through social developmental approaches to crime prevention' (August 2022) < https://www.unodc.org/nigeria/en/building-youth-resilience-to-violence-and-crime-through-social-developmental-approaches-to-crime-prevention.html >

Human rights violation and crime rate in crime rates in Gurgaon, India is classified as high. According to statistics level of crime is about 64.31%, people using or dealing in drugs is moderate at 42.93%, incidence of property crime is moderate at about 55.73%, problem of assault and armed robbery is moderate at about 56.74% while the problem of corruption is high at about 76.03%. As in most parts of India, human rights violations is high in in Gurgaon. According to a 2016 report:

> … the most significant human rights problems involved instances of police and security force abuses, including extrajudicial killings, torture, and rape; corruption, which remained widespread and contributed to ineffective responses to crimes, including those against women, children, and members of Scheduled Castes (SCs) or Scheduled Tribes (STs); and societal violence based on gender, religious affiliation, and caste or tribe. Other human rights problems included disappearances, hazardous prison conditions, arbitrary arrest and detention, and lengthy pre-trial detention. Court backlogs delayed or denied justice, including through lengthy pre-trial detention and denial of due process.[5]

The impact, effect and cost of crime and human rights violations in Yenagoa and Gurgaon can and have been minimized through human rights and justice education aimed at promoting understanding of human rights, respect for human rights and a

[5] United States Department of State, '2016 Country Reports on Human Rights Practices' (2017) <https://www.refworld.org/docid/58ec8a2613.html> Accessed 26 October 2022

culture of lawfulness. This is premised on the understanding that the more people know about their rights and the limits to their rights as a result of other people's rights, the more likely they are to keep within the boundaries of law. Also, they are able to understand that following every act of breach is an ensuing sanction. This influences the decision on whether to respect rights, violate rights or to seek redress when their rights are violated.

Kaunda quoting the then president of Gambia stated that, 'I consider law to be perhaps the most important of all instruments of social order because without it the whole structure of society can but inevitably collapse.'[6] In African countries, legal education and its relation to community goals have often been insufficiently appreciated. However, in the last decade the unique role of law clinics has become prominent through the successful work of law students as they perform the social justice mission of law clinics and take strategic action, including education for justice as their contribution to engendering a symbiotic relationship between human rights and justice, and building values through justice education.

Education is the hallmark of a civilised society, the engine of social justice and economic growth, the foundation of our culture and the best investment we can make in the future of our country. The better educated our society, the fairer, more cohesive,

[6] Kenneth Kaunda, 'The Functions of a Lawyer in Zambia Today' 1[1971-1972] 3-4 ZLJ <https://heinonline.org/HOL/LandingPage?handle=hein.journals/zambia3&div=4&id=&page> Accessed 15 March 2021

productive and innovative it can be.[7] Globally it is widely believed that the quality of legal education and the legal profession is important to justice delivery.

Under the Doha Declaration, member states emphasize that education for all children and youth, including the eradication of illiteracy, is fundamental to the prevention of crime and corruption and to the promotion of a culture of lawfulness that supports the rule of law and human rights while respecting cultural identities. Also, Goal 4 of the Sustainable Development Goals, promotes commitment to promoting lifelong learning opportunities for all as key to sustainable development.

In the words of Lon Fuller, 'lawyers have a central role to play in the ordering of society.'[8] Many viewed law as a critical instrument in Africa's development.[9] This perspective is well articulated by Hon. Justice M. O. Onolaja in the following statement:

> … lawyers are instrumental to whatever situation any country may find itself. Lawyers, as judges, in private or corporate practice, in the academics or in government, shape the society and the lives of their fellow human beings… However, a lawyer can only be as good as the system of legal education that produced him. Legal education - academic as well as vocational – is a vital

[7] Charlotte Dean, 'Key Issues in Emma Smith , Education and Social Justice' [2018] SAGE https://www.researchgate.net/publication/309227876_Seeking_Educational_Excellence_Everywhere_an_exploration_into_the_impact_of_academisation_on_alternative_education_provision_in_England > Accessed 15 March 2021

[8] Robert Summers, 'Fuller on Legal Education' (1984) 34(1) *Journal of Legal Education*, 8

[9] Samuel Manteaw, 'Legal Education in Africa: What Type of Lawyer Does Africa Need', (2016) 39(4) *McGeorge Law Review*. <https://scholarlycommons.pacific.edu/mlr/vol39/iss4/1> Accessed 15 March 2021

> ingredient that affects the quality of our justice system and the role of lawyers in the political, economic and social development of our country.'[10]

Globally states have made a commitment to promoting access to education and justice for all, as well as promoting lifelong learning skills. Examples include the Doha Declaration and the Sustainable Development Goals as a strategy for crime prevention, promoting human rights and achieving sustainable development. However, Goal 16,[11] ensuring public access to information and seeking the protection of fundamental freedoms in accordance with national legislation and international agreements, as key targets, have not being popularized. Neither has governmental action reflected a commitment to ensuring same. Also, it has become glaringly obvious that advances in promoting the rule of law and access to justice are uneven.

In this article we articulate the role of legal clinics in promoting human rights and how the Nigerian Law School Yenagoa Legal Clinic and the Legal Support and Care Centre at GD Goenka University use justice education and the provision of legal awareness and access to justice options to promote human rights, access to justice, a culture of lawfulness, and sustainable development through their work in communities, schools and prison.

[10] Morokenji Onolaja, 'Problem of Legal Education In Nigeria'< https://alimiandco.com/wp-content/uploads/2021/10/ACCREDITATION-AND-LEGAL-EDUCATION-IN-NIGERIA.pdf > Accessed 13 March 2023

[11] Focuses on peace, justice and strong institutions

2. Conceptual and Theoretical Framework

2.1 Conceptual Framework

Justice has been differently defined by authors. Justice can be used to mean any number of things, like the importance of having rights, fairness, and equality. People will think it is unjust to have their rights violated (like being thrown in prison without being found guilty in a court of law); or being *unfairly* harmed by someone unwilling to pay compensation for the harm done; or being unfairly treated as an inferior (*unequal*) who is not hired for a job despite being the most qualified person for the job.[12]

Implicit in several definitions are that it influences the way fundamental rights and duties are distributed by major institutions and how those institutions determine the division of advantages from social cooperation.[13] It influences the ability to discern right from wrong, the willingness to uphold and reward right and condemn and punish wrong;[14] as opposed to injury or wrong it gives to every man what is due and embraces the justice of decisions, actions, law and institutions made or established to society as they apply to individuals and groups. Finally it may be distributive or

[12] John Gray, 'Ethical Realism: Three Theories of Justice', [2011] <https://ethicalrealism.wordpress.com/2011/04/26/three-theories-of-justice/> Accessed 13 March 2023
[13] Rawlings, J. 'A theory of Justice' in Donald Abel (ed) *Fifty Readings in Philosophy* (McGraw-Hill Publishers 2012)
[14] Chukwudifu Oputa, 'Judicial Ethics, Law Justice and the Judiciary' (1990) 5(3) *JUS* 43

cumulative.[15] John Rawlings perceived Justice as the first virtue every social institution ought to have.

The proper relationship between law and justice has been argued for decades. Dakas opines that

> … the interface of law and justice should ordinarily be a mutually reinforcing one… however as is sometimes …the outcome of a case sometimes occasions what one might call legal injustice… As law teachers we have a critical role to play in engendering a symbiotic relationship between law and justice through… mentoring of students.[16]

Clinical legal education refers to a method of teaching that is concerned with getting law students to be involved in the practical application of legal knowledge and the acquisition of legal skills while also discharging some justice function. Clinics promote experiential learning and create a learning environment where students undertake practical work and are able to apply their knowledge, observation and experience to solve real life problems. According to Kolb, learning refers to the 'transformation of experience into effective learning.'[17] Healey and Alan in their review of Kolb's experiential learning cycle describes it as complete and effective when a student in the

[15] Ibid, 43

[16] Clement Dakas, 'Beyond Legal Shenanigans: Towards Engendering a Symbiotic Relationship Between Law and Justice in Nigeria' in *Law, Justice and Society: Proceedings of 51st Conference of the Nigerian Association of Law Teachers*, (National Association of Law Teachers 111 Abuja, 2017)

[17] David Kolb (1984). *Experiential Learning: Experience as the Source of Learning and Development*. Englewood Cliffs, NJ: Prentice Hall

learning process undertakes concrete experience, reflective observation, abstract conceptualization and active experimentation.[18] Joan Neal more explicitly described experiential learning thus:

> You could have students read about drafting contracts or listen to me talk about drafting contracts all year long, and they're not necessarily going to be better at doing it… You really do have to roll up your sleeves and do it; you have to make mistakes, find out what those mistakes are, correct those mistakes—and then try it again and do better.[19]

Clinical legal education does not only refer to a method of teaching that is concerned with getting law students to be involved in the practical application of legal knowledge and the acquisition of legal skills. It also involves discharging a justice function. Clinics have ensured that communities have access to justice and that they have a voice in issues that concerns them. They serve as a vehicle for protection of human rights, ensuring participation, promoting education for justice, human rights, a culture of lawfulness and sustainable development.

Since it has been proven beyond argument that legal clinics enable students to acquire and develop practical skills needed for legal practice, it is only rational to establish

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[18] Mick Healey and Alan Jenkins, Kolb's Experiential Learning Theory and Its Application in Geography in Higher Education, (2000) 99(5) *Journal of Geography*, 185

19 Becky Beaupre Gillespie, 'The Evolution of Experiential Learning', [2017] <https://www.law.uchicago.edu/news/evolution-experiential-learning?utm_content=bufferff089&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer> Accessed 13 March 2023

and develop legal clinics within law institutions to enable transformative legal education that benefits the students, the university and the communities around the institution. Lesley Greenbaum identified the need to change the essential character and methodologies of legal education through transformative legal education in order to equip law graduates to participate.[20]

In our context, clinical legal education is not only a training methodology that is concerned with getting law students to be involved in immediate use of legal knowledge acquired and legal skill developed in a student-centred learning environment, but also opens up space for their identification of injustices and fulfilment of some justice function in education or legal representation with the highest level of integrity and ethics.

Finally, NULAI has described clinical legal education as a 'multidisciplinary and multipurpose type of education which seeks to develop the skills and competencies needed to strengthen the legal system, providing opportunities for learning social justice concepts.'[21] One common recommendation identified by reviews conducted in select jurisdictions is the need to integrate skills-based learning through adoption of a clinical legal education curriculum and teaching methodology.

[20] Lesley Greenbaum, 'Re-visioning legal Education in South Africa: Harmonizing the aspirations of transformative constitutionalism with the challenges of our educational legacy' (2015) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2575289> Accessed April. 5, 2021

[21] Network of University Legal Aid Institution, 'The Development of Clinical Legal Education,' (2015) < https://namati.org/network/learning/> Accessed 13 March 2023.

The MacCrate Report of 1989 contributed significantly to the establishments and enhancement of legal clinics in the United States. The Report recommended the integration of clinical legal education pedagogy and methodology to legal education in the United States. Law schools through well-structured clinical programs should help students understand the importance of the skill of organization and management of legal work. The first Nigerian law school clinical law curriculum was introduced in 2008. It included a guiding mission statement: outcome based, learning centred. It focused on knowledge, skills and value. Clear rules for formative assessment. People complained about the curriculum, its impact on learning and ideas for redevelopment. The programme was committed to outcome-based learners, adopting centred learning that impacts knowledge, skills and values.

A review of legal education in Africa in the past decade reveals that one of the weaknesses in African legal education includes a lack of legal clinics to teach skills and sensitize students to local needs and aspirations, providing them with opportunities to attain practical legal skills through their community service programs.[22] The positive role being played by legal clinics in the last decade has become prominent. According to the Open Society Justice Initiative:

> Clinical legal education provides law students with real-life work experience, develops local legal capacity, and helps protect human rights around the

[22] Samuel Manteaw, 'Legal Education in Africa: What Type of Lawyer Does Africa Need' (2016) 39(4) *McGeorge Law Review* <https://scholarlycommons.pacific.edu/mlr/vol39/iss4/1> accessed 15 March 2021

> world. Law clinics train lawyers and law students in the spirit of social justice and public service, and provide desperately needed legal services in underserved communities. Students working in university based clinics—supervised by a law professor or practicing lawyer—provide legal assistance to poor and marginalized clients, while gaining exposure to the problems faced by these groups. At the same time, law students learn about their professional responsibility for—and develop a personal commitment to—sustaining and supporting the rule of law, human rights, and social justice.[23]

One major goal of law schools is to produce law graduates who can contribute to legal, social, economic and political development on both global and local scales by developing their analytical, research and advocacy skills to solve academic and practical social problems. Educating for justice, human rights and a culture of lawfulness emerged as part of the process of incorporating justice into law and training students to have a strong sense of justice and ethics.

It has been observed that to achieve justice through education it is of great importance that citizens have information about their rights, duties and how they can access justice. Justice education and education for justice initiatives teach people how systems of law-making and law enforcement works, helps them access people who

[23] Open Society Justice Initiative, 'Legal Clinics: Serving People, Improving Justice' <https://www.justiceinitiative.org/publications/legal-clinics-serving-people-improving-justice> Accessed 02 March 2023

work in the justice system, and build their basic skills needed to manage the legal aspects of everyday problems.

Education for justice is the process of promoting a culture of lawfulness through educational activities at all levels aimed at making citizens understand the law. Education for justice aims at teaching the next generation about crime prevention, and to better understand and address problems that can[24] undermine the rule of law.

In the absence of law, private feud and vengeance supplement the informal social process by which individuals and groups deal with disputes. Law evolved to supplement the informal alternatives and provides an acceptable rationalized and conclusive settlement of disputes which is subject to public scrutiny. Apart from maintaining of public order, law also suppress deviant behaviour through provision of rules prohibiting certain deviant behaviour and the enforcement of such rules.

The Doha Declaration[25] of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice (Qatar, 2015) prompted the United Nations Office on Drugs and Crime to develop the Education for Justice Initiative, aiming to support the integration of crime prevention and the rule of law into all levels of education. Under

[24] Edeh Chukwuemeka, '5 Basic Functions of Law in the Society' 2020 Bscholarly LLC <https://bscholarly.com/5-basic-functions-of-law-in-the-society/> Accessed 13 March 2023

[25] United Nations, 'Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation' <https://www.unodc.org/dohadeclaration/en/index.htm> Accessed 26 October 2022 (The Doha Declaration)

the Doha Declaration, member states that signed the declaration made a commitment to promote a culture of lawfulness.

The Declaration recognizes the need for education for justice and emphasizes that education for all children and youth, including the eradication of illiteracy, is fundamental to the prevention of crime and corruption, and to the promotion of a culture of lawfulness that supports the rule of law and human rights.[26]

Human rights and justice education has globally become prominent in the work of several legal clinics, especially clinics within the Global Alliance for Justice Education (GAJE) platform. In this paper justice education includes both education for justice and justice education. The work of the Global Alliance for Justice Education initiative is founded on the reasoning that law students and lawyers in training can themselves be valuable workers for justice during their time of preparation.

On the other hand, the Education for Justice Initiative can be traced to the work of the United Nations Office on Drugs and Crime. Its initial programme was to prevent crime and promote a culture of lawfulness through education activities designed for primary, secondary and tertiary levels. These activities have become integrated in the work of several law clinics working as educators to teach the next generation, women, men and inmates to better understand and address problems that can undermine the

[26] United Nations Office on Drugs and Crime, 'About the Global Programme. The Doha Declaration: Promoting a Culture of Lawfulness' <https://www.unodc.org/dohadeclaration/en/index.html> Accessed 26 October 2022

rule of law and encourage students to actively engage in their communities and future professions in this regard.[27]

Although the United Nations Office on Drugs and Crime has developed a series of university modules and other tools to assist academics working on Education for Justice,[28] these tools can be and being adapted to suit the broader framework of Justice Education and are being used by legal clinicians to design and implement educational interventions aimed at broadening understanding of human rights, citizenship aimed at equipping citizens with the knowledge and understanding of principles of justice, and the attitude and value needed to live a crime free life. Such endeavours constructively contribute to the development of society thereby enhancing societies' resilience to crime, violence and corruption while also promoting the rule of law and fostering a culture of lawfulness.

Forming the foundation and integral part of the justice education and Education for Justice Initiative undertaken by legal clinics is a desire to promote human rights through broadening understanding on human rights by human rights education. Human rights education can be defined as any learning, education, training and information sharing efforts aimed at building a universal culture of human rights. Human rights education aims at developing an understanding of our common

[27] United Nations Office on Drugs and Crime, 'Education for Justice' <https://www.unodc.org/e4j/> Accessed 13 March 2023

[28] United Nations Office on Drugs and Crime, 'Tertiary Education' <https://www.unodc.org/e4j/en/tertiary/index.html > Assessed 13 March 2023

responsibility to make human rights a reality in every community and in society at large. In this sense, it contributes to the long-term prevention of human rights abuses and violent conflicts, the promotion of equality and sustainable development, and the enhancement of participation in decision making processes within a democratic system.[29]

The need to educate for human rights is one global concern and has been integrated into several human rights documents.[30] One area in which there has been encouraging change in most African countries is the increasing attention paid to the teaching of international human rights subjects in law schools. This teaching is aimed at promoting a culture of respect for rights and a protective and responsive legal system that reflects the realization that good governance is a precondition to development.[31]

[29] Commission on Human Rights, 'Resolution 2004/7'1 [2004], para 4

[30] Universal Declaration of Human Rights, 1948 art. 26; the International Convention on the Elimination of All Forms of Racial Discrimination, 1965 art. 7; International Covenant on Economic, Social and Cultural Rights, 1966 art. 13; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 art. 10; Convention on the Elimination of All Forms of Discrimination against Women, 1979 art. 10; Convention on the Rights of the Child, 1989 art. 29; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990 art. 33; Convention on the Rights of Persons with Disabilities, 2006 arts. 4, 8; Vienna Declaration and Programme of Action (I) paras. 33–34 (II) paras. 78–82; Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, 2001 paras. 95–97; Programme of Action, paras. 129–139; Outcome Document of the Durban Review Conference, 2009 paras. 22 and 107; and World Summit Outcome 2005 para. 131.

[31] Muna Ndulo and Robert Kent, 'Constitutionalism in Zambia: Past, Present and Future' (2002) 40(2) *Journal of African Law*, 256

2.2 Theoretical Framework

2.2.1 John Locke's Natural Law Theory

John Locke[32] is of the perspective that natural rights flow from natural law which originates from God. In his work 'Two Treatises of Government'[33] Locke discussed natural rights, identifying them as being 'life, liberty, and property', and argued that such fundamental rights could not be surrendered in the social contract. He further opined that individuals possess natural rights, independently of the political recognition granted them by the state. In sum, the Lockean natural rights theory viewed the individual as an autonomous being capable of exercising choice and that the legitimacy of government depended not only on the will of the people but also upon the government's willingness and ability to protect the peoples' rights.[34]

Locke argued that the principal purpose of the investiture of political authority in a sovereign state was the provision and protection of individuals' basic natural rights. For Locke, the protection and promotion of individuals' natural rights was the sole justification for the creation of government. The natural rights to life, liberty, and property set clear limits to the authority and jurisdiction of the state. States were presented as existing to serve the interests, the natural rights, of the people, and not of a Monarch or a ruling cadre. Locke went so far as to argue that individuals are

[32] 1632–1704
[33] John Locke, *Two Treatises of Government* (1689) < https://www.britannica.com/biography/John-Locke/Two-Treatises-of-Government> Accessed 13 March 2023
[34] Alison. L. Young, 'In Defence of Due Deference' (2009) 72(4) *Modern Law Review*, 554

morally justified in taking up arms against their government should it systematically and deliberately fail in its duty to secure individuals' possession of natural rights.[35]

2.2.2 Immanuel Kant Categorical Imperative

Immanuel Kant developed his idea of natural law, which he called categorical imperative. Kant, from the standpoint of a non-empirical perspective, argued that the sole principle of morality is that which treats people as an end and not as a means, and that this principle holds at all times and at all places without exception.

Kant broke entirely new ground by replacing the objective material and ethical problems that had run through the whole doctrine of the natural law by the problem of subjective morality. The moral autonomy of man is elevated into a principle of the moral world. The moral person, i.e. not the empirical individual as a part of the world of the senses, but rather 'humanity reflected in his person,' has become an end in itself and no longer simply a means to attain other ends. Kant answers the question as to the nature of moral conduct with his famous categorical imperative: 'Act in such a way that the maxims of your will may at all times also serve as the principle of a universal law.'[36]

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[35] Andrew Fagan, 'Human Rights' Internet Encyclopedia of Philosophy <http://www.iep.utm.edu/hum-rts> Accessed 13 March 2023

[36] See <https://effectiviology.com/categorical-imperative/#:~:text=The%20categorical%20imperative%20is%20a,act%20the%20same%20way%20too> Accessed 13 March 2023

Kant's moral philosophy is based upon an appeal to the formal principles of ethics, rather than, for example, an appeal to a concept of substantive human goods. For Kant, the determination of any such goods can only proceed from a correct determination of the formal properties of human reason and thus do not provide the ultimate means for determining the correct ends, or object, of human reason. Kant's moral philosophy begins with an attempt to correctly identify those principles of reasoning that can be applied equally to all rational persons, irrespective of their own specific desires or partial interests. In this way, Kant attaches a condition of universality to the correct identification of moral principles. For him, the basis of moral reasoning must rest upon a condition that all rational individuals are bound to assent to. Doing the right thing is thus not determined by acting in pursuit of one's own interests or desires, but acting in accordance with a maxim which all rational individuals are bound to accept. Kant terms this the categorical imperative, which he formulates in the following terms, '… act only on that maxim through which you can at the same time will that it should become a universal law.'

The categorical imperative is self-imposed by morally autonomous and formally equal rational persons. It provides the basis for determining the scope and form of those laws which morally autonomous and equally rational individuals will institute in order to secure these very same conditions. For Kant, the capacity for the exercise of reason is the distinguishing characteristic of humanity and the basis for justifying human dignity. As the distinguishing characteristic of humanity, formulating the

principles of the exercise of reason must necessarily satisfy a test of universality; they must be capable of being universally recognized by all equally rational agent, hence, Kant's formulation of the categorical imperative.[37]

In Kant's theory, the categorical imperatives operatives on three levels: first, it specifies universal acts of duty on all individuals; second, it provides systematic rules for determining these duties; and, third, it specifies the relationship between freedom and duties.[38] In all, this imposes on every individual a duty to develop his rational capabilities and employment them for the happiness of others. This will result in the emergence of freedoms and rights in the society flowing from the categorical imperative. However, such rights will be non-relational.

Kant's theory is quite commendable for some of its argument. He argues the sole principle of morality is that which treats people as an end all times and at all places, he recognizes that the right thing could be different in the view of other people and therefore should not be determined by acting in pursuits of one's own interest and desire and that the capacity for the exercise of reason is the distinguishing characteristic of humanity and the basis for justifying human dignity. The greatest strength of his argument lies in deviating to issues of formulating the principles of the exercise of reason which must necessarily satisfy a test of universality. His argument would have been stronger and precise if the argument for universality recognized that

[37] *ibid*
[38] Alison Young (n34)

the ethical underpinnings of what is right can be faulted by codification of certain rights and exclusion of others on the basis of none codification.

2.2.3 Jeremy Bentham Positivist Theory of Utilitarianism.

The Positivist believes that the content of rights can only be derived from the law of a state. The Positivist adopts an empirical method. One of its chief proponents is Jeremy Bentham who proposed the school of positivism known as the Utilitarianism. Utilitarianism is based on the idea that the moral worth of an action is determined solely by its usefulness in maximizing utility/minimizing negative utility. That is, the more happiness the outcome of an action gives, the more its moral worth. In other words, to the Utilitarian what we ought to do is what will produce more total happiness than doing anything else would.

The main message of the Utilitarian is that since pleasure and pain dominate the human existence, increasing pleasure will diminish pain and improve man's life. The aim of utility therefore, was to increase the overall stock of human pleasure, which could be calculated on a mathematical basis. The ultimate test of utility, therefore, was the implementation of rules which gave the greatest happiness to the greatest number of people-the maximization of felicity.[39]

[39] Alison Young (n34)

2.2.4 John Rawls' Theory

According to John Rawls,

> … justice is the first virtue of social institutions, as truth is of systems of thoughts. He sees justice from the perspective of the basic structure of society or more exactly the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation…[40]

According to Rawls, justice should be thought about from the perspective that anyone will choose behind a veil of ignorance unaware of status, ethnicity and religion. He argues that in such state which he referred to as the original position, no one will choose to be oppressed or to be a victim of religious persecution or racial discrimination or sacrifice their fundamental rights and liberties for social and economic benefits even if this gives pleasure to the majority. He advocates for the rejection of utilitarianism on that ground and that a principle of equal basic liberties for all citizens, including the right to liberty of conscience and freedom of thought agree to and should take priority over attempts to maximize the general welfare. This reasoning is articulated in the following:

> John Rawls theory of the original position imagines men and women with ordinary tastes, talents, ambitions and convictions who though ignorant of the

[40] John Rawlings, (n13), 494

> unique features of their personalities who come together to form a social contract. According to Rawl's theory if these men and women are rational and seek only their self-interest, they would choose one of his two principles of justice. The first provide that every person must have the largest political liberty compatible with a like liberty for all; and second that, inequalities in power, wealth, income and other resources must not exist except in so far as they work to the absolute benefit of the worst members of the society.[41]

2.2.5 John Stuart Mill Contribution to Utilitarianism

Mill was primarily influenced by Jeremy Bentham. Mill's major contribution to utilitarianism is his argument for the qualitative separation of pleasures. While Bentham treats all forms of happiness as equal, Mill argues that intellectual and moral pleasures are superior to mere physical forms of pleasure. Mill differentiated between happiness and contentment and concluded that the former was of higher value than the latter, a belief wittily encapsulated in the statement that 'It is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied. And if the fool, or the pig, is of a different opinion, it is because they only know their own side of the question.'[42]

[41] Michael Sandel, '*Justice: What's the Right Thing to Do*?' (2010) Penguin Publishing, 151-157
[42] John Stuart Mill, '(1863) Socrates (c. 469BC - 399BC)' Utilitarianism, <https://www.utilitarianism.com/socrates.html> Accessed 13 March 2023

Mill defines the difference between higher and lower forms of happiness with the principle that those who have experienced both tend to prefer one over the other. Mill was of the view that it is more imperative upon a society to devote more resources to propagating things that will bring about higher forms of happiness.

Earlier criticism of the utilitarian's argument that utility be determined by actions that bring happiness to the majority totally undermines human rights which are inherent in every individual. It is certainly incorrect to say rights could not exist outside government right precede the government and the legitimacy of government is derived from its protection of human rights. The subjects of rights are clear, every human being. All humans are equal, their equality does not depend on the sustainability of any argument. The determination of whether any right or law is good is determined by its effect on humankind, relations, laws are good were they codify human rights or puts into place standards that are to give direction on what to do with the end of protecting rights and backed with penalties and measures of deterrence from violating rights. For instance, the laws on murder seeks to protect the right to life, the laws of stealing seeks to protect the right to property. Law is therefore a rational human contrivance necessary to protect human rights with the aim of improving social and political life.

2.2.6 Roscoe Pound Sociological Theory of Law

Roscoe pound, one of the chief theorists of the sociological school Roscoe Pound perceived the law as a means of securing societal ends and meeting social needs. He believes that law will ensure social integration and is an instrument of social engineering. He argues that the success of any society depends on how the law is applied to societal problems.

This article aligns with aspects of Locke's theory of natural law, John Rawl's theory of Justice and the sociological theory of law but postulates for a theory that mixes aspects of the three theories to create a modern natural socio-positivist theory that will advance human rights and justice. The strength of Locke's natural theory is rooted in his ability to trace the origin of natural rights to God, the recognition that individuals possess natural rights, independently of the political recognition granted them by the state is also commendable and also solid is his argument that individuals are morally justified in taking up arms against their government should it systematically and deliberately fail in its duty to secure individuals possession of natural rights. Also, the article aligns with Rawls' justice should be thought about from the perspective that anyone will choose behind a veil of ignorance unaware of status, ethnicity and religion. Human right instruments do not create human rights but recognize already existing rights or at most codify some of them depending on the burning issues and man's progressive reasoning. New human rights instruments will continue to emerge for the continued peaceful coexistence of men as men continue to dominate nature,

but none of this instruments will confer[43] human rights on men, they will at best document rights inherent in man and the obligation they place on state, the codification therefore is as much to remind man of the aspect of the other man he must not violate and for the state to remember the obligations it has to respect for the contract between it and individual to continue because its legitimacy flows from respecting the dignity of the individual. In sum, the rights codified by international, regional and national instruments are aspects of human rights but not the totality of rights.

2.3 International Recognition of the Right to Education, Human Rights Education and Education for Justice

Education has been recognized as both a human right in itself and an indispensable means of realizing other human rights. Education plays a vital role in empowering the poor and promotes their participation in governance and decision making in their communities, it empowers women, broadens children understanding of their rights, their recognition of exploitative and forced labour, promotes human rights and democracy, protects the environment, and is key to achieving the sustainable development goals.

[43] Universal Declaration of Human Rights (UDHR) 1948

A 15-year-old student resident at Sector 85 of Gurugram was reported to have taken Haryana Human Rights Commission (HHRC) 'for a ride' as he complained of torture by his parents, but later during police inquiry he told that he was just trying to authenticate what was mentioned in his NCERT book on legal recourse to human rights violation.[44] While not appropriate behaviour and denounced as bad behaviour, the incident showed that children and youths in the region are aware of their rights and understand what action to take when their rights are violated.

The Universal Declaration of Human Rights (UDHR) recognizes that everyone has a right to education which shall be directed to the full development of their human personality and to the strengthening of respect for human rights and fundamental freedoms.[45] The UDHR also recognizes the role of human rights education in strengthening respect for human rights and states as follows:

> … Keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.[46]

[44] Bhartesh Singh Thakur, '15-yr-old Gurugram student takes Haryana Human Rights Commission for a ride Rights body says the boy is testing their activeness and vigilance' <https://www.tribuneindia.com/news/haryana/15-yr-old-gurugram-student-takes-haryana-human-rights-commission-for-a-ride-182936#google_vignette> Assessed 20 October 2020

[45] UDHR, art 26

[46] UDHR, preamble

International Covenant on Economic Social and Cultural Rights

The right to education is also enshrined in the International Covenant on Economic Social and Cultural Rights. Not only does the Convention recognize the right to education, it also articulates the goal for education. The Committee on Economic, Social and Cultural Rights has stated that all education, whether public or private, formal or non-formal, shall be directed towards the aims and objectives identified in article 13 of the International Covenant on Economic, Social and Cultural which states thus:

> The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace…[47]

[47] United Nations Economic and Social Council, International Covenant on Economic, Social and Cultural Rights [ESCR] Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976, in accordance with art 13 and art 27

Also, in accordance with article 14, actions towards fulfilling the right to education must be geared towards progressive realization of the right to education as stated thus:

> Each State Party to the present Covenant …within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.[48]

Convention on the Rights of the Child

The Convention on the Rights of the Child provides the mandate not only for human rights education for children but also for orientation on human rights as part of ethical and value training from childhood. Article 29 (1) (b) provides that 'the education of a child shall be directed to the development of respect for human rights and fundamental freedom, and for the principles enshrined in the Charter of the united Nations'. Article 2 of the Convention on the Rights of the Child prohibits discrimination in education.

[48] ESCR, art 14

World Programme for Human Rights Education

The World Programme for Human Rights Education was launched by the United Nations on 10 December 2004. The World Programme for Human Rights Education, a global initiative of the United Nations which, since 2005, has encouraged concrete measures to integrate human rights education in all sectors. The emphasis of the World Programme's first phase (2005–2009) was on the school system. The second phase (2010–2014) focuses on those who further mentor tomorrow's citizens and leaders, such as higher education institutions, as well as on those who have a major responsibility for respecting, protecting and fulfilling the rights of others – from civil servants and law enforcement officials to the women and men serving in the military.

The Human Rights Council in resolution 39/3 of 27 September 2018 made youth the focus group of the fourth phase of the World Programme for Human Rights Education, with special emphasis on education and training in equality, human rights and non-discrimination, and inclusion and respect for diversity with the aim of building inclusive and peaceful societies, and to align the fourth phase with the 2030 Agenda for Sustainable Development and specifically with target 4.7 of the Sustainable Development Goals. OHCHR, in consultation with States, intergovernmental organizations, national human rights institutions and civil society, including youth groups and youth-led networks, elaborated a plan of action for the

fourth phase of the World Programme (A/HRC/42/23), which was subsequently adopted by the Human Rights Council through resolution 42/7 (26 September 2019).[49]

The International Convention on the Elimination of All Forms of Racial Discrimination, 1965

This instrument primarily aims to eliminate racial discrimination. Article 7 of the convention obliges parties to adopt 'immediate and effective measures', particularly in education to combat racial prejudice and encourage understanding and tolerance between different racial, ethnic and national groups.[50]

The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 1984

Article 10 of the CAT requires States Parties to ensure that education and information regarding the prohibition against torture and other forms of ill-treatment are fully included in the training of law enforcement personnel, civil or military medical personnel, public officials and other persons who may be involved.[51]

[49] Fourth phase (2020-2024) of the World Programme for Human Rights Education
[50] The International Convention on the Elimination of All Forms of Racial Discrimination (1965) art 7 <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx>
[51] United Nations, The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 (art 10) <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>

The Convention on the Rights of Persons with Disabilities, 2006

This Convention identifies and promotes human rights education particularly awareness raising throughout society, including at the family level, regarding persons with disabilities highlighting their capabilities and contributions of persons with disabilities as key strategy to promote respect for the rights and dignity of persons with disabilities.[52] One notable provision, 8(2) (i) of the Convention, sets out the measures to be undertaken by states to include the following:

> … (a) Initiating and maintaining effective public awareness campaigns designed: (i) To nurture receptiveness to the rights of persons with disabilities; (ii) To promote positive perceptions and greater social awareness towards persons with disabilities; (iii) To promote recognition of the skills, merits and abilities of persons with disabilities, and of their contributions to the workplace and the labour market; (b) Fostering at all levels of the education system, including in all children from an early age, an attitude of respect for the rights of persons with disabilities….

In the Vienna Declaration and Programme of Action, one of the outcomes of the World Conference on Human Rights, States reaffirmed their duty to ensure that education is aimed at strengthening the respect of human rights and fundamental freedoms as set

[52] United Nations, Convention on the Rights of Persons with Disabilities, 2006 art 8(1)(a)

out in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and other international human rights instruments. The World Conference on Human Rights emphasizes the importance of incorporating the subject of human in rights education programmes and calls upon States to do so.[53]

The World Conference on Human Rights called on all States and institutions to include human rights in the curricula of all learning institutions in formal and non-formal settings. States are encouraged to strive to eradicate illiteracy by directing education towards the full development of the human personality and strengthening respect for human rights and fundamental freedoms.[54]

Human rights education should include peace, democracy, development and social justice, as set forth in international and regional human rights instruments, in order to achieve common understanding and awareness with a view to strengthening universal commitment to human rights.[55]

Outcome Document of the Durban Review Conference

The Outcome Document of the Durban Review Conference recommends that steps be taken at the national level to promote human rights education in all parts of the world

[53] United Nations, The Vienna Declaration and Programme of Action, art 33
[54] *ibid*, para 79
[55] *ibid*, para 80

after the adoption in 2001 of the Durban Declaration and Programme of Action, particularly in order to sensitize the public at large and to foster respect for cultural diversity.[56]

The 2005 World Summit Outcome

The 2005 World Summit Outcome supports the promotion of human rights education and learning at all levels, including through the implementation of the World Programme for Human Rights Education, as appropriate, and encourage all States to develop initiatives in this regard.[57]

United Nations Declaration for Human Rights Education 2012

The United Nations Declaration on Human Rights Education recognizes the right to education and access to information as key effective enjoyment of all human rights.[58] The United Nations Declaration on Human Rights Education reaffirms the right of everyone to know, seek and receive information about all human rights and fundamental freedoms and to have access to human rights education and training.[59]

[56] United Nations, Outcome Document of the Durban Review Conference, (2009) para 22
[57] The 2005 World Summit Outcome, para. 131
[58] United Nations, Declaration on Human Rights Education, art 1(3)
[59] *ibid*, art 1(1)

World Declaration on Education for All

The Declaration provides that every person child, youth and adult shall be able to benefit from educational opportunities designed to meet their basic learning needs. The basic learning content includes the knowledge, skills, values and attitudes required by human beings to be able to survive, to develop their full capacities, to live and work in dignity, to participate fully in their development, to improve the quality of their lives, to make informed decisions, and to continue learning.[60]

The Doha Declaration

At the conclusion of the 13th United Nations Congress on Crime Prevention and Criminal Justice held in Qatar, the Doha Declaration was adopted. Calling for the integration of crime prevention and criminal justice into the wider agenda of the United Nations, and endorsed by the General Assembly, the Doha Declaration has at its centre the understanding that the rule of law and sustainable development are interrelated and mutually reinforcing.[61]

The Doha Declaration[62] of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice (Qatar, 2015) prompted the United Nations Office on

[60] United Nations, World Declaration on Education for All, art 1(1)
[61] Doha Declaration, (n25) <https://www.unodc.org/unodc/doha-declaration/index.html>
[62] *ibid*

Drugs and Crime to develop the Education for Justice Initiative, aiming to support the integration of crime prevention and the rule of law into all levels of education.

Sustainable Development Goals (SDGs)

Goal four of the SDGs requires states to ensure the provision of inclusive and equitable quality education and promote to lifelong learning opportunities for all. Two of the indicators of this goal is that States ensure equal access for all women and men to affordable and quality technical, vocational and tertiary education, including university by 2030; increased participation rate of youth and adults in formal and non-formal education and training in the previous 12 months, by sex and increased proportion of youth and adults with information and communications technology (ICT) skills, by type of skill and elimination of gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situations.

4. The Role of Law Schools and Clinics in Promoting Education for Justice, Human Rights and a Culture of Lawfulness

The need for a system of legal education that can be guaranteed to produce such lawyers with necessary skills and capacity to meet the evolving needs of the society

has been the thrust of legal education and a daring challenge to tackle.[63] According to Ndulo, Muna accessing past decades of legal education in Africa[64] lawyers produced by the then existing system of legal education in Africa were trained to become legal technicians. They were encouraged to have little or no interest or comprehension of the policy issues inherent in the law. They were generally reluctant to criticize current law. Even as technicians they had limits hence few were competent to represent national and commercial interests in international transactions, involving complexities of taxation and international finance.

However, according to Jessup, 'The law courses of early curricular design did not reflect the needs of the society, and the training of lawyers was based on doctrinaire teaching geared to an adversary setting catering to litigation for the fortunate few at the cost of social injustice to the deprived many'.[65] According to Geraghty and Quansah, 'African law schools have similar potential to produce the next generation of leaders committed to promoting human-rights through ethical and social responsibility'.[66] The lawyer's role is culture-bound, determined by the way in which

[63] Morokenji Onolaja, (n10)
[64] Ndulo, Muna, 'Legal Education in Africa in the Era of Globalization and Structural Adjustment' (2002) 20(3) *Penn State International Law Review*, 487, 500
[65] Grady Jessup, Symbiotic Relations: Clinical Methodology-Fostering New Paradigms in African Legal Education, (2002) 8(2) *Clinical Law Review*, 377, 387
[66] Thomas Geraghty & Emmanuel Quansah, 'African Legal Education, A Missed Opportunity and Suggestions for Change: A Call for Renewed Attention to a Neglected Means of Securing Human Rights and Legal Predictability' <http://lawecommons.luc.edu/lucilr/vol5/iss1/7> Accessed 15 March 2021

he or she is taught and conditioned to perceive himself, and the way in which he or she is perceived by the non-legal professionals among and for whom he works.[67]

This gap was not only related to legal education in Africa but obviously seem to have been the problem of English legal education as can be implied from the statement of Lord Sankey set out below thus:

> Our educational methods have to breed a race of lawyers able to utilize the spirit of law reform for highest uses… They have to teach at once the importance of stability and change… we must also turn out lawyers with a courage to criticize what is accepted, to construct what is necessary for new situations, and new duties both at home and abroad.[68]

The International Association of Law Schools has emphasized the need to produce lawyers who will be advocates of justice as well as law experts who will be advocates of public good.[69] The major question academia need to answer are: how do we shape our Students to be fit for the justice purpose? What type of lawyer is needed to promote justice, human rights and a culture of lawfulness? And what type of training is needed to produce the kind of lawyer needed? One recurrent recommendation from nations that reviewed the development of legal education was the need for an

[67] Issa Shivji, 'From the Analysis of Forms to the Exposition of Substance: The Tasks of a Lawyer Intellectual' (1972) 5 1&2 *East Africa Law Review*, 1

[68] Lord Sankey, referred to in Laurence Gower, 'English Legal Training' (1950) 13 *Modern Law Review*, 137, 161

[69] The Role of Law Schools and Law School Leadership in a Changing World (2009), <https://www.ialsnet.org/annualmeeting/the-role-of-law-schools-and-law-school-leadership-in-a-changing-world/> Accessed 13 March 2023

appropriate interactive teaching methodology that focuses of acquiring knowledge, skills and ethics using an interactive training method that permits immediate practice of skill learnt. The trend across the globe has shifted from traditional legal- education to legal education for justice education which is inspired by justice education campaigns.[70]

In the United States as in several countries including Nigeria and Africa standards and rules of procedure for approval of law schools now focuses on development of curriculum of law programs that provides substantial opportunities to students for law clinics or field placement(s) and promotes student participation law-related community service activities.[71] Law schools are encouraged to promote opportunities for law student pro bono service. In the United States, law-related public service activities have been defined to include: helping groups or organizations seeking to secure or protect civil rights, civil liberties, or public rights; helping charitable, religious, civic, community, governmental, and educational organizations not able to afford legal representation; participating in activities providing information about justice, the law or the legal system to those who might not otherwise have such information; and engaging in activities to enhance the capacity of the law and legal institutions to do justice.[72]

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[70] Deborah Rhode, 'Access to Justice: An Agenda for Legal Education and Research, Consortium on Access to Justice' (2013) 62(4) *Journal of Legal Education*, 531

[71] America Bar Association, Standard 303 (b) (1) & (2) of the ABA, ABA Model Rules of Professional Conduct

[72] Interpretation 303-4

Another driving force of the social justice mission of legal clinics in Nigeria is the release of the draft Bench Mark Minimum Standards for Academic programme (BMAS) by the Nigerian National Universities Commission in 2015 which is aimed at developing appropriate training methods aimed at producing law graduates who can compete actively in legal, social, economic and political development on a local scale.by developing the analytical, research and advocacy skills of students who can apply their knowledge to solve academic and practical social problems. This greatly influenced the growth of law clinics especially life clinics were students are able to interact within the society the law schools are situated enabling law and justice to make meaning to the students in line with Vygotsy theory of experiential learning which stresses the fundamental role of social interaction.[73]

4.1 The Role of the Nigerian Law School Yenagoa Law Clinic in Promoting Education for Justice, Human Rights and a Culture of Lawfulness

The mission of the Nigerian Law School Yenagoa Law Clinic Programme is to train, facilitate and mentor law school students and supervise their work as they contribute to promotion of social justice by providing correct and valuable assistance to the communities. This is achieved by providing opportunity for experiential learning, create a thirst for justice in law students by permitting them to have life contact with

[73] For further reading on Lev Vygotsky, see American Educational Research Association, Dewey and Vygotsky: Society, Experience, and Inquiry in Educational Practice (2001) <https://www.jstor.org/stable/3594354?seq=1> Accessed 13 March 2023

society to be able to directly hear of social and legal issues confronting communities around and afford them opportunity to provide education and solutions to communities, school students and inmates through clinic projects while preparing for their legal career.

Although the Nigerian Law School Yenagoa Law Clinic is broadly split across several clinical programmes and projects undertaken by each clinic, the focus of this article is to shine a light on activities related to human rights and justice education, and Education for Justice and a culture of lawfulness. It is worthy to note that the assignment of students to law clinics is preceded by first induction training in clinical legal education and law clinics during the orientation week and a more detailed induction course which serves as a capacity building course for law clinicians which is closely followed by clinic placement and a strategy meeting for each clinic to generate their own education and advocacy plan and focus. So while students do not choose the legal cases that come to the clinic, they have the opportunity to choose their own education project, develop their own plan for teaching and their own advocacy strategy.

The mandate for the clinics' work on Education for Justice, human rights and a culture of lawfulness are international instruments and declarations including the Doha Declaration, the plan of action for the World Programme for Human Rights Education, the United Nations Global Framework related to Drug control, the Sustainable

Development Goals and Agenda 2030 and other national legislation and policies like the Nigerian constitution and the Child's Right Act.

The beneficiaries of past education projects include school children, youths at the Nigerian Law School, inmates, law officers and communities. The secondary school's outreach programme on Education for Justice, Human Rights and a Culture of Lawfulness focuses on teaching secondary students about human rights and especially familiarize them with the Child's Right Act, training and interacting with them on crime prevention and anti-social vice especially cultism, drug abuse & crime generally founded on developing a value system founded on integrity and ethics and facilitating their interaction and participation in discussions and in identifying underlying factors that drive anti -social vices and criminal activities like cultism and drug abuse, hence enabling them to rake a stand for a culture of lawfulness. Secondary students are able to share their experience and that of their peers and are given access to counselling opportunity from clinicians.

Another aspect of the Programme on Education for Justice, Human Rights and a Culture of Lawfulness focuses on educational activity targeted at training inmates and awaiting trial detainees on a culture of lawfulness and getting them to commit to a crime free life on reintegration into society. At the interactive session inmates are able to ask questions and make contributions. The clinic's activities also extend to training of students within the law school on prevention of drug abuse and distributing

materials donated by Centre for Human Rights and Climate Change Research and Foundation for a Drug Free world.

Also worthy of mention is the training of police officers on torture and arbitrary detention, The first of this was the Akenfa police station education program on torture and arbitrary detention focused on training police officers and an interactive session with police officers with question and answer. The next attempt at the programme met with bottleneck which led to an adjustment to focus on just the police station close to the law school but on the state headquarters with participants from all police stations in Yenagoa. Lastly, there is a pending proposed with the objective of training of prison officials on minimum standards for treatment of prisoners which been temporally put on hold.

The Nigerian Law School Yenagoa Law Clinic Programme is closely linked and integrated with the Clinic's broad goal of Justice Education and also integrates aspects of the sustainable development goal. While the Clinic seems transitory as a result of other aspects of the law school including its externship programme, the Clinic still aims for sustainability and transition that keeps its goals alive and hopes to in future build capacity to serve as nurturing ground for externs with strategic collaborations.

4.2 The role of Indian law schools and law clinic in promoting education for justice, human rights and a culture of lawfulness

Legal aid is based on the premise that the inability to enforce fundamental or basic rights is as bad as not having the rights at all. It enables people to access information about their rights, entitlements, and duties. Therefore, ensuring legal aid to the needy is critical for empowering people living on the margins of society. As it provides a forum to facilitate enforcement of rights related to family, labor disputes, and discrimination, thus it is fundamental to protect meaningful access to justice.

For this reason, Article 14(3(d)) of the International Covenant on Civil and Political Rights states that if a person does not have legal assistance, then it should be assigned to him/her.[74] Nonetheless, in the interests of justice, if the person does not have sufficient means to pay for it, then it should be provided without payment.[75] Similarly, the 2030 Agenda for Sustainable Development recognizes 'the need to build peaceful, just, and inclusive societies which provide equal access to justice and are based on respect for human rights.' It highlights the importance of ensuring 'access to justice for all' in achieving sustainable development.[76]

[74] United Nations, International Covenant on Civil and Political Rights, art 14(3)(d) <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> Assessed 13 March 2023

[75] *ibid* art 14(3)(d)

[76] United Nations General Assembly, Resolution adopted by the General Assembly on 25 September 2015 [without reference to a Main Committee (A/70/L.1)] 70/1. Transforming our World: the 2030 Agenda for Sustainable Development Goal 16

Although the above international instruments and the many national Constitutions categorically state the need to make the legal system accessible to all to promote human rights. However, in the absence of an efficient legal system and lack of resources, people, due to either vulnerable circumstances or poverty, are excluded from the formal justice system. Therefore, the legal system is unduly weighted towards one section of society and exclusionary towards another, leading to social exclusion and powerlessness among the poor and marginalized sections of society. Through the legal aid system, the governments' attempt to create an inclusive legal system. However, its policies towards legal aid, by and large, are either remain ad-hoc or poorly administered if enforced at all. In such a situation, what could be the most effective way to ensure that legal aid reaches the most vulnerable social groups?

One way to make the legal aid scheme more effective is to enroll universities and law schools. Under the supervision of a professor, Legal Aid Clinics (LAC) should be allowed to develop local legal assistance programs for the poor and marginalized, which will enable law student's exposure to understanding the root causes of legal issues and probe them through interdisciplinary approaches. As awareness of legal aid is critical for implementing legal assistance policies, Universities or law school-based LACs through public platforms or activities such as drama and other outdoor street awareness programs can broadcast information about legal aid services to the public. Such awareness programs will promote understanding and knowledge of the law, and by asserting rights, people resolve legal matters.

On the other hand, through encounter and interaction with people and clients, including women and children, prisoners, and villagers, the law students will be exposed to cases involving discrimination, housing or rent disputes, domestic violence, divorce and child custody, and consumer rights, among other issues. Thus, the LACs can provide law students opportunities to the range of the social problems and challenges people face in society. This way, the students will get to know how law functions in society, especially when there is an increasing emphasis on learning the law in context, apart from being skilled in the theoretical aspect of legal education. Consequently, the LACs system teaches law students that disputes can be resolved relatively and peacefully by using the law and equipping them to work towards social justice issues. Thus, if effectively utilized, the legal aid program can be used to ensure access to justice and contribute to the promotion of social justice and upholds the rule of law and creates a culture of lawfulness.

4.2.1 Case Study from Legal Aid Cells set up at two Private Universities[77] in India:

One of the main focuses of these Legal aid societies being set up at these law schools is to teach community service to law students as clinical legal education doesn't just aim to build lawyering skills but also cultivate humanities in legal education. In India, both these clinical legal education aims are farfetched dreams because of the poor state

[77] Legal Support and Care Centre at GD Goenka University and Legal Aid Society at The NorthCap University, Gurugram, Haryana, India

of law school facilities for proper training and mechanism. Advocacy is more or less is a technical aspect of reading law, whereas cultivating humility and humanities in legal education is far more complicated.

From 2015 to 2017, the legal aid cell of GD Goenka University, associated with various NGO's, i.e., KAMALINI, Navjyoti Foundation, Unnati Charitable Trust in the nearby areas bridging the gap between community and students and provided a platform to spread awareness and help people who were actually in need of legal assistance. Workshops were conducted to explain how to file Right to Information on ongoing development projects in the respective areas and focused on approaching the chief minister grievance cell, i.e., CM window[78] to so that people can get heard themselves and resolve the issues. We have touched upon various problems prevailing in our society and made villagers aware of policies and schemes drafted by the local government.

In 2019, the Legal Aid Society of the school of law at The Northcap University pro-actively participated in organizing various legal aid activities through organizing camps and awareness drives on particular issues. Plea Bargaining. An awareness camp on plea bargaining was organized for under-trial prisoners in Bhondsi Jail (District Jail) in Haryana, India, to understand whether the prisoners are aware of the plea-bargaining process or not. Surprisingly, the general on-the-spot findings after conducting interactive sessions with women and men cells in the jail indicated that

[78] <https://haryana.gov.in/cm-window/>

only one percent of total prisoners were aware or informed by their advocates. Students of the legal aid society prepared a report and submitted the same to Gurugram Haryana, the District Legal Services Authority. This project made students learn more about the concept of criminal procedure and how the system itself is denying legal rights

4.3 Impact of Lock-downs and Social Distancing on Human Rights and Justice Education

The past one year ushered in a range of government sanctioned lock downs and social distancing directives aimed at risk-control across Nigeria, India and several countries round the globe in an attempt to curtail the spread of the coronavirus disease- COVID-19. The Educational sector and Justice Sector seem to be among those worst hit with closure of schools to students physically for one year and very restricted access to online court sitting. Physical school attendance and Learning at the Nigerian Law School was disrupted from March 2020 to February 2021 when students resumed. Although in Nigeria the Nigerian Law tried to adapt by introduction of online lectures using google meet, the consequential socio-legal and economic burden will be borne disproportionately not only by students but also by communities.

The almost global school closures not only disrupted learning but also disrupted access to vital school/student-provided services including justice education and access to justice. Human Rights and Justice Education including Education for Justice and a culture of lawfulness which has always thrived on the wings of having physical access

to secondary school students, to communities and inmates and being able to organize legal literacy programmes in schools, communities and prisons was frustrated leaving more people behind in having access to justice including understanding of the rule of law and in achieving goal 16 of the Sustainable Development Goal.

Use of Technology in Justice Education to reach the most marginalized is the greatest challenge of our law clinics at this time. While it has been realistic to continue legal justice education within the law school community using technology during the pandemic as evident in the last World's Environment Day event by the Nigerian Law School Yenagoa Law Clinic. It was difficult to link clinicians with secondary school students or inmates during the pandemic.

5. Conclusion and Recommendation

The equitable application of human rights principles to current and future societal problems are an indispensable requirement of justice. Legal education and capacity development through the activities of law clinics as evident in the activities of the Nigerian Law School Yenagoa Law Clinic and the Legal Support and Care Centre at GD Goenka University and Legal Aid Society at The NorthCap University, Gurugram, Haryana, India is playing a huge role in crime prevention, promoting access to justice and promoting value for integrity and a culture of lawfulness and has become very relevant to sustainable development.

Legal clinics situate in law schools have been part of the history of access to justice for communities and the marginalized and are playing a very vital role in human rights education and education for justice and need to be strengthened. The COVID-19 pandemic has revealed that apart from physical learning in school there is need to integrate the use of technology for lectures into law clinic's human rights and justice education activities by investing in building the capacity of secondary school students and communities on the use of ICT. Where well developed, the use of ICT can serve as a contingency plan for human rights and justice education in times of emergency. There is need to institutionalize law school-based clinics in universities globally to expand the scope of human rights and justice education.

Reviewed Article

EVALUATING THE ROLE OF A NON-DOCTRINAL LEGAL RESEARCH METHOD ON LEGAL EDUCATION AND PRACTICE IN COMMON LAW AFRICA: NIGERIA AS A CASE STUDY

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ABSTRACT

This paper presents the results of a study examining the relationship between a non-doctrinal legal research method (NDLRM) and the quality of legal education and practice, with a view to determine the reason for the increasing poor quality of law graduates from common law African countries. Consequently, in this study, faculties of law offering NDLRM in Nigerian universities were investigated as a case study and the challenges of doing so. To achieve the objective of this study, an experimental research design was formulated. Interviews were conducted and a NDLRM challenges questionnaire developed and administered amongst a selected population

* The authors appreciate the technical support of Adeniji Adewale Taiwo of the Federal University Oye-Ekiti Nigeria, who analysed the data.

of law teachers and law students across the six geo-political zones of Nigeria. Data collected from the respondents were analysed using descriptive statistics. The results of the analysis showed a positive co-relationship between NDLRM and legal education and practice. Law students were not taught NDLRM in Nigerian universities and their teachers were not taught NDLRM as students in Nigerian Universities. In the conclusion of this paper, compulsory training on inter-disciplinary research for all law teachers in Nigeria was recommended. Further, the provision of adequate funding for research in all faculties of law and adequate training facilities such as smart boards and software for teaching empirical research in all law faculties should be a priority.

KEY WORDS: Non-Doctrinal, Legal Research, Impact, Education, Nigeria.

Introduction

This paper is structured as follows. It begins with an introduction in part one. Part two consists of a brief explanation of the history of legal education in Africa, including the quality of African law graduates, which forms the research background, and provides justification for the research area. Parts three, four and five constitutes the research methodology, explains the choice and implementation of data collection methods, sampling aspects of the study and discussions of ethical considerations. Part six provides a review of the literature review before presenting the primary data

collected and facilitated through tables in part seven. The paper continues to the discussion and analysis of these data in part eight before conclusions are drawn and recommendations are presented.

Historical Background to Legal Education in Africa

The idea that law students may need formal instruction in legal research may meet with little argument today from law librarians, practising attorneys and even some law faculties. Yet, a century ago, it was considered revolutionary. Lawyers and law teachers of the early 1990s were not far removed from the time when a lawyer was expected to own or be familiar with all the materials needed for the practice of law. As legal issues became more complex and the quantity of legal materials increased, formal instruction for lawyers became accepted, and attending a law school became a primary method of preparing for a legal career.

In Nigeria (see Chegwe 2016), Kenya and South Africa, prospective lawyers of the pre-independent era did not attend university but were trained, apprentice-style, and learned whatever they knew about legal research by familiarising themselves with all the materials needed for the practice of law, and nothing else. For example, until 1945, lawyers trained in Britain had no law degree, let alone knowledge of empirical legal research. No British university was offering a law degree at that time (Ojukwu 2013). To qualify as a barrister, a person needed to join one of the four inns of court (law

chambers), read for the Bar exam, keep 12 compulsory dinner terms and be called to Bar – all without necessarily obtaining a law degree (Fabunmi & Popoola 1990). This and other challenges inherent in British trained lawyers led to the establishment of the Unsworth Committee by Nigeria in 1959 (Elias 1965) and the Lord Denning Committee of Kenya in 1960 (Okere 2009). Based on the recommendation of these Committees, the University of Nigeria, Nsukka established the first Faculty of Law in 1962 while the Lord Denning Committee in Kenya recommended the establishment of a Law School in Dar-as-Salaam to serve East Africa.

The development of legal education in Zambia followed a similar pattern. Legal education commenced in 1966 (Chipasha 2018) with the establishment of University of Zambia as the only institution offering a degree programme in law until the monopoly was broken in 2006. Since 2006, various public and private universities have emerged offering law programmes at degree levels. Prior to this period Zambian lawyers were trained apprentice-style like their Nigerian colleagues. Expressing the desirability of university legal education to apprentice-style legal education, (Chipasha 2018, 2) espoused:

> *Legal education has a fundamental part to play in society. Excellence in legal education helps to shape the quality of the rule of law while the experiences it offers to future lawyers are invaluable. Primary among them is exposure to a wide range of legal subjects that are essential in the practice of law. It also offers law students a supervised,*

rigorous and disciplined opportunity to learn practical legal skills through clinics, trial practice and negotiation courses amongst others. This represents a superior way to compensate young lawyers who are often confined to run the errands of established lawyers who are often too busy to teach these young lawyers. In a nutshell, legal education is a form of human science that offers beyond techniques, skills and competencies, basic philosophies, ideologies, critiques, and instrumentalities, all addressed to the creation and maintenance of a just society."[1]

Quality of African Law Graduates

Most countries now operate two stages of legal education for prospective members of the legal profession namely a university legal education and a vocational/professional legal education. University legal education consists of four to five-years of study in the law faculties of designated universities, during which law students are exposed to theoretical knowledge of legal norms, principles and other inter-related disciplines leading to the award of a bachelor of law (LLB) degree which qualifies the law student to be admitted to the second stage of legal education. The second stage involves one to two years of practical training for aspiring legal practitioners. Since the LLB degree is the only academic qualification

[1] For a comparative analysis of systems of legal education in Africa, see Okere (1990), 'The Legal Education in Kenya' *Journal of African Law* 33(1) 78-90.

required to practice law, the quality of university legal education directly affects the quality of legal practice.

There is a general consensus amongst legal academic and practising attorney communities on the dwindling quality of law graduates from former common law countries.[2] In Nigeria for example, efforts to maintain the standard of legal education remain problematic despite the threat of withdrawal of accreditation of many Law Faculties by the Council of Legal Education. Various reasons have been adduced for the situation. Idem and Halimat (2019) blames the falling standard of law graduates in Nigeria on over population of students, lack of adequate funding, lack of curriculum synergy between the faculties and the Nigerian Law School, inadequate teaching facilities, and indiscipline on the part of students who are often distracted by social media, resulting on shorter attention span which rubbed students of the benefit of actual study to assimilate as they now merely memorise. They recommended that the Council of Legal Education, in the exercise of its regulatory powers must review its current accreditation system to ensure that prescribed standards are maintained across the two levels of legal education. Collaborations should also be reached with international law societies and legal bodies such as the African Bar Association and

[2] See generally, Thomas F. Geraghty and Emmanuel K. Quansah, "African Legal Education: A Missed Opportunity and Suggestions for Change: A Call for Renewed Attention to a Neglected Means of Securing Human Rights and Legal Predictability" *Loyola University Chicago International Law Review,* (2007) Vol.5, Issue 1: Samuel O. Manteaw "Legal Education in Africa: What type of Lawyer Does Africa Need" *University Of The Pacific Mcgeorge Law Review* ((2016) Vol.39, Issue 4:Okechukwu Oko,"Legal Education Reform In Africa: Time to Revisit the Two-tier Legal Education System" *University of Miami International and Comparative Law Review*, (2021) Vol. 29,Issue 1.

the International Bar Association, who can help in ensuring the sustenance of global benchmark (Idem and Halimat 2019).

There is a similar concern in the quality of law graduates in South Africa. Franny (2022) reports how the South African Law Deans Association recommended a five-year degree programme as replacement for the four-year degree introduced in 1998 pursuant to the Legal Practitioner's Amendment Act 78 of 1997. Though the anti-apartheid reason for the introduction of the programme was justified, the four-year degree did not only reduce the quality of the degree, but more than 75 per cent of the students did not finish the programme within four years. According to Franny (2022, 2), the recommendation was based on research "including the findings that only 35% of LLB students actually graduate within five years and that, of all those who register at tertiary level, only 55% ever graduate at all"[3].

Types of Legal Research

The study of law could either be doctrinal or non-doctrinal.

Doctrinal Research

Doctrinal research involves analysis of case law and statutory provisions, arranging, ordering and systematising legal propositions and the study of legal institutions through legal reasoning or rational deduction. Doctrinal research involves research

[3] The recommendation was made in January 2014 by Campbell.

into law as a normative science which, as Gain (1975) identifies, lays down norms and standards for human behaviour in a specific situation or situations through the sanction of the State. It is this normative character that distinguishes law from other related disciplines of the social sciences (Myneni 2017). Doctrinal research is regarded as speculative in the sense that the various viewpoints which are admissible within it cannot be empirically verified (Gasiokwu 2014). According to Salim et al (2017), the main advantage of library or ideological research as they choose to call doctrinal research is that it saves time: "…the busy practitioner tends to be concerned with the law 'as it is' and rarely has the time to consider research that does not fit within that paradigm and timeframe". The disadvantages of doctrinal research are that it is very narrow and restricts the choice and range of topics which increasingly withdraws the legal profession from the greater social context (Salim et al 2017).

Non-Doctrinal Research

Non- doctrinal, such as socio-legal, research is research into law in the context of other inter-related or dependent factors. It facilitates examination of the relationship between law and other behavioural sciences. Of course, while most laws are found and developed in legal texts, they do not operate in vacuum. They influence and are influenced by social values, attitudes and ethos. An investigation into the dynamics of such a complex phenomenon involves the collection of data outside the conventional legal sources. This type of research usually involves field work. In most developing

countries including Nigeria, doctrinal research constitutes the dominant research approach while non- doctrinal research techniques are unfortunately regarded as subversive by most law teachers; while others believe that such approach represent the indulgence of those who do not understand what the study of law truly entails (Gasiokwu 2014).

Problem Statement

Law students, unlike students in the social sciences, are often unable to present dissertations in their chosen area of law as required in partial fulfilment of their law degrees. They are not provided the training necessary to undertake empirical research, at least with the necessary level of sophistication. After graduation, lawyers are unable to undergo a transformation from passive consumer of academic knowledge into active co-producers of societal reform. This situation also has cyclical effects on the quality of legal practice in Nigeria. Hence, this study on non- doctrinal legal research addresses the practical evidential gap created by pure doctrinal research.

Research Objectives

The specific objectives of this study are as follows:

- Determine how many universities in Nigeria teach a non-doctrinal legal research method.
- Determine the challenges of teaching a non-doctrinal legal research method in Nigerian universities.
- Determine the relationship between a non- doctrinal legal research method and the quality of legal education and practice in Nigeria.

Research Questions

In accordance with the above objectives, the following research questions are addressed in this study:

- Do universities in Nigeria teach a non-doctrinal legal research method?
- What are the specific challenges of teaching non-doctrinal legal research?
- Does a non-doctrinal legal research method impact the teaching and practice of law in Nigeria?

Literature Review

According to Everwijn, G. et al (1993), ability or competence-based education is the only way of bridging the gap between knowledge acquisition and the ability to apply same. The ultimate goal of legal education should be to teach students to apply that same knowledge. Discipline specific knowledge and skills are, singularly, insufficient to enable the lawyer to respond adequately in a situation of discipline transcending (inter-disciplinary) knowledge and problems.[4]

Solomon (2017), who was interested in improving the quality of legal education in Nigeria, recommends skill in effective legal research report writing, with the general assumption that prior legal research has been effectively and methodologically conducted. Knowledge acquired as a fundamental requirement of every enterprise should be adequately transferred and prudently applied for solving societal problems. Legal knowledge is transferred and acquired through legal education. Solomon (2017, 1) examined how to write an effective legal research report and identifies lack of empirical research methods, especially at the undergraduate level, as a major impediment on the aptitude and quality of legal writing by the country's legal academics, as well as judges, legal draftsmen and law advocates. Further, Solomon criticised the system of legal education in Nigerian universities for its inefficient pedagogy, focusing more on pure theories of "substantive law without the sufficient application of skills" as well as the deficit in teaching and research facilities in the law faculties of Nigerian universities. It is worth noting, however, that there was no

[4] In the last decade the National University Commission, (Nigerian university regulatory body), recommended a compulsory diploma certificate in education for every university teacher in Nigeria, including law teachers, but the policy was not followed through.

statistical data presented on which the author could rely when arriving at this conclusion.

Becher's work (1981) on the quality of research by law teachers continues to represent an accurately deleteriously account of how academic lawyers are viewed by their counterparts in the social sciences. Accordingly, academic lawyers are regarded as not really academic, arcane, distant, alien, an appendage to the academic world. They are sometimes vociferous, untrustworthy, immoral, narrow and arrogant. Their research fares no better in this assessment, dismissed as it is as being unexciting, uncreative, and comprising a series of intellectual puzzles scattered amongst large areas of decryptions.

Empirical facts impact positively on legal scholarship and legal research. For example, there are existing rules of evidence in many jurisdictions such as Australia and the United States (Burns and Hutchinson 2009) allowing for a formal use of empirical data within the doctrinal analytical framework. In Nigeria for example, courts are required to apply the doctrine of judicial notice and other provisions of the Evidence Act[5]. However, these existing rules of evidence do not appear to adequately cater for the wide variety of ways in which empirical facts are utilised in judicial decisions. The way these materials find their way into judges' decisions appears to primarily rest upon judicial discretion and when they are used, social science materials relevant to empirical fact assumptions are not always adequately acknowledged by judges. The

[5] See Section 18(3) Evidence Act 2011 Laws of the Federation of Nigeria (LFN) 2011.

recognition of the judicial use of empirical facts as part of judicial reasoning raises the need for new approaches to legal research and legal research training based in the social sciences. It suggests that lawyers need better training in non-doctrinal methodologies. The evolution of legal education in Nigeria seems to have negatively impacted the nature and quality of legal research that is carried out in Nigerian Universities.

There is currently no empirical data on non-doctrinal legal research in Nigerian universities. The result of this study will be of benefit to other researchers and policy makers especially the National Universities Commission (NUC), aiming to improve the quality of legal education and practice in Nigeria.

Methodology of the Research

Population and Sample.

Due to practical constrains, a sample of the population consisting of eighteen universities selected across the six geo-political zones was studied. The selected numbers were extracted using the probability sampling techniques. The research participants consist of law teachers and students in different levels of undergraduate studies. Few Post graduate students also formed part of the studied population. For ethical reasons, the names of the universities are not disclosed.

Method of Date Collection Instrumentation

Data was collected using a questionnaire instruments and interviews. The questionnaire instrument adopted a Likert 5-point rating scale (ordinary scale), with response options ranging from "To a very great extent", to "to a small extent". The instrument consisted of two sections. Section A provided demographic information, while section B extracted response on the impact of empirical legal research training on the learning and teaching of law in Nigerian universities.

Method of Data Analysis

The data collected from the respondents were coded and analysed, and presented in Tables 1, 2, 3 and 4. The demographic data was analysed using descriptive statistics. Responses to the copies of the instrument was tallied on a five-point scale, and the null hypothesis processed with the appropriate computer statistical packages for social sciences (SPSS).

Results and Discussions

The information sourced from the respondents was subjected to descriptive and inferential statistics. The demographic characteristics of the respondents presented in

Table 1 showed the majority (54.55%) of the respondents are within the age bracket 31 to 40 years indicating that the respondents are young and qualified to provide information on the subject matter. Next to this age bracket are respondents within the age group 20 and 30 years. A majority of the respondents are male, accounting for 64.5% of the respondents. A majority (81.18%) of the respondents had undergraduate qualifications while the remainder are those with postgraduate qualification in law. The Chi square goodness-of-fit test showed that the classes for age distribution, gender and educational attainment were significantly different from each other at a 0.01 level of probability.

Table 1: Demographic and institutional characteristics of the respondents

Age	Frequency	Percentage (%)	Degree of freedom	Chi square
20 - 30 years	60	27.27	3	42.56
31 – 40 years	120	54.55		
41 – 50 years	30	13.63		
50 years >	10	4.54		
Total	220	4.54		
Gender				
Male	142	64.5	1	51.11
Female	78	35.45		
Total	220			
Educational attainment				
Undergraduate	180	81.81	1	60.21

Postgraduate qualification	40	18.18		

Information on the preponderance of non-doctrinal legal research in the universities surveyed is presented in Table 2. Findings showed that the majority of the lecturers and students were unaware of non-doctrinal legal research training. The respondents indicated that they had not registered for, nor attended, courses in non-doctrinal legal research at undergraduate and postgraduate levels. This observable data demonstrates the reason Nigerian law undergraduates were unable to carry out non-doctrinal legal research of their own as law students and their inability to impact same as teachers. Also, the respondents who were taught doctrinal legal research during the 400 level, followed 100, 200 and 300 levels. However, 10% of the respondents indicated that non-doctrinal legal research was taught in their university for a period spanning 5 and 10 years (10%) while 90% of the respondents indicated otherwise. The 10% who were taught using non-doctrinal legal research studied abroad during their undergraduate degrees. The Chi square goodness-of-fit test showed that the variables tested were significantly different from each other at 0.01 level of probability.

Table 2: Preponderance of non-doctrinal legal research in the universities

Variables	Frequency	Percentage (%)	Degree of freedom	Chi square

Are you aware of empirical law research				
Yes	80	36.35	1	43.11
No	140	63.64		
Total	220			
Have you been taught or took courses in non-doctrinal legal research in the university				
Yes	30	13.63	1	56.24
No	190	86.36		
Total	220			
At what level in the university were you taught non-doctrinal legal research				
100 level	1	0.45	5	62.18
200 level	1	0.45		
300 level	1	0.45		
400 level	27	12.27		
500 level	00	0.00		
Not at all	190	86.36		
Total	220			
For how long has non-doctrinal legal research being taught in your				

university				
Not at all	200	90	86.11	1
5 – 10 years	20	10		
15 years >	0	00		
Total	220			

Challenges of Empirical Legal Research in Nigerian Universities

The information received through the survey on the challenges of empirical legal research was subjected to a four-point Likert scale test, with a mean of 2.00±0.50 declared as important. The challenges faced in the teaching of non-doctrinal legal research in Nigerian universities are presented in Table 3. Findings indicate that the lecturers were not taught non-doctrinal legal research during their training in the universities, and this had direct and severe effects on legal research at university. This is based on the premise of the total score of 3.44 out of 4.00. There is an assumption in certain quarters that non-doctrinal legal research is not necessary (Gasiokwu 2014). This investigation equally acknowledged the existence of phobia for mathematics and statistics by law respondents. There is also the challenge of inadequate time devoted to the study of research methodology in Nigerian law faculties. Unlike other regions such as the United States where legal research and writing are integral parts of the student's curriculum (Booth, 2009), legal research is offered only in the fourth year of a five-year program in Nigerian universities. Law students are therefore unable to

grapple with the rudiments of research methodology, data collection and analysis in time to adequately prepare for their long research essays at 500 level of study, with the consequence that law students frequently engage in plagiarism.

Inadequate resources in the universities to teach non- doctrinal legal research courses limit easy deployment and teaching of non-doctrinal legal research courses in the universities. Also, inadequate training facilities and software for teaching this course limit teaching of non- doctrinal legal research courses in the universities. All the variables evaluated recorded mean scores in excess of 2.50, indicating the how severe these variables are.

Table 3. Challenges in teaching non-doctrinal legal research in the universities

Variables	Highly severe	Severe	Moderate	Not severe	Total
Lecturers were not taught empirical research during their training at undergraduate and postgraduate schools	160 (2.90)	20 (0.27)	20 (0.18)	20 (0.09)	3.44
Assumption that non-doctrinal legal research is not	150 (2.73)	30 (0.41)	20 (0.19)	20 (0.09)	3.42

necessary in law.					
Phobia of statistical reasoning by lecturers	190 (3.45)	10 (0.14)	10 (0.09)	10 (0.05)	3.73
Inadequate of qualified manpower	180 (3.27)	20 (0.41)	10 (0.09)	20 (0.05)	3.82
Inadequate training for non-doctrinal legal research training	140 (2.55)	30 (0.41)	30 (0.27)	20 (0.09)	3.32
Inadequate software for non-doctrinal legal research training	160 (2.55)	20 (0.41)	40 (0.36)	20 (0.09)	3.41

The Impact of Non-Doctrinal Legal Research on the Practice of Law

The impact of non-doctrinal legal research on the practice of law was investigated among the respondents. Findings indicate that non-doctrinal legal research has a high impact on legal practice, logical research and the presentation of client's cases, client management, scale forensic assessment and probable sifting of evidence by lawyers and judges. The legal profession is probably the profession which is most oriented towards research in literature Chunuram (2021). A major portion of the work which lawyers do is legal research and the application of the findings of this research to

problems at hand. Proper non-doctrinal legal research skills therefore have a positive relationship with the practice of law in Nigeria. These findings are consistent with high mean scores which range from 3.47 to 3.63 (Table 4).

Table 4. Impact of doctrinal legal research on legal practice in Nigeria

Variables	Highly impact	Moderate impact	Low impact	No impact	Total
Non-doctrinal legal research practice has positive influence on the practice of law.	170 (3.09)	30 (0.40)	10 (0.09)	10 (0.05)	3.63
Non-doctrinal legal research practice in Nigerian legal system will influence scientific case presentation and client practice	150 (2.70)	30 (0.40)	20 (0.18)	20 (0.09)	3.37
Knowledge of non-doctrinal legal research will	160 (2.90)	40 (0.54)	10 (0.09)	10 (0.05)	3.58

scale forensic assessment of cases and investigation by lawyers					
Doctrinal research makes law research very efficient	137 (2.49)	60 (0.81)	13 (0.12)	10 (0.05)	3.47

Conclusions

There has been growing concern about the failing standard of legal education and practice, a situation that has been traced to the quality of university graduates. Since lawyers are required to acquire legal education in universities before being allowed to practice (Chioma 2015) there are growing demands for reforms in legal education. According to the NUC,[6] academic legal education should first be interdisciplinary to expose the student to analysis of the socio-political and cultural environment of legal rules and secondly, as an intellectual exercise aimed at challenging the individual to creativity and problem-solving skills through empirical research. Against this background, this study set out to investigate the challenges of conducting non-doctrinal legal research in Nigerian Universities against an initial presumption that

[6] National University Commissions' (NUCs') Benchmark Minimum Academic Standard for Undergraduate Programmes in Nigerian Universities, Nov., 2014 pp.ii-iii.

they do not, and that non- doctrinal research affects the quality of legal education and practice in Nigeria.

Based on the evidence presented by this study, Nigerian law students are still unable to carry out non-doctrinal research in other to acquire critical thinking skills, with the challenge that they are unable to impact same to their students if they eventually become law teachers. This challenge is historically linked to the pioneer faculty members who were trained apprentice – style in the English "Inns of Court" thus it was only natural to introduce the system with which they were familiar Fabunmi and Popoola (1990:40). The consequence on the standard of legal practice is that the young practitioner, though "qualified," is ill-equipped and unable to define their role in the society or cope with the pressure of global legal practice. They are eventually converted from a legal practitioner to a businessman with profit rather than principle as the basis for legal practice.

Recommendations

Arising from the foregoing findings and conclusions, the following recommendations are suggested as a way of encouraging non-doctrinal legal research in Nigeria.

1. Training on NDLRM for all law teachers in Nigeria: Law teachers who are already employed should be trained on *NDLRM*. An advantage of this research method is the exposure to inter-disciplinarily research. There are some common features and similarities of research methodologies across the social sciences from which legal researchers can benefit [7]. The social science environment is an interdisciplinary field linking the disciplines of management, economics and law. This position is consistent with an earlier study which contend that the system of legal education in Nigeria suffers from a pre-conceived restricted view of the role of the lawyer in society , Fabunmi and Popoola (1990: 45).They wondered if the scope and content of the legal curriculum in use at law faculties, which are excessively and unduly rule-oriented, can really equip the lawyer with the breath of vision required of him in his later-day professional life; whether the duties of the law faculties are discharged in teaching the 'pure law' (law of the statute book) or whether they should help the students to relate the law to its social effects. It is contended that compulsory training in interdisciplinary research methods will fill a yawning gap between the logically arranged legal norms in the textbooks and the stark reality that surrounds lawyers' practical operation. This gap can only be filled with the injection of non-legal subjects which have bearing on the understanding of the society like economics, philosophy, psychology and some other relevant subjects in

[7] Already, there is an evolving global research practice towards a unified citation/ referencing style for all social sciences research, including legal research.

the sciences and humanities. Non-doctrinal legal research is implicit in interdisciplinary legal education.

2. Provision of adequate funding: Depending on the methods of data collection, research is generally expensive to carry out. For example, the cost of experimental research design is significantly higher than what an individual researcher can afford: questionnaires may have to be administered and retrieved amongst a selected population by the researcher. These cost money. We are all aware of the challenges of unverified electronic legal research sources, hence the preference for Westlaw and Lexis in legal research. These have sophisticated functionality that can ease the pain of legal research, but these systems are very expensive to acquire, install and maintain against the backdrop of the poor funding of public universities in Nigeria. Non-doctrinal legal research will benefit extensively if university education is adequately funded.

3. Provision of adequate research facilities: It is one thing to provide funding for empirical research and entirely another to strategically and effectively deploy the funds provided to achieve the desired goals. For example, Kanayo (2021) indicates that over the last 10 years the Federal Government of Nigeria, through the Tertiary Education Trust Fund (TETFUND), has injected more than N2.5 trillion into Nigerian universities in support of empirical research. But judging from insistent

strike by members of the Academic Staff Union of Nigerian Public Universities, these funds did not get to the targeted beneficiaries.

The following are suggested ways of ensuring that funds meant for research are appropriately applied for that purpose:

i. Direct procurement of modern research facilities such as adequate classrooms fitted with smart boards, software for collecting and statistically analysing numerical data for faculties by government and donor agencies;
ii. Direct subscription to online research journals;
iii. Provision of adequate electricity and data for universities and faculties;
iv. Sponsorship of law teachers to academic conferences and exchange programmes; and
v. Restructuring of existing student curriculum with an emphasis on narrowing the gap between theory and practise. One major way of achieving this goal is the provision of hard and soft infrastructure for legal aid clinics for all faculties of law in Nigeria's Universities.

4. The compulsory teaching of non-doctrinal legal research and writing at all levels of study in law faculties in Nigeria.

5. Prior credit pass in mathematics: A credit pass in mathematics and statistics should be made a compulsory requirement for admission into law programmes in Nigerian Universities. This will eliminate the phobia for mathematics and statistics amongst law students and teachers. Alternatively, law should only be studied as a second degree: only candidates with a prior degree in other social sciences should be admitted to read law in Nigerian Universities. This recommendation will go a long way in resolving the phobia for mathematics and figures by law students earlier identified.

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PEACE AND CONFLICT TRANSFORMATION THROUGH THE CLINICAL LEGAL EDUCATION PROGRAMME

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Abstract

Clinical Legal Education came to Nigeria, first, as a solution to remedy the effects of epileptic access to justice and, further, to develop law students' professional skills through rendering free legal services to indigent members of society. It was not received into the Nigerian legal pedagogy without some level of resistance, however with consistent lobbying it was eventually incorporated. The Clinical Legal Education program began with just five pilot university law clinics to implement the components of Clinical Legal Education. Despite this relatively small number, the program was able to satisfy its immediate objectives, pending other universities that could not resist the need to benefit from the program inculcated it into their legal pedagogy. Consequently, Nigeria now has 21 active university law clinics rendering free legal services to indigent persons and teaching community members about their legal rights. Offering free legal services and educating community members about their legal rights are not the end of the benefits of Clinical Legal Education. There are many other benefits that are derived from the Clinical Legal Education program and in this paper, as way of just one example,

I examine the ways in which clinical legal education is helping to curb communal violence.

CLINICAL LEGAL EDUCATION

A Brief History of Clinical Legal Education in Africa

South Africa

South Africa is the African country where law clinics and clinical legal education (CLE) generally was first developed in Africa.[1] The gap caused by the State in its inability to provide adequate legal aid to disadvantaged South Africans during the apartheid era led to South African law students bridging the gap through the implementation of law clinics.[2] Therefore, the first law clinics in South Africa were institutionalized during the apartheid era to proffer legal aid services to the victims of apartheid and other disadvantaged individuals whose human rights had been breached.[3]

[1] David Mcquoid-Mason and Robin Palmer, African Law Clinicians Manual (Institute for Professional Legal Training, South Africa April 2013).
[2] Haupt F.S. 'Some Aspects Regarding the Origin, Development and Present Position of the University of Pretoria Law Clinic' [2006] (39) (2) *De Jure*, 229–243.
[3] Emil Winkler, Clinical Legal Education: A Report on the Concept of Law Clinics, 2013, http://law.handels.gu.se/digitalAssets/1500/1500268_law-clinic-rapport.pdf (Accessed 16/06/2020).

The first university law clinic in the region was based in the University of Cape Town and was established in 1972.[4] This clinic was initiated and managed by the law students, though they received supervision from lawyers outside the university.[5] Interestingly, the law students delivered their clinic legal aid services in the evenings in churches and town halls located in the impoverished community to the disadvantaged individuals.[6] So, fundamentally it was the law students who coordinated the activities of the clinic.

Shortly after the establishment of University of Cape Town law clinics, in the following year 1973 a legal aid conference was held in South Africa, funded by the Ford Foundation.[7] This conference grew to become a strong force, advocating for the institutionalization of law clinics in South Africa.[8] Subsequently, many other South African University law clinics sprang up. By 1981, there were 14 law clinics in South Africa based in locations as diverse as Cape Town (1972), the Witwatersrand (1973), Natal (Durban) (1973), Port Elizabeth (1974), Natal (Pietermaritzburg) (1974), Western Cape (1975), Stellenbosch (1975), Durban-Westville (1978), Zululand (1978), Rhodes (1979), the North (1980), Pretoria (1980), South Africa (1981), and Rand Afrikaans University (1981).[9]

[4] Ibid at 1.
[5] Ibid at 3.
[6] Ibid.
[7] Ibid.
[8] ibid.
[9] Ibid at 1.

These law clinics were managed without the support of funds from external donors, therefore they depended heavily on the sparse support available – primarily in respect of accommodation, equipment and materials.[10] The basic objective of these clinics was to ease and expand access to justice for vulnerable and poor individuals during the apartheid era.[11]

Though the University of Cape Town law clinic was student staffed and student managed, subsequent clinics were law faculty institutionalized programmes. The first law clinics instituted by staff were at the University of Witwatersrand in 1973 (this clinic first named its CLE Programme (CLEP) Practical Legal Training Programme; subsequently renaming it as Practical Legal Studies in 1983. Now the CLE programme bears the Practical Legal Studies[12] name and Natal (in Durban).[13]

By 1990 a progam of funding saw an increase in legal aid, due to a variety of reasons but including an increase in State legal aid services, the formal accreditation of university law clinics by the South African Law Society in 1993, funds for CLEP development from the Attorneys Fidelity Fund (AFF) and the institutionalization of the Association of University Legal Aid Institutes (AULAI) with the basic objective of advocating for CLE

[10] Ibid at 3.
[11] Ibid at 2.
[12] MA (Riette) du Plessis, 'Forty-five years of clinical legal education in South Africa' http://www.scielo.org.za/pdf/funda/v25n2/02.pdf (Accessed 16/6/2020).
[13] Ibid.

in South Africa.[14] Therefore law clinics are now funded by both the universities and external donors.

Many law clinics in South Africa operate a live client programme where individuals that cannot afford legal services are satisfied with their legal needs.[15] The directors are (often) practising advocates and attorneys may be appointed to coordinate the clinic. Where the director is a practicing attorney, the local law society accredits the clinic and applicants waiting to be called to the South African Bar (Candidate Attorneys) can be, and usually are, appointed as paralegals (Legal Interns) offering community legal aid services to satisfy the requirements to be called to Bar.[16]

Nigeria

In Nigeria, the need to change the rigid and theory based legal pedagogy (LP) to that of a practical LP necessitated the inclusion of the CLEP into Nigeria LP. The graduates possessed the relevant professional skills of advocacy, communication skills, drafting skills, interviewing and counselling skills, negotiating skills, problem-solving skills and research skills. However, the need for a revised LP became evident with law students increasingly graduating ignorant of the requisite professional hands-on skills and they

[14] Ibid.
[15] Ibid at 1.
[16] Ibid.

were frequently identified as being ignorant of their societal obligations. Consequently they were becoming a liability to their employers.

This feat of including the CLEP into our LP began with Prof. Ernest Ojukwu, Prof Akinseye George (SAN) and some other brave law lecturers organizing and attending various CLEP conferences workshops and seminars which necessitated the birth of Network of University Legal Aid Institutions (NULAI) Nigeria in 2003 to improve legal education and legal capacity in Nigeria through institutionalizing the CLEP into Nigerian LP.[17]

The following were some of these CLE events:

i. The 1st Nigerian Clinical Legal Education colloquium held at Abuja on the 12th - 14th of February 2004. The primary goal of this colloquium was the integration of Clinical Legal Education into Nigerian LP.
ii. The 1st African Clinical Legal Education teacher training held at Durban South Africa on the 4th-9th October 2004.
iii. The 2nd African Clinical Legal Education Teacher Training held at Durban South Africa 20th -24th November, 2006.

[17] See NULAI Nigeria http://www.nulai.org/index.php/featured/54-inside-the-network-of-university-legal-aid-institutions (Accessed 17/06/2020).

iv. The 1st Nigerian clinical legal education teacher training workshop held at Abuja on the 2nd-5th of February 2005. Those in attendance aside from NULAI Nigeria staff were; 16 Law Teachers from 14 Law Faculties in Nigerian Universities and the Nigerian Law School, representatives from Open Society Justice Initiative, Legal Aid Council, and the University of Kwa Zulu- Natal.[18]

NULAI Nigeria also engaged in some advocacy works to get CLEP accepted into the Nigerian justice sector. Some of these advocacy works were:

i. A Clinical Legal Education Curriculum Development Committee organized by NULAI Nigeria. Members of this committee were NULAI Nigeria staff and law lecturers. This committee visited the law clinics of the University of Kwa-Zulu Natal and the University of Johannesburg respectively to understudy their CLEP.
ii. NULAI Nigeria was involved in the Council of Legal Education Committee review on legal education in Nigeria. This involvement led to the inclusion of CLE into the Nigerian LP. The report stated that "the faculties are required to provide appropriate facilities, such as clinical consultation rooms," and "for purposes of achieving interactive teaching, proper training will have to be given to lecturers at the various law faculties and the Nigerian Law School…"

[18] Odinakaonye Lagi et.al., Campus-Based Law Clinics in Criminal Justice Administration in Nigeria. (NULAI Nigeria 2019).

iii. Advocacy visits to the National Universities Commission (NUC) which consequently led to the inclusion of CLE into the NUC's August 2004 draft benchmarks and minimum academic standards for the law degree programme.

iv. Also, NULAI Nigeria advocated for the inclusion of law clinics in the Stakeholders meeting on the Nigerian Draft Legal Aid Bill. Consequently, the Legal Aid Act precisely by its Section 17 included law clinics as a legal aid provider.[19]

To consistently hone and increase student clinicians' capacity in advocacy, research, interviewing and counseling skills, NULAI Nigeria annually organize the National Clients Interviewing and Counseling Skills Competition for student clinicians and the winner represents Nigeria in the Louis M Brown Client Counselling Competition.

The Nigerian law clinics by the support of NULAI Nigeria also carry out social justice projects. Some of these projects are the Pretrial Detention Decongestion, Freedom of Information, Community Justice Outreaches, and the Young Persons in Peace and Conflict Transformation (YPPCT).

Interestingly, NULAI Nigeria started with 5 pilot law clinics:

1. Abia State University (ABSU Law Clinic),
2. Adekunle Ajasin University (Akungba Law Clinic),
3. Ebonyi State University (EBSU Law Clinic),

[19] Ibid.

4. University of Uyo (UNIUYO Law Clinic), and
5. University of Maiduguri (Maiduguri Law Clinic).[20]

Due to the very many apparent educational and societal benefits of law clinics, many universities have since included the CLEP into their LP, therefore raising the number of law clinics in Nigeria to 41.[21] Since the inception of CLEP into our LP, the CLEP has been rightly serving dual purposes of effectively teaching student clinicians the practical rudiments of the legal profession and rendering free legal services to the individuals that cannot afford to pay for the services of a legal practitioner.

Uganda

It can be said that CLE began in Uganda through the report of Prof Gower which led to the development of Uganda's Law Development Centre, responsible for the provision of free legal services in Uganda.[22] The report states that:

> One valuable method of instruction, and at the same time a valuable social service, and one obviously needed in Uganda, is the running of a legal aid clinic in connection with the (bar) course… At this clinic, the students under the watchful

[20] Ernest Ojukwu, Odinakaonye Lagi, Mahmud Yusuf, Compendium of Campus Based Law Clinics In Nigeria. (NULAI Nigeria 2014).
[21] NULAI Nigeria, www.nulai.org (Accessed 17/06/2020).
[22] Philip F. Iya, Fighting Africa's Poverty and ignorance through Clinical Legal Education: Shared experiences with new initiatives for the 21st Century" *International Journal of Clinical Legal Education* [July 2014] (1) (13).

> eye of qualified supervisors, would interview, advise litigants and, carry out any necessary correspondence and negotiations on their behalf.[23]

The Centre has a statutory responsibility regarding CLE which is "to enhance the professional training of post graduate law students at the Centre and promote the lawyer's role of service to the community through practical experience based on learning and legal representation of needy persons".[24] As a result of this statutory provision, the Centre has two activities in fulfillment of its CLE programme which were in operation only in 1998, perhaps due to the sponsorship from the American Bar Association and the United States Information Service.[25] These activities are:

1. Experiential learning: Through live cases, the postgraduate law students under supervision inculcate practical training by interviewing and advising impoverished persons, also they represent them in Magistrates Courts only and undertake other forms of legal services for them;
2. Education: the Centre also educated the general public of Uganda on their legal obligations and rights.[26]

[23] Ibid.
[24] ibid.
[25] ibid.
[26] ibid.

PEACE AND CONFLICT TRANSFORMATION

NULAI Nigeria, the brainchild and "mother" of law clinics in Nigeria, in its bid to end communal violence is working with law clinics to teach community secondary school students the need for peaceful dialogues and peaceful resolution of disputes. Thereby, catching the community children young while they are still at their formative years. This on-going project is tagged "Young Persons in Peace & Conflict Transformation" (YPPCT) and is funded by the American Arbitration Association-International Centre for Dispute Resolution Foundation (AAA-ICDR Foundation).[27]

The goal of the project is to inculcate in young persons the knowledge, skills, and values in facilitating peaceful dialogue using conflict transformation and peace building approaches thereby making them peace and conflict transformation actors. This is implemented through clinical street law programmes which means an education focused programme which recognizes that the law affects people in their daily lives and the need for everyone to understand the law. Street law has been used in crime prevention, conflict resolution, and youth advocacy for use in school systems, juvenile justice facilities, and community settings. Street law is widely recognized for its contributions to public service and for demonstrating how law students can give back to their host communities.[28]

[27] https://nulai.org/street-law/young-persons-in-peace-and-conflict-transformation/ (accessed 16/09/2021).
[28] Ibid.

NULAI Nigeria, in executing the YPPCT project, worked with five university law clinics; Bayero University (BUK) Law Clinic; Nile University (NUN) Law Clinic; Kogi State University Law Clinic; Usman Danfodiya University (Caliphate) Law Clinic; and Nigerian Police Academy (POLAC) Legal Clinic, to produce the following outcomes:

Outcome 1: Develop a peace and justice education programme adopted and integrated into the curriculum.

Outcome 2**:** Increase knowledge in peace and conflict transformation principles for law clinic students and secondary school pupils; and

Outcome 3**:** Law clinics to serve as centers for peace education and peaceful dialogue for law clinic students, secondary school pupils and community members.

The project entails the following phases of work:

i. Phase 1: the development of a street law curriculum with law teachers and law clinic supervisors for YPPCT programme.
ii. Phase 2: the law teachers and law clinic supervisors to conduct a train-the-trainer street law workshops on peace and conflict transformation for law clinic students.
iii. Phase 3: NULAI together with law students develop visibility materials to support YPPCT workshops.

iv. Phase 4**:** trained law clinic students to conduct a train-the-trainer street law workshops on peace and conflict transformation for selected secondary school students that will develop a peace plan for their schools; and

v. Phase 5: the selected secondary school students to train their fellow students through street law workshops on peace and conflict transformation.

To begin the project, NULAI facilitated a 2 days street law curriculum development workshop held on the 9th and 10th of September 2020 with law teachers and law clinic supervisors of the above-mentioned law clinics on YPPCT programme. In preparation for the workshop. The workshop articulated topics and sampled out activities to be used for training law students on peace and conflict transformation.

ACTIVITIES UNDER THE YPPCT PROJECT

Nile University (NUN) Law Clinic

After I joined Nile University through the National Youth Service Corps in December 2016, I immediately began the work to have instated a law clinic in the university. I started with first planning a formal launch of the clinic so as to ensure critical stakeholders in the justice and legal profession sector within jurisdiction at least are informed of a law clinic in Nile University for possible collaborations. The university management readily agreed to the launch and the inclusion of law clinic so the school can produce law graduates that

will ethically and social justice conscious. Therefore, the NUN law clinic was launched on the 23 March 2017 so law students would be provided with hands-on legal experience whilst providing pro bono legal services to persons who cannot afford legal representation.

The clinic launch was attended by various personalities working in the legal profession space and student clinicians including the Clinic Coordinators of the University of Abuja and Nassarawa State University respectively. Since its inception, NUN has executed three projects on facilitating access to justice to pre-trial detainees by providing *pro bono* legal services. These projects were executed at Suleja Correctional Facility in Niger state of Nigeria and Kuje Correctional Facility in Abuja.

The NUN law clinic is one of the law clinics in partnership with NULAI Nigeria which implemented the YPPCT project in 2020. The law clinic students were first trained in a "train the trainer" workshop by the law teachers present in the street law curriculum development workshop facilitated by NULAI Nigeria. They were taught the knowledge, skills, and values in facilitating peaceful dialogue using conflict transformation and peace building approaches through the workshop topics which were:

1. Understanding conceptual framework: Peace
2. Understanding conceptual framework: Violence
3. Understanding conceptual framework: Conflict

4. UDHR- Fundamental principle of Equality, Justice, Respect and Dignity of Human Persons
5. Facilitated dialogue
6. Peer-Peer mediation; and
7. Developing a Peace plan.

Subsequently, the trained law clinic students carried out train the trainer workshops for secnior secondary students in three different secondary schools (BMCI School of Science & Technology, Noble Hall Leadership Academy for Girls; and Funtaj International Academy) in Abuja for a duration of two days respectively for each school on the following topics:

i. Peace;
ii. Violence;
iii. Conflict;
iv. Fundamental Principles of Human Rights;
v. Facilitated dialogue;
vi. Peer to Peer mediation; and
vii. Peace Plan

These workshops were carried out between May-June 2021. The objective was to empower young persons in secondary schools to embrace a culture of non-violence and

non-extremism with the knowledge, skills and values in facilitating peaceful dialogues using conflict transformation and peacebuilding approaches. Thus, building the capacity of young persons as peace and conflict transformation actors. The participants were expected to:

1. Facilitate and create safe spaces for peaceful dialogue;
2. Examine personal, community, global and cultural understandings of peace, conflict and violence;
3. Explore theories and practices of community-based conflict transformation and peacebuilding;
4. Assess root causes of community and interpersonal conflicts;
5. Gain a deeper understanding of gender-based conflict;
6. Develop values and attitudes that nurture a culture of non-violence;
7. Practice non-violent strategies for transforming community, ethnic, religious and inter-personal conflicts;
8. Practice mediation techniques for addressing conflict;
9. Develop a peace plan and peer education project to implement within own context; and
10. Understand universal human rights.

At the end of the workshops, each secondary school developed a peace-plan to implement in their school. Thereafter, the trained secondary school students through the implementation of their peace plan trained their fellow students on the knowledge skills and values in facilitating peaceful dialogues.

For effective implementation and high impact result, the workshops were quite interactive as they were basically structured to be facilitative with every topic having an activity for discussions culled from case studies and identifications that stemmed from some set of pictures.

From the reflections culled from the students, the outstanding was that of a male student who said before the workshop he had been holding a great animosity against a fellow female student because she usually takes the first position in academics in class and he was mad because he felt she had no business contesting such position with the boys that he felt are the superior gender. However, after the workshop he said he has realized that no gender is actually greater than the other and that all genders are equal then he went ahead and apologized to her there and then. Some other reflections of the students from the workshops were that workshop taught them how to:

- Peaceably resolve conflict;
- Understand other people's feelings;
- Listen to others;

- Brainstorm to solve problems;
- Express their feelings clearly and respectfully to others; and
- Make them understand and appreciate the concept of gender equality.

The students are expected to teach the community members within their jurisdiction the need to imbibe and exercise a culture of peaceful dialogues in order to end communal violence.

CONCLUDING REMARKS

From Desiderius Erasmus quote which states that "the most disadvantageous peace is better than the most just war" the importance of peace is clearly evident. Consequently, in order to end communal violence, community members needs to understand and appreciate the need to resolve conflicts amicably. Communal violence is one of the major violent type of public anomaly that threatens the peace of a country. Nigeria is not devoid of communal violence but is actually one of the countries suffering from communal violence. In Benue state of Nigeria precisely on the 10th day of Thursday 2022, at least 28 people whom were mostly women and children were killed during the communal violence between Ezza and Effunn which were two rival clans. What led to the communal violence was a rumored supposed defilement of a shrine located in Ebonyi state a neigboring state where Ezza community is located in while Effunn is located in Benue

state (Ezza and Effunn communities have a common boundary). Aside from these deaths, businesess and houses were also burnt down during the violence. Apart from Benue state, other states in Nigeria also have their share of communal violence some of these states are Taraba Plateau Kaduna and recently Lagos where some Yorubas were seen fighting and preventing the igbos from voting during the just concluded 2023 Presidential elction.

To end communal violence, community members needs to understand and appreciate the concept of peace. Hence, the need the secondary school students under the YPPCT project were encouraged to teach the community members within their jurisdiction the need to imbibe and exercise a culture of peaceful dialogues.

The Clinical Legal Education programme have therefore in no small measure contributed immensely not only to legal education and access to justice but also to the promotion and sustenance of peace in communities. Peaceful communities leads to peaceful state which in turn keeps a country in a state of peace.

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HARNESSING NGO INTERNSHIPS FOR STUDENT LEARNING: PROJECT REPORT SUBMISSION TO THE GAJE SYMPOSIUM 2021

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INTRODUCTION

Non-Governmental Organisations ("NGOs") are amongst the most important actors in the field of legal education. They offer to students what the classroom never can – an opportunity to contribute to addressing real life issues, while equally contextualising what they learn in the classroom. Yet, the role of NGOs in developing pedagogical innovations in clinical education is often overlooked. Similarly, there exists a discord between the internship model and the clinical legal education model. That is, while many NGOs offer internships, such internships rarely provide the level of cross learning expected from a clinical program. Instead, students are delegated clerical, sometimes meaningless work. A well-designed internship in coordination with university faculty provides an invaluable opportunity for students, NGOs and universities to share and co-construct knowledge. However, the potential of such an arrangement is rarely explored, at least in the Indian context.

With this as the point of departure, this report captures the experiences and learnings of Centre for Social Justice ("CSJ") in promoting practice-oriented learning rooted in field realities through its internship program. While a broad overview of CSJ's internship program is provided, the predominant focus is on the organisation's work during the COVID-19 lockdown.

ABOUT CENTRE FOR SOCIAL JUSTICE

CSJ is a socio-legal NGO, working in the sphere of rural access to justice and legal empowerment in India. The organisation currently has a presence in three states in India – Gujarat, Chhattisgarh and Jharkhand. Inspired by Freirean, CSJ uses the law to fight for the rights of marginalised communities such as women, Dalits, Adivasis, minorities, labourers etc. In doing so, the organisation works at three levels – providing legal representation to vulnerable communities, building capacities of communities to respond to rights violations and influencing State actors for more sensitive policy responses. Drawing on this rich field experience, CSJ has developed a unique pedagogy of legal education that is profoundly grounded in grassroots realities. CSJ has thus conceptualised and taught courses in various leading universities across the country on topics such as Agrarian Reform, Law and Identity, Law Poverty and Development, Legal Training Pedagogy etc. CSJ was also the lead trainer for organisations from seven

countries as part of BRAC University's SAILS program. In addition, CSJ has conducted multiple faculty development workshops.

CENTRE FOR SOCIAL JUSTICE AND THE COVID-19 LOCKDOWN INTERVENTION

As an organisation deeply committed to upholding the rights of the marginalised, CSJ began executing its intervention as soon as the nation-wide lockdown to curb the transmission of COVID-19 was announced. Commencing in March 2020, the lockdown continued for almost 4 months. Its impact on internal migrant workers, unorganised workers, farmers, fisherfolk and many other groups whose livelihoods were jeopardised was devastating. CSJ's intervention during the lockdown consisted of the following:

1) Facilitating cash and other Government entitlements announced for the poor during the lockdown;
2) Facilitating return travel and pending wages of internal migrant workers stranded due to the lockdown;
3) Pushing for policy responses to address the vulnerabilities of groups for whom no support package was announced; and

4) Activating the District and State Legal Services Authorities to facilitate the above three points as per their mandate under India's Scheme for Legal Services to Disaster Victims ("Disaster Scheme")[1]

Considering the volume of work, and the need for timely response, CSJ engaged interns extensively in its lockdown intervention. CSJ's reflections on student engagement from this process form the foundation of this paper.

INTERNSHIPS AT CSJ – GENERAL OVERVIEW AND THE COVID-19 LOCKDOWN EXPERIENCE

For CSJ, internships represent a priceless opportunity to sensitise the youth towards the issues of vulnerable communities, and to introduce a grassroots lens to their university curriculums. Internships are therefore a core feature of CSJ's broader theory of change. Since CSJ engages in both field operations and legal pedagogy development, interns at CSJ are exposed to a learning environment that offers far more than a formal on-campus clinical program. To achieve this, CSJ offers four kinds of internships. Each format offers students a unique learning trajectory.

[1] For more details on the intervention, see: *Tala-Tod: Facilitating entitlements during lockdown (Case Study X)*, published in Azim Premji University, 'Stories of Change 2021-2022 Volume III Special Edition: Response to COVID-19 crisis by Civil Society', https://cdn.azimpremjiuniversity.edu.in/apuc3/media/resources/Stories-of-Change-Vol.3-Aug-4-Web.pdf.

a) Intense organised trainings: These internships focus on core legal skills and exposure to field realities through visits to CSJ's field areas. Currently, CSJ runs this program in collaboration with the Institute of Law, Nirma Univeristy ("ILNU"). This experiment was recognised by AGAMI, a Law and Justice Innovations Incubator, and shortlisted as a finalist for the AGAMI Prize 2018. The defining feature of this format is that students are expected to immerse themselves in the field, in all its complexity and wonder, and develop skills that are relevant to field engagements. For smooth functioning, a tri-partite agreement is drawn between the students/parents, the faculty, and the organisation, setting out expectations of the program.

b) Ongoing in-house training: Under this format, interns come to the office after their classes and assist in regular work. This could include research, drafting and filing Right to Information Applications, field visits, generating legal awareness material etc. Again, the focus is on equipping students to develop skills relevant to field realities and inculcating critical thinking/questioning abilities.

c) Announced internships for specific tasks: Here, students are engaged for specific tasks for a short period of time. This could include analysis of data received through the Right to Information Act, translating legal learning materials, summarising landmark judgments, assisting in field-based campaigns etc.

d) Online desk research internships.

The announcement of the lockdown represented a significant threat to CSJ's immersive internship model, and to legal education more broadly. However, it also opened up an opportunity to experiment with remote models of crisis response. Moreover, the fact that students' classes had moved online meant that they were able to get involved in the work more flexibly.

CSJ worked with a total of almost forty students in three batches during the lockdown. The first batch of students came from ILNU and Hidayatullah National Law University ("HNLU"). These students helped track stranded migrant workers and coordinate with authorities to arrange their food and transport. Over 12000 migrant workers were able to return home safely due to the efforts of CSJ's interns. The second batch of students from Gujarat National Law University ("GNLU") assisted CSJ in collecting information on pending wages of the migrant workers whose travel CSJ had facilitated. This data is now being used to influence authorities to take action to settle pending wages. The third batch consisted of students from the previous two batches who continued to remain engaged with the organisation and have been assisting with post disaster tasks.

Overall, the students undertook the following:

- Desk research to seek latest government announcements and case law related to COVID-19 and the lockdown.
- Tracking stranded migrant working through newspaper reports, social media posts etc.
- Registering migrant workers wanting to return home on the Government-run free transportation portal.
- Coordinating with Government Authorities regarding transportation as well as food for migrant workers and poor communities.
- Interviewing migrant workers regarding their pending wages.
- Making audio-video print material on various lockdown entitlement packages for the poor.
- Translating recommendations submitted by the organisation to various authorities aimed at mitigating the impact of the lockdown on vulnerable communities.

LEARNING OPPORTUNITIES FOR LAW STUDENTS

This section will adopt the competency framework developed by the Santa Clara University[2] to expand upon the key learnings of students involved in CSJ's lockdown

[2] Santa Clara University, 'SCU Law Competency Model', viewed on 15 May 2021, http://law.scu.edu/wp-content/uploads/Competency-Model-Grid.pdf.

internship. Through this, it will draw out how a well-designed NGO-led internship program can maximise student learning. For ease and succinctness, four competencies have been addressed. These include a balance of cognitive, skill and perspective-based competencies (head-hand-heart). The reason for doing so is to highlight how NGO-based internships are critical for holistic learning that extends beyond information / cognitive heavy classroom learning methods.

COMPETENCIES: Legal Knowledge (knows the relevant rules and can assimilate new information into the structure of law) and Legal Analysis (can use analytical skills and reasoning to evaluate legal issues)

Students engaged in CSJs program developed a strong understanding of critical legal documents that are not usually taught at university. Most of the students' work fell broadly within the realm of labour law and disaster response. While some universities have a labour law course, legal instruments of particular import in practice such as schemes of the National Legal Services Authority are not included in the curriculum. Furthermore, very few universities teach students about India's legal framework for disaster response, including the Disaster Management Act 2005 and the Disaster Scheme. Most of the interns' work required them to understand the intersections of labour law and disaster response in theory and practice, giving the students a wholly unique perspective on often ignored legal instruments. They were simultaneously exposed to the

structure of the administration and the different roles played by various officials. This method helped break the silo-based approach to learning practiced in university contexts, wherein different topics are dealt with in isolation, leaving integration and application entirely to the imagination of the student. As part of the internship, the students had to conduct a thorough situation analysis and apply otherwise disconnected pieces of information to the situation at hand, while maintaining a critical awareness of the possibilities of a response mechanism. This allowed them to piece together a complex puzzle and imagine a solution-oriented response, thereby allowing for a more integrated and holistic understanding.

COMPETENCY: Research (knows how to find appropriate legal and factual information)

The state of research-based education in Indian universities is alarming. Even some of the better universities that encourage student research only equip students with the skills to undertake secondary research. Field based data collection, synthesis and consolidation is conspicuously absent from university education. The tasks involved in the internship helped students develop exactly these competencies. This included interviewing migrant workers to ascertain pending wages, gathering facts on rights violations, managing and consolidating data etc. The students were also engaged in regular primary research, such

as identifying policy announcements relevant to vulnerable groups affected by the lockdown through monitoring official portals.

For most students, this was their first experience of conducting primary research. More importantly, it was the first time that the students were engaging with people from such vastly different backgrounds to theirs. Furthermore, the nature of informal labour arrangements is that seemingly simple questions such as those related to theamount of pending wages do not always have straight-forward answers. The students therefore had to develop the ability to sift through information, and ask relevant questions to arrive at the information needed.

Moreover, the internship was designed to introduce students to action research methodologies. That is, the research conducted by the students fed directly into the organisation's efforts to activate State institutions to respond to the plight of migrant workers. The students were thus exposed to ways in which research can come alive outside the classroom setting, and were supported in developing the core skills needed for this type of research.

COMPETENCY: Interpersonal Skills (understands how to communicate and work efficiently with others)

The internship helped students develop interpersonal skills in two critical ways:

Coordination

Since this was an ambitious initiative involving multiple stakeholders (CSJ team members, government officials, labourers, students etc.), the students had to develop their own internal and external coordination mechanism. The experience of the students from HNLU typifies student learning in coordination. The student team appointed a leader to coordinate with the CSJ team, who in turn communicated regularly with the student team. All updates were added to a common Google Sheet to ensure that all parties were kept in the loop. The smooth system put in place by the students helped them keep track and facilitate the return of 12,000 migrant workers. Two things are of particular note here: Firstly, the coordination systems set up by the students were developed and led entirely by the students. The real-life disaster context, to some extent, pushed the students to develop problem identification and response skills. Secondly, the system put in place by the students helped them develop core program management skills. The students were not only feeding information to CSJ, but also independently operating a small-scale project. By providing a context for grounded and situated learning, the internship program enabled the students to immerse themselves in real time disaster response and develop the necessary coordination skills.

Communication

The project involved engaging with a range of stakeholders from very different cultural backgrounds to the students. The two main stakeholders that the students were engaging with were migrant labourers and Government officials, each with their own set of communication challenges.

As mentioned above, the migrant workers often spoke a different dialect to the students. Compounding these communication barriers was the fact that most labourers were speaking from remote areas with limited network connectivity. The students thus had to develop the ability to communicate succinctly and clearly. Moreover, the students were speaking to workers in high stress, and often traumatic, situations. They therefore had to learn how to communicate empathetically in the limited time available.

On the other hand, the Government officials that the students spoke to were often overworked, and sometimes insensitive to the plight of the labourers. Navigating this required the students to be mature, yet firm in their communication.

This engagement helped the students overcome their inhibitions in communication across cultural and societal barriers, and evaluate and re-align their communication style to a given need. Moreover, they developed the ability to seek support, provide and ask for feedback, and find solutions though frequent communication. This ultimately forced

them to step out of their comfort zones, and address common communication and interpersonal blocks that hamper efficiency in the workforce.

COMPETENCY: Conscience and Compassion

Most of the interns came from urban and financially secure backgrounds. The internship was thus an eye-opening experience for them. Exposure to the realities of the urban and rural poor compelled them to confront their middle-class apathy. Dealing with real life problems during a crisis forced students to view their legal education beyond deadlines and half-hearted projects. Engaging with a real face who would be impacted by their failure to perform encouraged them to focus and deliver. Dealing with hunger and poverty first hand also made them question their own privilege. Additionally, the apathy caused by consuming mainstream media (which fails to depict ground realities) was broken as the students confronted a very different reality to what they previously knew. Many "fence-sitter" students were able to re-evaluate their beliefs.

At the same time, students came face to face with an overburdened and under-equipped State machinery. This allowed them to appreciate the many systemic barriers that deprive the vulnerable of resources. The result of this was the transformation of the intern from a student to a responsible citizen. As a result, many have selected more social justice-

oriented subjects in subsequent semesters, while some have continued their engagement with the organisation in formal and informal capacities.

The richness of student learning through the lockdown internship program is testament to the potential of student-NGO partnerships. However, as will be discussed in the next section, institutional university involvement is essential if this potential is to be truly realised.

LESSONS FOR INTERNSHIP-BASED / CLINICAL LEGAL EDUCATION

The lockdown experience has led to important insights for strengthening internship-based legal education.

Need for faculty involvement through formal engagement

Informal student led internships are beneficial in that the limitations of university attendance and other bureaucratic requirements do not hinder the program. However, from the lockdown experience, it became clear that faculty involvement is paramount. Of all three universities that CSJ engaged with, GNLU was the only University that entered a formal partnership with the organisation from the very beginning. Despite this, faculty involvement was low. In the case of HNLU, CSJ approached the University's legal aid society and entered into a semi-formal arrangement. ILNU students were all associated

with CSJ informally. This partnership was later formalised. Again, faculty involvement was low. As a result of this, the universities lost out on the opportunity to develop insights into field realities and integrate this understanding in their curriculums. This also meant that some students dropped out without completing their tasks due to university commitments such as assignments, exams and attendance requirements. A potential solution to this can be seen in the GNLU model, wherein students were marked by CSJ. This encouraged greater student accountability.

Mismatch between university commitments and community needs

Another concern is that university calendars do not always coincide with needs from the field. For example, programs aimed at registering migrant workers under labour laws would need to take place in the few months immediately preceding migration season. This may not coincide with holiday / internship season or it may clash with exams. During the lockdown, many interns left the program due to exams and assignments in the midst of the peak of the crisis. Universities therefore need to make an effort to introduce flexibility so that students can be engaged when most needed.

Accounting for intern preferences

It is not always possible to account for individual choices and preferences of interns, especially when working with a group for a specific outcome. Other times, the pressures

faced by NGOs mean that interns have to be engaged in mundane tasks. To address this, universities need to be more actively involved in assigning students to projects that match their interests.

Artificial Distinction between NGO Internships and Clinic Education

In many Indian Universities, the department in charge of clinical education is different to the department responsible for NGO internships. Internships are often not viewed as contributors to clinical legal education in practice, thus creating an artificial and unhelpful distinction. Furthermore, while most law colleges offer NGO internships for first year students, clinical courses are offered from third year onwards. It thus becomes difficult for students in later years to accommodate internships. This again takes away the potential of internships to contribute to professional growth of a student in a designed manner. Universities therefore need to collapse this distinction, and begin to understand NGO internships as an integral part of clinical legal education.

Based on our experience, universities can partner with NGOs in the following manners to increase the effectiveness of university-NGO learning partnerships:

- Institutionalising NGO internships as clinical legal education. This could be done by having a dedicated faculty and unit that is responsible for coordinating civil society – university – student partnerships (including clinical legal education and

NGO internships). The faculty would in turn be responsible for balancing college priorities and project needs. The NGO internship model adopted by Azim Premji University ("APU") is a pertinent example. APU students are assigned to a faculty member, who works closely with the student and the NGO. This creates opportunities for greater student learning and more meaningful knowledge sharing between NGOs and universities.

- Long term partnerships between universities and specific NGOs which are not dependent on a select group of students. This would require universities to enter institutional arrangements with civil society partners for interventions with a clear and specific scope. This would ensure that the project does not suffer due to students graduating or dropping out of the project. A successful model of this can be seen at Tata Institute of Social Sciences ("TISS") Mumbai where Prayas, a project on prisoners' rights provides ongoing learning opportunities to students while maintaining a dedicated team to address the needs of the prison population.[3]
- More active involvement and support from college administrations (for example, by allowing accommodation in attendance requirements, adjusting assessments and providing credit for NGO internships).

[3] A detailed overview of Prayas can be found at https://www.tiss.edu/view/11/projects/prayas/.

- Engaging civil society practitioners as teachers to integrate the learnings discussed above in the university curriculum.
- More active pedagogical partnerships between civil society and universities so that learnings from field internships can be integrated with the students' academic studies. This would mean universities and civil society co-designing internships that allow for input (information needed to successfully engage in the civil society project) – action (implementation through field internship) – reflection (consolidation and internalisation of learnings).

CONCLUSIONS

As CSJ's lockdown experience has shown, a well thought out internship program can catalyse immense student learning. However, the prevalent tick-box approach to internships is a considerable barrier to such learning. Moreover, the failure of the academic fraternity to see NGOs as partners in pedagogical innovations, as opposed to merely field associates for their students, has further undermined the learning potential of internships. There is thus a need to recognise the potential of student internships for holistic growth, and to involve NGOs as equal knowledge partners.

CLINICAL LEGAL EDUCATION FOR GENDER JUSTICE IN EUROPE

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Abstract

Generated directly from the field, this paper elaborates on the knowledge shared during the process of a research project called LAWGEM (New Quality in Education for Gender Equality – Strategic Partnership for the Development of Master's Study Program on LAW and GENDER) in an effort to develop a Gender Equality Legal Clinic to sensitise students about gender issues within legal education in Europe. The paper elaborates on the experience of two countries, Sweden and Serbia through discussing the challenges in achieving gender justice. Finally, it introduces Gender Equality Legal Clinic as a learning outcome of LAWGEM project for legal pedagogical purposes.

1. Introduction

This paper is an outcome of a workshop which was organized in May 2022 within the LAWGEM project (New Quality in Education for Gender Equality – Strategic Partnership for the Development of Master's Study Program on LAW and GENDER). The LAWGEM project was launched in 2019 as a result of collaboration between five European universities including Cadiz University in Spain, LUMSA University in Italy, Europa Institut/Saarland University in Germany, Belgrade University in Serbia and Örebro University in Sweden aimed at building a curriculum for a master of laws program that incompasses legal education and training across subjects among the partner institutions while contributing to the expansion of knowledge on the role and essence of legal professionals and legal clinics. One of the intellectual outputs of the project was to develop a syllabus for Gender Equality Legal Clinic (GELC) which is one of the main components of the curriculum for the master study of Law and Gender. The purpose of the workshop was to understand how legal clinics in the mentioned five European countries have been operating and also to further discuss the implementation of GELC at these universities. Thus, the paper first explains the development of legal clinics within legal education and their benefits. After that, it focuses on the importance of gender in clinical legal education and legal research as an alternative to traditional clinical legal education. In doing so, the paper further examines specificities of differentialities of Sweden and Serbian in the context of

Europe. The paper concludes by outlining the added value of Gender Equality Legal Clinic (GELC).

2. Legal Clinics and Clinical Legal Education

The term legal clinic or law clinic was originally used by Anglo-Saxon legal scholars to allow law students to work on real cases in real life. Legal clinics emerged in early 1900, as a training machinery in a form of non-profit organization to prepare law students for their future legal profession (Bradway, 1927; Uyumaz and Erdogan, 2015).

2.1. From the Early to Recent Developments in Europe: Roles and Benefits of Clinical Legal Education

Clinical Legal Education is used as a term which refers to a learning methodology adopted by law schools. Its pedagogical capacity is based on the experience that students develop their knowledge and understanding of substantive law as well as lawyering activities (Thanaraj, 2016)

Legal clinics emerged in the UK in the 1970s and in Central and Eastern Europe during the 1990s after the fall of communism. In Western Europe, legal clinics only started to develop since 2000. The 1999 Bologna declaration, aimed at the creation of a common European area for higher education, has played a significant role in clinical legal

education. So has the European Network for Clinical Legal Education which was established in 2013 with the aim of strengthening the Clinical Legal Education community through organising conferences and training workshops at the European level. This network initiated and stimulated a very vibrant exchange of ideas among legal experts and rising numbers of students interested in getting additional practically oriented legal education. European Network of Legal Clinics enhances students` mobility and strengthens relationships between universities, scholars and activists in the EU.

In the recent development of legal clinics in countries such as the UK, Germany, Spain, Italy, Portugal, France and Denmark, aside from legal information, students receive research and advocacy training for law reforms (Uyumaz and Erdogan, 2015). Furthermore, legal clinics aim to enhance students' skills to empower those people who are vulnerable, marginalized and disadvantaged in society (Meghdadi and Erfani Nasab, 2011). Moreover, nowadays, legal clinics provide pro bono services to people and if necessary, refer them to appropriate governmental, non-governmental bodies or media outlets for further advocacy on the cases.

Legal clinics are claimed to be "best practice towards social justice" (Maria Concetta Romano 2016:37)**.** It is also proposed to be greatly needed in the current educational programs for the new generations through active personal involvement that is known as "interactive and experiential methodology" (ibid. 39) in education for justice.

Clinical Legal Education programs have been increasing in Europe. One reason is said to be that the traditional legal education is questioned more and more in Europe. Law students, young professors and practitioners are not satisfied with law being taught traditionally, such as abstract legal matters which do not correspond with reality of people's lives. Clinical legal education helps to bridge the gap between law in the books and the law in action. Another reason is that Europe is facing strong social and political challenges. Therefore, the ability and capability of the legal system is being challenged by scholars, students, and social activism. Also, in line with the EU's legal system applicable to all EU member states, anti-discrimination laws and gender equality policies are being adopted.

General benefits attributed to legal clinics are to enhance the quality of university education and to increase interactions between academia, state and civil society. In Europe specifically, legal clinics can enhance attention to fundamental human rights and access to justice through fighting discrimination and inequality while it can promote active citizenship and democratic participation in Europe through students' mobility and relationships between universities in Europe.

According to Clelia Bartoli (2016: 25) "The mission of legal clinic therefore is to show the law as human construct historically determined with limits but able to be refined, the product of time, place, circumstances but also the key to make the reality different. They therefore offer young people the exciting experience of being agents of social change, aimed at building a more equitable and inclusive society, or at least trying to

reduce the impact of an excessively unbalanced distribution of power, resources and rights."

2.2. Clinical Legal Education and Gender

Clinical legal education with a focus on women's rights is important as it facilitates a variety of pro bono projects, among which are those with giving direct advice and assistance to women through the law clinics, and sometimes also an assistance before the courts. Women do face gender–based barriers in accessing justice. Governmental schemes for legal aid are not sufficient to support women in most jurisdictions and different countries' social assistance systems. Women's legal empowerment is in principle rooted in their knowledge of law and how to use the law to claim rights. However, poverty and lack of education have represented strong barriers in that respect. Insofar, legal aid clinics and clinical legal education have an important role in the knowledge-based empowerment especially in the case of vulnerable groups of women, who do need professional pro bono assistance and help.

Legal aid clinics and clinical legal education contribute differently but cumulatively to combatting gender-based injustice conceived as discrimination, inequality, violence and as not having access to justice. Reasons for ill treatment of women before the law is due to gender insensitive laws – discriminatory laws, male-dominated laws, gender biased laws as well as biased and stereotyped judgments by the judges made in a gender incompetent manner.

3. Two Approaches Towards Using Clinical Legal Education for the Benefit of Gender Equality: Sweden and Serbia

Operating in rather different circumstances and facing diverse legal obstacles, legal clinics in Sweden and Serbia offer fertile ground for a comparative analysis of their features, modes of functioning as well as challenges *en route* to gender justice.

3.1. Sweden: Limited Clinical Legal Education

Following the social democratic welfare regime based on collective equality and universalism, the Nordic countries are reported to be among the countries in Europe which have the highest investment on legal aid providing legal services per inhabitant (European Commission for Efficiency of Justice, 2020). Among 47 countries in Europe, Norway stands first in giving the most legal aid per inhabitant, Sweden is sixth and Denmark is eighth, Finland is tenth and Iceland is eleventh.

Northern European States also have a strong tradition of generous legal aid with a significant budgetary share within the total budget of the judicial system: Ireland (39%), Norway (33%), and Sweden (30%). Also, Norway, Sweden and Iceland, spend more than 25 € per inhabitant per year on legal aid. As a general trend, the Nordic countries and the UK spend proportionally more than the other countries on legal aid, while the less wealthy countries spend proportionally less on legal aids. At the same time, less wealthy countries spend relatively more compared with the richest countries on the prosecution services (European Commission for Efficiency of Justice, 2020).

In Sweden, the Legal Aid Act was the first legislation to provide free legal aid to poor people in 1919. The subsequent legal aid in the 1960 was influenced by the Nordic welfare policy to provide both free litigation aid and legal aid assistance. In 1973 the Legal Aid Act (1972: 429) came into force to equalize access to legal services by enabling everybody in any case legal aid. This was part of the generous welfare policies and programs which was provided to all of the population.

The Swedish Legal Aid Act was described as the most generous and comprehensive scheme until 1990s but after mid 1990s it is described as a limited act in comparison with other Nordic countries.

The Current Swedish Legal Aid Act (1996: 1619) came into force in December 1997 which introduced new eligibility for receiving legal ais and cut out public spending on legal aids in the country (Shoultz 2018: 46).

Based on the current Legal Aid Act in 1997, in Sweden, there are public and private covers for legal aid in civil cases. The private one is the *legal expenses insurance* (Rättsskydd) as part of household insurance and the public is the *legal aid insurance* (Rättshjälp) which is provided under certain conditions: the person earns less than 28000 euros or 260000 SEK a year, have no legal expenses insurance or have no financial means to cover it and this insurance is only available for private individuals. (Shoultz 2018, 43). Furthermore, based on the current Legal Aid Act, most people in Sweden are not qualified to receive legal aid for civil and family court cases. This was a strategy taken up by the government to enable people to resolve their legal matters

without lawyers and outside the courts (Regan 2003). In Sweden everyone is entitled to receive legal aid, but the current Legal Aid Act has made it difficult for people to access legal aid. What is more, clinical legal education was not institutionalized in Swedish universities until 2013. As a result of the current legal aid act, public legal services are less available for people with difficult life situations and those who are disadvantaged in society and those whose legal needs are not even recognized.

In the middle of the 1990s, prior to the reform of legal aid, Sweden had more than one hundred publicly employed lawyers working in twenty-eight bureaus at the county level (Johnsen 1994)). All of these state-financed legal aid bureaus were closed down in 1999 on the grounds that the state should no longer engage in the practice of law. Today, there are no publicly employed lawyers who can provide legal aid in Sweden. Moreover, legal aid is offered by private lawyers called judicare. A legal aid counsel does not have to be a lawyer which means no formal qualifications are required. It should be noted that any person can be a legal counselor in Sweden.

Alternatives to these types of legal aid in Sweden are: Swedish Bar Association which gives free legal advice in their spare time on issues like immigration (they are organized within the so-called The Swedish Advice Centre). Voluntary Student Legal Clinic in Sweden appeared during 2005-2013 in Lund and Uppsala where new student initiatives started targeting homeless people or socially disadvantaged. Legal aid research and education is underdeveloped in Sweden, especially in comparison to the neighbouring countries such as Norway in which a very famous legal aid clinic called

Law Buss (Juss-buss) emerged in Oslo during the early 1970s. At Law Buss prestigious legal experts – lawyers and judges gave legal assistance to people in the public transport of Oslo and other major cities (Hammerslev and Ronning 2018).

3.2. Serbia: Long Tradition of Clinical Legal Education Restrained by the Legislator

Though there are differences among universities in Serbia regarding the number of thematic clinical legal education programs offered as well as the sub-area of law covered, main goals intended to be achieved through legal clinics may be divided into two categories. On the one hand, legal clinics are perceived as relevant for the society in general. Namely, they tend to engage universities in the life of the community, enhance professionalism and professional ethics of future lawyers, educate them about the importance of pro bono work and sensitise lawyers for the needs and problems of marginalized and vulnerable groups. On the other hand, legal clinics contribute to students in a number of ways. Perceived as a powerful pedagogical model, legal clinics undoubtedly improve students' practical and analytical skills, they offer students with a valuable opportunity to be guided by professionals and experts in solving cases related to real life stories of fellow citizens, as well as to be trained to establish quality contact with clients.

These diversified goals are achieved through three categories of means. Firstly, although dominantly oriented towards practical work, legal clinics do involve highly specialised training of students. Besides in-depth lecturing delivered by prominent

legal experts and practitioners, students also receive education on legal ethics and successful communication skills, especially on how to conduct interviews and consult with clients. Secondly, interactive teaching methods are used that develop students' analytical and practical skills. These include, but are not limited to, legal case studies, writing of various submissions, legal acts and legal opinions, simulations of proceedings and moot courts. Finally, an important tool used by numerous legal clinics in Serbia is cooperation with relevant partners such as state bodies, international organizations and non-governmental organizations. Established cooperation enables students to engage in various internships, participate in guided study visits, perform field work, attend trials, but also be involved in different kind of practical work at the faculty provided by external experts and practitioners such as judges, prosecutors, lawyers, public notaries, mediators etc.

Dependence of legal clinics in Serbia on partner institutions, as well as reliance on previously mentioned interactive teaching methods, has become one of their main features in 2019 with the commencement of application of the Law on Free Legal Aid of the Republic of Serbia. Namely, before the entry into force of the Law on Free Legal Aid, students worked with real life clients and offered them legal aid. The Law on Free Legal Aid deprived law faculties of a possibility to offer free legal aid and, instead, recognized them only as 'providers of free legal support' (Art. 12). According to the relevant provisions of the Law, legal support does not include offering legal advice which is considered an element of free legal aid (Art. 6). Instead, free legal

support is restricted to providing general legal information, not information relevant for a particular client or his or her concrete legal problem (Art. 11). In addition, legal support includes filling out forms, but only upon official registration and once registered, the provider of free legal support has a duty to annually report to the Ministry of Justice (Art. 16 and 17). Such a legislative solution imposes significant limitations for the functioning of legal clinics in terms of both the opportunities for practical education of students and offering free legal aid to citizens.

This is a general challenge that affects all legal clinics and it is also an important obstacle with regard to clinical legal education related to gender equality. In addition to this, gender equality issues within legal clinics face further challenges due to two main reasons. Not only is there insufficient commitment to issues of gender-sensitive practice in the general education of law students, but the complexity and multidimensionality of gender equality as a social and legal phenomenon also makes it very difficult to deal with all of its various aspects (criminal law, criminal procedure, civil law, civil procedure, family law, labour law, international law, human rights law) through a classical organization of clinical legal education related to a particular field of law. This argument is supported by the current state of affairs since there is a limited number of legal clinics at the universities in Serbia that specialize in gender equality. Women's rights legal clinic operating at the Faculty of Law of the University of Niš is unique in this regard since it covers a comprehensive range of issues. Instead, other existing legal clinics either focus on a single issue such as domestic violence, or,

although oriented towards other fields of law, incidentally, deal with particular aspects of women's rights. As an example of such an approach, the relevance of gender issues in relation to trafficking in human beings has recently been recognized within the Legal clinic on combating human trafficking organized at the University of Belgrade Faculty of Law. In 2022, a workshop was organized on risks of human trafficking and gender-based violence within the population of women and girls' refugees in Serbia. Three young women from Iran, Russia and Nigeria talked to students about their experiences, the reasons why they left their countries of origin and the risks and challenges women face in migration flows. Such an authentic, moving and ultimately startling experience-telling is the best way to sensitise students about the status, real-life and legal problems of this category of women and girls.

Last but not least, the long-running Anti-discrimination law legal clinic operating at the University of Belgrade Faculty of Law regularly focuses in its curriculum on different gender issues such as the legal status of transgender persons, hate crimes and discrimination and domestic violence. In 2021 this legal clinic offered trainings that related to discrimination based on gender, thus demonstrating that the curriculum of existing clinical legal education programs may be adapted to include highly specialised trainings on various gender-sensitive issues despite legislative and practical obstacles. However, a specialised legal clinic dealing with all aspects of gender equality across legal fields would supplement the existing programs and bring valuable complement to developing gender equality through clinical legal education.

4. Conclusion: GELC as an Added Value in Clinical Legal Education

Legal clinics whose primary focus is gender equality issues are still quite rare. The GELC within LAWGEM project aims to promote gender justice and feminist judgments as insofar to train students on how to be conscious about gender inequality and reject different forms of discrimination based on gender and sexuality as well as other multiple grounds of discrimination such as socio-economic status, religion, class, race, ability, and cultural backgrounds. Moreover, the aim of GELC developed within LAWGEM project is to move away from the conventional understanding of legal clinic and adopt an intersectional perspective as how to provide different types of services to diverse groups of people. This means that the course is not limited to law students, which allows students in variety of subjects such as international law, human rights law, humanitarian law, criminology, economic, gender, sexuality and violence to receive training.

The objectives of LAWGEM Gender Equal Legal Clinic training are: 1) to increase students' gender consciousness and knowledge of intersectional perspective in handling cases, 2) to enhance students' abilities to critically analyse structural inequalities and propose constructive changes to the legal and justice system, 3) to develop students' capacities to work with national and international bodies and further cooperate with civil society in their advocacy for gender justice. It is anticipated that the pedagogical outcomes will be: 1) in-depth *knowledge* on the importance of gender and intersectional gender analysis through looking at policies

and practices at national, European, and international levels. 2) necessary *skills* on how to provide advice including legal services to the victims of certain crimes with special attention to social positionality of the victims in relation to gender, sexuality, race, class, ethnicity, (dis)ability, religion, nationality, and age. 3) required ability on *cooperation* with other organizations; NGOs and GOs and practitioners at regional, national, and international levels to advocate for achieving gender justice.

However, due to the outlined differences between the respective normative frameworks on legal aid in Serbia and Sweden, the future GELC will need to use different *modus operandi* in order to achieve the same set of objectives and outcomes.

In Serbia, GELC will not only focus on gender but also will cover wide range of issues in all areas in which women are at risk: employment and labour, education, violence against women, hate speech, sport etc, as recognized by the Serbian National Strategy for Gender Equality for the period 2021-2030. Due to the fact that GELC will not be able to work with real clients, it is important to design appropriate methods that would compensate for the limitations in offering free legal aid introduced by the novel legislative solutions. Thus, within GELC students will be trained to draft summaries and factsheets of international standards on various gender issues, conduct analysis of existing national legislative and judicial practices and their harmonisation with international standards, draft reports to be submitted to relevant international bodies, prepare briefs, legal analysis and opinions for different stakeholders, organise debates on legal problems encountered by specific groups of women and other persons of

concern for GELC (refugees, Roma, women with disabilities, women victims of domestic violence, women victims of human trafficking, migrant workers, transgender persons, …), provide 'know your rights' info sessions for specific categories of persons of concern for GELC.

In Sweden gender equality is institutionalised at the level of state, activism and academia. Moreover, gender equality measures between men and women have been introduced into multiple policy areas since the 1970s. Such a top-down appraoch to gender mainstreaming has led to the establishmet of Gender Equality Agency (Jämställdhetsmyndigheten) in 2018. Although monitoring and policy evaluation in the implementation of gender equality policies continue to be reinforced in Sweden, a system of gender binary prevails and multiple grounds of inequality is often overlooked in accessing legal aid. Thus, in helping with real clients cases, GELC's aim in Sweden is to focus on not only women, but also on gender and sexualy diverse people. Moreover, it focuses on problematising the underlying social categories to see how they reinforce discrimination in society.

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