

Righting Wrongs

The LLM in Human Rights &
Democratisation in Africa
Alumni Association Newsletter
Issue No 3 - December 2011

DEFENDING
with **Excellence**,
ADVOCATING
with **Ubuntu**



CONTENTS

Editorial	2
The Centre's Word	3
From the heart of Africa	4
African Synergies	5
Alumni in the Field	6
Current year	9
Alumni Profiles	14
Professional Prospects	15
2011 Helen Kanzira Memorial Lecture	16
Alumni News	17
Social News	18
Contact Details	18



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Editorial

30 new members join the Alumni Association

Horace Adjolohoun (Benin, 2007)
Alumni Coordinator

While launching this newsletter in August this year, I was convinced, just as many of you, that it would eventually become the centrepiece of the Alumni Association's work. As you will notice in this third issue, the Human Rights and Democratisation in Africa Alumni Newsletter is not only growing in substance but also heading in the right direction. Contributions published in this issue effectively feature our newsletter as a communication channel, an advocacy tool and a miniature academic reservoir.

Communication includes information and we are all certainly saddened to hear that John Wilson, the 'One-Man Orchestra', is bidding us farewell. Over the past eight years, John has given so much to us as LLM students and alumni. I would have thanked him on our behalf but thought John deserves multiple and varied individual awards for the very different ways in which he has known and interacted with each of us. We wish him the best in his journey.

New accents also flourish as interaction develops within our network. In a quite innovative way, Ismene's piece on Alumni African Synergies fits straight in the advocacy objective of this newsletter. Testimonies from Alumni in the Field and the Heart of Africa equally provide opportunities to link up at sub-regional level and within thematic groups to constitute forces of change in the continent. The interview with Prof Dejo adds a particular flavour to professional prospects. While current year's students report on their sorrows, they also testify to the enriching and life changing time spent on this programme, namely during second semesters across the continent. Meanwhile, we may take pride in the leading role of alumni in the on-going struggle for democracy and their direct contribution to the improvement of the lives of the people in Africa. We believe the Centre rightly decided to honour alumnus Thulani Maseko with the Vera Chirwa Award for

Righting Wrongs

Issue No 3 - December 2011

his outstanding contribution to that struggle as an excellent advocate and an Ubuntu activist, particularly in Swaziland.

Will and should the Alumni Newsletter also become a channel for academic and thematic discussion? The increasing number of submissions of such nature seems to be indicative of a positive answer. You are welcome to comment on the fitness of such a move.

In all, this year has been fruitful. Together, we have laid the milestones for our Association to operate effectively. The network also grows. As we celebrate the international human rights day, we welcome 30 new members who will graduate on 9 December after having successfully undergone the Centre's 'South Street-South Stress' ritual. We will now be 344 agents of change. As we should have been 346, I would like to call on us all to honour in our daily engagements the memories of our companions Helen Kanzira (Uganda, 2000) and Julius Osega (Uganda, 2001).

I wish you all the best for the New Year.



Group photo of the 2011 class



The Centre's Word

Reaping the rewards: John Wilson bids us farewell

John Wilson
Project Coordinator, Centre for Human Rights

This is the third edition of *Righting Wrongs*, the Alumni Newsletter, and it is truly a great honour that I was asked by Horace to do the write up for the Centre's Word.

It is with a heavy heart that I write this as I have made the decision after many years to part ways from the Centre. It is not for greener pastures or a better job but rather at the pull of the heart strings, to follow my future wife to the USA. Ironically, I met Savannah through the Centre when she came over to do an internship for her summer holiday in 2004. My work at the Centre began in 2002 as an assistant and in the following almost ten years, I have moved through the ranks and eventually ended up working on the LLM programme. These have been some of the most wonderful years of my life. The students I have worked with and the people I have met and the places I have been to have been beyond an amazing honour.

Over the many years on the LLM programme, one of the greatest pleasures I have had is the phone calls to students to say that they have been accepted to the programme. This small act revitalised and reaffirmed the work I was doing, and in a small way I was adding to the bigger change.

The reason I recount my story is that the pleasure and energy received back from the small gesture was enough to inspire me for the entire year of hard work which laid ahead, year after year. The reward for the time and energy put into the programme was given back to me ten fold.

The Alumni network of this programme has grown so big that it is impossible to travel anywhere in Africa without running into a former student. You are in all areas of work and fields of expertise. We are such a culturally, ethnically and nationally diverse group from which we are able to draw expertise and energy. I know at the

Righting Wrongs

Issue No 3 - December 2011

Centre I tap into this source of inspiration on a daily basis. We are able to see the huge differences that this singular group is making on the continent and beyond.

Mahnaz Afkhami, an exiled Human Rights lawyer and former Minister of Women's Affairs in Iran, stated it best when she said:

"We have the ability to achieve, if we master the necessary goodwill, a common global society blessed with a shared culture of peace that is nourished by the ethnic, national and local diversities that enrich our lives."

I want to invite you to add your unique difference to our global society and become more involved with the Alumni group, get involved with the debates and exchanges and tap into the revitalising energy that flows from one other. I am sure you will recall how you achieved the near impossible when you were able to draw on the support of your LLM classmates. Imagine now the Alumni group as a whole. What we are able to achieve when we are tenfold strong and ten years on.

I have always held high esteem for the opinion of our alumni on the strength of an LLM applicant, and would invite you to continue to put forward your nominations for applicants. So that they too may experience the phone call and life altering experience that is the LLM programme.

As I bid you farewell to move to the USA I know I will not be leaving the Centre, for it too has changed my life and I shall always seek to remain involved so that I may receive back ten fold that which I have given. As you have invited me into your homes all over the continent and beyond, I now offer any of the "Pretoria Mafia" a home away from home should you ever find yourselves in Washington DC, USA.

It has been an honour and privilege working with all of you. Merci beaucoup et que Dieu vous bénisse.



From the heart of Africa

Protecting the lives of children through juvenile justice system reform

Ophelia Karumuna (Tanzania, 2010)
Protection Officer, UNICEF, Dar-es-Salaam, Tanzania

I recall the first day I set foot in South Africa, it was fascinating. Looking at the level of development made me wonder if South Africa is indeed a part of the African continent. The level of commitment of human rights lecturers, legal practitioners and other prominent people invited to hold talks with us was a justification for undertaking a master's degree in human rights at the Centre for Human Rights. What impressed me the most was the lengths at which judges would go in interpreting legislation to ensure the protection of victims of human rights abuses. I made a commitment of going back home to make a difference.

The first step was enrolling in the Bar Association of Tanzania – The Tanganyika Law Society. The next step was finding a job in the human rights field. It is funny how many of us think that life is a piece of cake. Actually, it is not! Getting a job at least in my country is mostly dependent on who you know and not what you know. Most of us who do not have god fathers/mothers struggle for months walking up and down the streets with our CVs and copies of certificates hoping to get something lucrative at the end of the day.

I finally managed to get a job with the UNICEF as a Child Protection Officer in the Child Justice programme. I am proud to be part of what is known as the child justice team (the team) because I believe that each minute we spend in the office and out in the field makes a difference in the lives of children.

The Child Justice programme has four main components – legislative reform, juvenile justice system reform, child justice system strengthening and child rights monitoring. In 2009, Tanzania made a big step of domesticating the Convention of the Rights of the Child (CRC) by adopting a national legislation setting out minimum standards for the protection of children's rights. The Law of the Child

Righting Wrongs

Issue No 3 - December 2011

Act (LCA) which entered into force in April 2010 is the key document that guides my daily work.

Having a law in place without its actual implementation is like having a piece of chocolate cake in your hands and not being able to eat it for lack of teeth or for medical reasons such as diabetes etc. Through legislative reform, the team works with Government partners, CSOs and national as well as international consultants in developing regulations for the implementation of provisions of the LCA.

The part I like the most is juvenile justice reform. The Ministry of Constitutional and Legal Affairs (MoCLA) initiated two national studies aimed at assessing the current juvenile justice system in Tanzania – an analysis of the situation for children in conflict with the law and an assessment of access to justice for under 18s. The team works with the Child Justice Forum (an inter-agency forum) to develop a national strategy for the reform of Tanzania's juvenile justice system. The strategy which is informed by the findings of the two aforementioned studies and a study on the assessment of children in detention carried out by the Commission for Human Rights and Good Governance (NHRI and Ombudsman) will provide recommendations to specific agencies on the steps they should take in promoting a child-friendly juvenile justice system.

The current criminal justice system does not take into consideration the reasons why most children become offenders. The team works with consultants in developing measures, programmes and activities for juvenile justice reform. The activities include the establishment of a rehabilitation and reintegration programme for the Approved School – the only post trial juvenile facility in the country, a community rehabilitation scheme for children in conflict with the law and the development of standardised monitoring tools for detention facilities to be used by mandated inspection bodies. We envisage the establishment of diversion and alternative sentencing schemes, as well as the establishment of a legal assistance programme for children in conflict with the law in the near future.

As for the child rights monitoring component, I was happy to take part, as an observer, in the drafting of the state report on the implementation of the CRC which will be presented on 9 January 2012. I look forward to taking part in the drafting of the shadow report in the near future.



African synergies

Pretoria alumni engaging in human rights activism across the region

Ismene Zarifis (USA, 2009)
International Technical Advisor, Transitional Justice Ministry of Justice and Constitutional Affairs, Uganda

A Network For Change

No matter which region of Africa you visit today (Central, East, West, Southern or the Great Lakes), Pretoria human rights alumni are making themselves heard in the human rights and democratization arenas. One, two, three and several years after completing the LLM, the Pretoria alumni have indeed become a 'human rights mafia' whereby we are present, active and vocal on key human rights issues in the region. Indeed, Pretoria alumni can be found pushing human rights agendas at the national and regional levels, advocating in courtrooms on cases that will change the course of history, working to strengthen the African human rights mechanisms from within and without. They are working on protecting the rights of victims and vulnerable communities with attention to women, children and persons with disabilities, litigating for equal rights, economic, social and cultural rights and access to medicines, and advocating for important institutional reforms that will render national systems more human rights compliant and efficient.

While we all bid farewell to our colleagues, turned sisters and brothers over the course of one intense academic year, little did we know on that graduation day that the bonds that were forged through many a day and night of studying together, group assignments, the LLM field trip, mooted exercises, the exam period and all the social gatherings, that life post-Pretoria promised many more opportunities for dynamic growth and fruitful collaboration cross-border, cross-regional, and indeed continental. Stories of African synergies amongst our alumni continue to grow in number. Colleagues working on public order management and citizen security in East and West Africa have come together, exchanging and strengthening their concerted efforts to introduce reforms. Others, immersed in transitional justice in post-conflict situations have joined forces, promoting intra-regional exchange in East Africa, drawing from relevant experience of col-

Righting Wrongs

Issue No 3 - December 2011

leagues in Uganda, Kenya and South Africa. Another one of our 'mafia' sitting at the Kenya-based civil society umbrella organization engaged in election monitoring, is extending coverage to other countries in and outside the sub-region, recently having linked up with our 'mafia' in Nigeria during that country's recent election. Meanwhile our brothers and sisters in Banjul, have been committed to working from within to strengthen the African Commission on Human and Peoples' Rights. Improving the system and promoting human rights in the region has been further strengthened by the collaboration of our 'mafia' based in various human rights organizations advocating for victims' rights from the trenches.

Potential for synergies and cross border collaboration

These stories attest to the fact that the Human Rights and Democratization in Africa (HRDA) LLM was clearly not just a top quality graduate degree and educational experience, but represents a platform for realizing our full potential as human rights advocates in the region and internationally. The HRDA programme, emphasizing inter and intra-regional exchange, has cultivated a corps of advocates and academics that are not only acting within their national borders, but are building on common goals and interests to act strategically and regionally. This approach is clearly having a positive impact on strengthening human rights protection in the region.

And so, our human rights family continues to grow each year committed to fighting for social change and human rights. The possibilities are endless. Our Alumni Association is only one year old, providing us with an instrumental forum for building cross-border, inter and intra-regional synergies to join forces on common issues. Let us use this forum to enhance our human rights voice in the region.

Thanks to the Godfather himself, Frans Viljoen, and the committed staff of the Centre for Human Rights that has brought us together from all corners of the continent and beyond, and equipped us to achieve all that we have since our student days. Besides, I now know I can land in Abuja, Kigali, Nairobi, Johannesburg, Maputo, Addis, Blantyre or Abidjan and I will find a 'mafia' to welcome me at the airport! To the mafiosos: You are welcome to KLa!



Alumni in the Field

Why democracy is the solution in Swaziland

Thulani Maseko (Swaziland, 2005)

Legal Practitioner, Managing Director, TR Maseko Attorneys

For a while now since the adoption of the 2005 Constitution, there has been considerable debate about whether Swaziland is a now a democratic country. For reasons which many of us believe that democracy is yet to come to Swaziland, it is not surprising that the government continues to claim that the country is a democratic one. In our view, to fully appreciate the question of democracy in Swaziland, the background to this question is always of significance. Here it naturally follows that the process of making the Constitution must be taken into account.

First, it must be remembered that the political and legal environment at the time of the crafting of the Constitution was not friendly to any meaningful and effective peoples' participation. Swaziland was just one of many African and Eastern European countries that instituted constitutional and political reforms. It became accepted practice and indeed, common sense that all obstacles and impediments that would make it difficult or even impossible for people to participate meaningfully in the constitutional and political reforms, be removed. In the context of Swaziland, all laws that made it hard for people of all walks of life, political shades and political opinions to participate ought to have been removed. What informs the removal of oppressive and repressive laws and behaviour is the desire to make sure that the process enjoys consensus of all political players and civil society members. Sadly, not only were organized groups prohibited by section 4 of Decree No. 2 of 1996, but they were prevented by the King's Proclamation to the Nation of 1973, the Police and Public Order Act, the Sedition and Subversive Activities Act to mention but a few.

With these laws in the statute books, it became absolutely impossible for the people to have a meaningful say in the Constitution that now governs them. It must be regretted that efforts to have the court assist in ensuring that the process was inclusive were unsuccessful.

Second, once the Constitution became law, it can hardly be said that democracy was achieved. This is based on the simple fact that an illegitimate constitution-making process could not give birth to a legitimate product. While the Constitution abolishes the status of illegitimacy on children, it cannot abolish its own illegitimate status. Legitimacy comes from ownership, and ownership is a result of authorship. It has authoritatively been written that it is important to involve the people in the process of making the constitution so that the constitution should reflect their values, ideals, interests and aspirations. Unless such is the case, the people will not embrace the document as their own. It will not command their respect, loyalty, obedience and confidence. This is where consensus comes in, and such consensus must not be that of the ruling elite achieved through the manipulation of the people, but must be broad-based. There can be no question that Swaziland's constitution is devoid of such legitimacy due to the absence of public participation from its conception, as well as in its adoption.

Thirdly, the illegitimacy and lack of democracy in the constitution is demonstrated by the fact that human rights and fundamental freedoms continue to be a thorny issue in



Swaziland Democracy Campaign picketing against Swazi detentions (<http://swazimedia.blogspot.com>)

Righting Wrongs

Issue No 3 - December 2011

Swaziland's political landscape. Such rights as equality before the law, equal opportunities, equal enjoyment of the wealth and resources of the country and other basic freedoms continue to be vitiated. Evidence of the undemocratic nature of the prevailing environment is particularly evidenced by the absence of the freedom of speech and expression, freedom of association and assembly, and in particular the right to engage freely in political activity.

Freedom of association and assembly as well as freedom of expression are at the very heart of a democratic society. Swaziland is devoid of both, and of all! Indeed, the government's assertion that political parties are no longer banned is highly fallacious to say the least. If political parties are not banned, why is there no legislation that categorically governs their registration so that they may engage with the political process? Why were they not allowed to take part in the last elections which was conducted under the Constitution? And why were they not allowed to engage in free political activity and interact with the citizenry and electorate in preparation for 2013 which is an election year for Swaziland? And why is there no independent electoral commission that enjoys the credibility and legitimacy of all the political players and civil society? And why is PUDEMO banned under the infamous Suppression of Terrorism Act, when it is common cause that since their founding, they have been advocating for a peaceful transition into a multi-party dispensation? Most recently and learning from the kangaroo disciplinary trial of Mr Justice Thomas Masuku, who are these people that he is alleged to have supported to bring about unlawful change to the regime? For us, the writing is on the wall that Swaziland lacks any iota of being a democratic state.

Righting Wrongs

Issue No 3 - December 2011

Given the defects of the *tinkhundla* system outlined above, it is imperative that His Majesty the King and the government submit to genuine national consensus. There is no point burring heads in the sand and hope that the call for democratization will just go away. History shows that the banning of opposition political parties and the prohibition of dissenting opinions never make them go away. They will and continue to gain momentum. The time for democracy has come, and indeed democracy is the only solution to the problems facing the country.

Lastly, the challenge in the judiciary is merely a symptom. The problem in the judiciary is not the creation of Makhulu Baas; he only has allowed himself to be overtly used by the proponents of *tinkhundla* to defend their interests. Even if he can be removed, we will not be blinded to believe that the challenges are over; rather only a small part of the problem will be temporarily addressed. Apartheid South Africa has shown us how the judiciary can be manipulated to serve the interest of the ruling class as opposed to serving the entire society, especially the weak and vulnerable.

Tinkhundla is, and have always been following the footsteps of Apartheid South Africa. No judiciary can be independent in an environment that is repressive and hostile to human rights and fundamental freedoms. As such, Makhulu Baas is merely a handy-man pliable to suit the needs of the system; a system which designed a constitution that only serves to protect the economic and political interests of the ruling elite. No right thinking jurist and a legal officer, let alone a Chief Justice worth his salt can allow himself or herself to be manipulated in the manner the current administration of the judiciary has done.

Democracy comes in to ensure checks and balances on the three branches of government. It also goes further to ensure that those who exercise public authority do so within the confines of the rule of law in order to serve the general interests of the nation, not a small clique. The bigger problem with Swaziland is the absence of the rule of law, yet democracy and the rule of law are inseparable. The only solution to Swaziland's woes is democratisation, and democratisation NOW!



Alumni in the Field

Advocacy allies with research to prevent violence and foster reconciliation

George Mukundi Wachira (Kenya, 2003)
Africa Regional Coordinator,
Transitional Justice Programme
Centre for the Study of Violence and Reconciliation,
South Africa

The Centre for the Study of Violence and Reconciliation (CSVR) has its origins in the South African struggle for peace and democracy. It was established in 1989 and played a strong role in civil society's efforts to build a sustainable peace before, during and after the transition to democracy. The Transitional Justice Programme (TJP) was established in 1995 specifically to address the challenges of justice, healing and reconciliation for survivors of human rights abuses that needed to be addressed in the wake of this transition. As part of my work, I provide leadership in CSVR's Africa Project on Transitional justice which among others is providing research and technical support to the African Union Commission in the development of an African Transitional Justice Policy Framework. CSVR has learned during its 20 year history that its ability to combine theory and practice, multidisciplinary engagement at the local, national and international level is critical in engaging policy makers and governments to promote adherence to human rights and address the needs of marginalized communities. These lessons are particularly apt in relation to CSVR's work on transitional justice.

The transitional justice programme works with victims and survivors of human rights abuses (which has included the development of localised support groups, counselling and training), combined with international comparative research, and policy advocacy to ensure inclusivity and effective local impact. While transitional justice has been at the



CSVR works to prevent violence in all its forms, heal its effects, and build sustainable peace and reconciliation in South Africa and internationally.

Righting Wrongs

Issue No 3 - December 2011

forefront of shaping CSVR's approach to intervention and advocacy, it has also been deeply influenced by being situated in a peace-building organisation with a sustained commitment to addressing violence in numerous sectors of society. Its approach to gender issues in transition are, for example, directly impacted by the CSVR's work to address the on-going (and increasing) challenges of gender-based violence in a "post-transition" society. CSVR thus seeks to understand (and incorporate lessons from) the limited impact of democratic transitions in South Africa, Africa and in other societies on on-going problems of gender-based violence, police abuses, and socio-economic marginalisation.

Select CSVR's initiatives and projects that are of relevance to the Centre for Human Rights alumni include:

- The African Transitional Justice Research Network (ATJRN) which is managed by CSVR but overseen by a Steering Committee comprised of the Centre for Democratic Development in Ghana, the Refugee Law Project, Law Faculty, Makerere University Uganda, and the Campaign for Good Governance in Sierra Leone. The ATJRN hosts and runs the annual African Transitional Justice Institute and has an international listserv of over 1,200 academics, practitioners and policy makers engaging on TJ. It also houses databases of resources on TJ in Africa and a specific database on TJ and Gender.
<http://www.transitionaljustice.org.za/>
- The *International Journal of Transitional Justice*, the only regular accredited international publication in the TJ field, initiated and managed by CSVR and published in partnership with the University of California Berkeley's Human Rights Center and Oxford University Press.

Now in its fifth year, the *IJTJ* carries high quality, refereed articles on the study of those strategies employed by states, civil society bodies and international institutions to deal with a legacy of human rights abuses and to effect social reconstruction in the wake of widespread violence.



Current year

The Centre Rewards Excellence and Ubuntu

It has now become a tradition at the Centre to award different prizes to the LLM HRDA students who have completed this intensive programme with outstanding achievements in terms of both excellent but also Ubuntu. Excellence is at the beginning of our LLM which brings, from all corners of the continent, the brightest minds, the *crème de la crème*.

Prizes awarded for excellent thus seek to encourage and strengthen such a spirit. As future human rights lawyers and democracy advocates, students attending the programme are also taught to be the closest to the people they are trained to serve. As such, they are required to cultivate African Ubuntu spirit of compassion, togetherness and humanity.



Righting Wrongs

Issue No 3 - December 2011

This year, the following LLM (Human Rights & Democratisation in Africa) students have been rewarded:

- **Ivy Nyarang'o (Kenya)**
Ivy has been awarded the Nelson Mandela Prize for the best overall performance.
- **Victor Ayeni (Nigeria) & Sylvie Namwase (Uganda)**
Victor & Sylvie have jointly been awarded the Victor Dankwa Prize for the best performance in the 'Human Rights in Africa' module.
- **Emma Lubaale (Uganda)**
Emma received the Keba Mbaye Prize for the best dissertation.
- **Johannes Buabeng-Baidoo (Ghana)**
The Ubuntu Prize went to Johannes who was voted by his colleagues as the one who best embodies the Ubuntu values and spirit of humanity.



Current year

'South Stress' at Western Cape!

Sylvie Namwase (Uganda, 2011)

On second semester at the University of the Western Cape

While some stories might consist mostly of beaches and dance clubs, there are those whose second semester tales might sound like a replay of 'south stress', with slight alterations like waking up at 8:00am instead of 6:00am - but 'south stress' all the same.

Life at the University of Western Cape (UWC) was about studying. We had classes all week, and assignments whose combined word count was the equivalent of a second dissertation. One lecturer in fact remarked that the work load could be a master's degree of its own. We wonder whether the Centre and UWC could take this observation into consideration- for future UWC placements of course, although it would not hurt the current placements either.

But then again, I could be preaching to the converted. Added to the work load were the unavoidable French classes. You missed one class at your own risk as the next class you attended would be an hour of embarrassment as your overly enthusiastic first year classmates answered the lecturer's questions using *le pronom 'y'*, *le passé composé* and *l'imparfait* all in one sentence. If you thought Madame Nicole was setting you up for the French tongue twisting competition, you have to meet Madame Sandra. With four French classes every week, and a test almost every Friday, we had no choice but learn French more rapidly than the Senegalese duo.

Reading all materials before the next class was not an option, especially for the children's rights module. This particular lecturer insisted on using the Socratic Method in a manner unsettlingly reminiscent of Prof Frans's classes on the African system. Of course as a student you soon learn that when the teacher plays Socrates, you can always play ostrich - bury your head in the sand or in this case, the closest book you can find and pretend to be in deep contemplation on the scope of the 'best interests of the child'. The only problem with the ostrich

Righting Wrongs

Issue No 3 - December 2011

approach is that it may not be so geographically feasible in places like UWC where they award 10 marks for class participation.

And so it was that the 'dynamic five', or as one of our colleagues would say, the publishable five of UWC (quoting Enoch Chilemba, 2011) went about their three months trotting between the lecture halls and the library, the church and the residence, once in a while going to Bellville to buy the next weeks' supplies, and then back to the un-publishable penitentiary all over again (Chilemba, 2011).

But even labour pains have to stop at some point. In came November, and out went 'south stress'. We were suddenly alive. Dissertation - check, assignments - check, exams - check! It was time for the girls to update our hair styles and the boys their phone books. We were now trotting -no, cruising between Table Mountain and the water front, Cape Point, and all the un-explored 'points' in Cape Town. Not to mention 'the Barn' - finally we could partake of the addictive South African beats and all the concoctions you would not even dare think of taking if you wanted chapter two of your dissertation to make any sense. Suddenly the study halls, the library, and Soc-rates were a blurry memory of the distant past.

Of course being at UWC, we could not really have our cake and eat it. As we partied, we still had to work. After our final exam, we were tasked to assist with background research for a follow up report on Zambia's implementation of recommendations by the UN Special Rapporteur on extreme poverty and human rights. Our input was to be in the areas of legislation, discrimination, corruption,



social security, people with disabilities, the role of civil society, among others. As we were so vividly reminded by Professor Steytler, the director of the Community Law Centre at UWC, the last ten months of our lives had been spent acquiring human rights expertise, and now it was time to put this expertise to use. He sounded rather familiar as he said it. Are all the directors cut from the same cloth?

We were grateful for the job. Even though it was work, it was also an opportunity for us to put our analytical and research skills to the test, learn more about the connection between poverty and human rights, and contribute to a report that will be submitted to the UN General Assembly next year. We were going to be part of the international human rights machinery. For this we are truly thankful to the Community Law Centre. In the meantime, as I write this, we shall be having a braai with one of our lecturers next week, an excursion to Cape Point the week after that, and are going to party at 'the Barn' for the next five nights just before we braai.

Yes, UWC was south stress all over again. But it was worth it.

Core Crimes Amnesty versus Political Peace in Uganda?

Sylvie Namwase (Uganda, 2011)

On second semester at the University of the Western Cape

Uganda's courts and legislature should appreciate the grave nature of core crimes for successful domestic prosecution. The Constitutional Court recently ruled that Uganda could validly use its Amnesty Act to exempt the domestic prosecution of war crimes, and crimes against humanity, which are categorised as core crimes under international law. The Court further ruled that there was no international rule prohibiting states from applying amnesty in prosecuting such crimes.

While this may be true, it should be understood that Uganda has international obligations to prosecute core crimes under the Geneva Conventions and Rome Statute of the International Criminal Court, both of which Uganda has ratified and domesticated. The gravity of war crimes, crimes against humanity and genocide has been recognised by the international community, of which Uganda is a member. The crimes have been universally designated as "crimes shocking the conscience of humanity" and "crimes against the peace and security of mankind" whose prevention and punishment is necessary for the survival of all of humanity. This recognition is the basis for the argument that the prosecution of core crimes in national courts is not just a domestic affair but is also a fulfilment of the mutual undertaking to curb impunity for such crimes on behalf of the international community.

Righting Wrongs

Issue No 3 - December 2011

As such, while several post conflict countries have adopted amnesty laws to enable peaceful political transition, many of these laws expressly exclude the application of amnesty to core crimes. Such is the case in Côte d'Ivoire and Guatemala. In other countries like Argentina, amnesty laws have been struck down by courts and the legislature. Courts in Bolivia, Chile, and Colombia have also been proactive in eliminating national obstacles to the prosecution of international human rights, including amnesties. In South Africa, the Truth and Reconciliation Act limits the acts for which amnesty can be granted to only those acts associated with a political objective. This determination is arrived at only after a consideration by the Amnesty Committee of the relationship between the offence and the political objective, its directness and proximity to the objective, and the proportionality of the offence to the objective.

By contrast, Uganda's Amnesty Act excludes from prosecution, any crime committed during the course of war, including acts committed without political connection. In the context of the war in Northern Uganda, this would include mass rape, mutilation, child abduction, sex enslavement, forced cannibalism among several other atrocities which it is submitted, bore no direct relationship to the LRA's political objective against the government. Even if it is argued that there was some nexus, the acts were so grossly disproportionate and a deliberate violation of fundamental human rights and longstanding laws of war on the protection of civilians to merit any justification. Granting amnesty for such atrocities is a mockery of these international standards and of the obligation to prosecute those who violate them.

A major hindrance to the realisation of this obligation is the unclear status of international law under Uganda's Constitution. The principle of complementarity under the Rome Statute and the obligation to prosecute international crimes means that the application of international law in Uganda's criminal justice system is inevitable. The legislature should learn from other African counties like Rwanda, Kenya and South Africa that expressly recognise the application of international law under their constitutions. This will allow prosecutors and judges to apply comprehensively the relevant international principles which reflect the gravity of core crimes, and will shield the national prosecution of core crimes from domestic obstacles such as amnesty.



Current year

The African Charter 'outside' Africa?!

Meskerem Techane (Ethiopia, 2011)

On second semester in Mauritius

After a hectic first semester in the freezing weather of Pretoria, I sailed to Mauritius on the 1st of August 2011 having the inspiration to work on my dissertation entitled, 'The impact of the African Charter in Mauritius'. Also, with the enthusiasm to cruise the island and enjoy the beautiful beaches in between my work not knowing that there will be no time for the sea as a lot of ground breaking was awaiting.

I was caught by surprise the first time when I was welcomed as coming from 'Africa' and then it became common to hear 'oh you are from Africa' ... 'I have been to Africa'... 'that's from Africa' ... In Mauritius you don't have to say your country, it is enough if you say you are from Africa. Mauritius offers an interesting blend for Africa. It feels much of Asia with a majority of people of Indian, Hindu temples, Indian food and attires, and Indian (Bollywood) movies in French on one hand and a number of Chinese population on the other. Adding to the variety, there is a population of 'African' origin and that of French origin. All beautified in the harmony of everybody speaking one language Creole (something that sounds French). The small island has a great treasure of friendliest people with humble, sincere and very helpful traits.

As for my dissertation, I was scared of where to start because my preliminary literature review revealed no success in linking Mauritius and the African Charter. The first comments on the topic were even more worrying as some rephrased it 'African Charter "outside" Africa'. The preliminary field assessment also unfolded that knowledge of the African Charter is scarce among key actors and labelled to belong to 'Africa'. So my work turned from assessing the impact to popularising the African Charter. I adopted the methodology of 'participatory action research' where I become part of the solution through engaging with the stakeholders on practical steps. Since then in every government and non-government office I

went for the assessment, I also have discussed plans and activities to popularise and integrate the Charter in their work.

I must say the field assessment was tiresome especially dealing with the long bus travel to and from the capital, Port Louis, where most of the important offices are located. Taking the bus was a big test of patience; you wait for the bus indefinitely and when it comes you scramble for it, you act gentle or courteous only if you do not know that missing this one means waiting for another hour. And if you see the bus from a distance you run as if you were running for your life, like you should not be self-conscious about your status, just run furiously. Young or old, rich



Righting Wrongs

Issue No 3 - December 2011

or poor, student or teacher, private public servant all become equal for the bus business. Sometimes if you are unlucky the bus you have waited for a long time will come full and never make the stop, or after taking few people it rejects you. If you are in a hurry then your heart aches because the bus trip is one that is never ending with stops every five minutes and crowded traffic. It is so tiring on board that it is common to doze off and sometimes miss your stop and if unlucky you end up standing all the way and your feet will hurt. The field assessment was colourful with the bus politics.

At the completion of the field assessment, with the support of Amnesty International, it was possible to organise a stakeholders workshop to share the findings of my research, to enrich and further analyse the findings and discuss on the way forward. It was very encouraging that my research is owned by relevant stakeholders who showed motivation to become part of the contribution towards enhancing the impact of the African Charter.

It was also possible for me to be part of many of 'the first of its kind' initiatives on the African Charter.

Righting Wrongs

Issue No 3 - December 2011

For example:

- Delivering trainings on the African Charter for the first time in the NGO and government sponsored human rights trainings.
- Integrating African Charter training modules in the government and NGO human rights training programmes.
- Advocating initiatives for integration of the African Charter in law reform studies such as a comparative study of the Constitution and the Charter norms to inform the reform of the Bill of Rights.
- Lobbying initiatives with Amnesty International where steps were taken to lobby for the ratification of the African Women's Protocol, the domestication of the African Charter, integration of the African Charter in the National Human Rights Action Plan and other human rights activities.
- African Charter on the print media - for the first time a local human rights newspaper sponsored by Amnesty International printed an 'article' on African human rights instruments to popularise the African human rights system. Another success with the media was that, after a discussion at the stakeholders' workshop, the prominent, wide reaching local newspaper Express also printed an article on the African Charter for the first time.
- Communications project - so far no communication has been submitted to the African Commission from Mauritius although lawyers and NGOs claimed they are cases. So an initiative was started with the coordination of Amnesty International to study the matter further and identify cases if there are any and familiarise relevant groups with the communications mechanism.

The dissertation gave birth to several initiatives to promote the African Charter, which if nurtured properly will boost the impact of the Charter in Mauritius for the coming months. I am very excited to see the research in action and believe the momentum will continue even after I leave.



Alumni Profiles

Thulani Rudolf Maseko

(Swaziland, 2005)

Legal Practitioner, Managing Director of T. R. Maseko Attorneys, Swaziland

Winner of the Vera Chirwa Award (Centre for Human Rights, 2011); Certificate of Recognition (OSISA, 2010).

Education:

- Bachelor of Arts in Law (Univ of Swaziland, 1994);
- Bachelor of Laws (Univ of Swaziland, 1997);
- Admitted to the Bar, High Court of Swaziland (1999);
- LLM HRDA (Centre for Human Rights, Pretoria, 2005);
- Master in International Legal Studies (American University Washington College of Law, 2011).

Previous experience include:

- National Coordinator of the National Constitutional Assembly NGO (Swaziland, 2003-2008);
- Partner (Shilubane, Maseko and Partners, 2006-2008);
- Constitutional law and human rights Consultant (P. M. Shilubane and Associates, 2006-2007);
- Legal Intern (Constitutional Court of South Africa, 2006);
- Professional Assistant (P. M. Shilubane and Associates, 1999-2005);
- Law Clerk (P. M. Shilubane and Associates, 1997-1999).

Career:

- Prominent human rights lawyer and activist;
- Member of the Law Society of Swaziland and Lawyers for Human Rights Swaziland;
- Involved in almost every important human rights challenge in Swaziland in recent years;
- Arrested in 2009 for 'publicly discussing the democratic struggle' in Swaziland;
- Initially charged for terrorism and eventually faced sedition charges; Refused bail;
- Observers suggest actual reason is that Thulani was acting for the president of an opposition party.
- Appeared before the African Commission on Human and Peoples' Rights against the Kingdom of Swaziland (2004).
- Participated in American University conference on 'International Perspectives on Obama Administration and Human Rights' (2011);

George Mukundi Wachira

(Kenya, 2003)

Africa Regional Coordinator,

Transitional Justice Programme

Centre for the Study of Violence and Reconciliation, South Africa

George Mukundi Wachira (LLM HRDA 2003; LLD 2008) is the Advocacy Director with the Centre for the Study of Violence and Reconciliation (CSVr), South Africa.

He joined CSVr in 2009 as the Africa Regional Coordinator, Transitional Justice Programme leading and undertaking research, advocacy and technical capacity enhancing initiatives on transitional justice with civil society actors, states and multilateral institutions' policy makers in Africa particularly with the African Union organs.

George is also presently the lead consultant and focal person on a project seeking to foster complementarity to strengthen domestic accountability for international crimes in Kenya for the Open Society Justice Initiative and the Open Society Initiative for Eastern Africa.

George's work at CSVr is inspired by a commitment for justice and accountability through promotion and protection of human rights in Africa largely formed during his post graduate studies at the Centre for Human Rights.

A brief background of CSVr, gives one a sense of how he seeks to contribute to durable peace and development in Africa.

CSVr seeks to foster sustainable peace and development in Africa through research, advocacy and strategic policy interventions and practice.

Its scope of work is in the areas of human rights, transitional justice, criminal justice reform, trauma studies and support, victim empowerment, and violence prevention with a specific focus on the prevention of gender-based and all other forms of intolerance.

Professional Prospects

Human Rights Education at the heart of Socio-Economic Development in Africa

Interview with Prof Dejo Olowu (Nigeria, 2001)

Research Professor of Law, University of the North West, South Africa

RIGHTING WRONGS: Tell us how you came to the academic profession, and how the Centre influenced your post LLM professional experience as an academic?

PROF OLOWU: I was a practising Barrister and Solicitor in the courts of Nigeria for five years after my admission to the Bar (1992-1997). Those were the peak years of vicious military rulers in Nigeria. With so much involvement in human rights litigation, advocacy, and grassroots work in those days, it was inevitable that I would come in contact with civil society activists and human rights scholars outside Nigeria. That was when the reality dawned on me that I needed to deepen my knowledge of the norms and practices of human rights beyond national frontiers. I enrolled for my first LLM degree at my alma mater (Obafemi Awolowo University) and majored in international law. It was while I was there that very senior academics impressed it on me to apply for the position of a Junior Trainee Fellow (Assistant Lecturer). I commenced my employment with the same university on 17 October 1997, without pulling out of the Nigerian human rights community. Coming to the second aspect of your question, apart from shaping my involvement in the development of cutting-edge praxis required for advancing the cause of the poor, marginalised and vulnerable Africans through the integrative instrumentality of international and African regional human rights framework, the LLM Human Rights & Democratisation in Africa programme (2001) has equipped me for the intensified research-based approach to human rights protection, promotion and development within the African region which has characterised my work since 2001.

Righting Wrongs: Please elaborate on what you have contributed so far, your major achievements and how you remained (if so) faithful to human rights - enlightened by your contact with the Centre.

PROF OLOWU: The flames of my rigorous training in the LLM Human Rights & Democratisation in Africa course in 2001 burn endlessly and have contributed to my involve-

ment in human rights advocacy beyond Africa. A quick internet search of my name reveals much. Whatever yardstick is applied, the LLM Human Rights & Democratisation in Africa programme was the defining moment in my professional career as an activist-scholar. While I am aware that not all alumni of the Centre would own up to it in their respective spheres of life, the programme of study at the Centre for Human Rights at the University of Pretoria was the launching-pad for my rapid elevations and present attainment. For me, there has never been a turning back, there can be no turning back, and there will be no turning back. The Centre deserves the support and contribution of every true human rights worker whose passion is about Africa.

Righting Wrongs: Do you believe human rights is at the heart of economic and social development in Africa and provide clear examples from your experience?

PROF OLOWU: All the progress that humanity has recorded from the age of enlightenment has been the product of human rights. Human rights, not in the technical sense as we often say it, but human rights in terms of the freedom of the human mind and the enhancement of the capabilities of a human being for self-actualisation; the fulfilment of all our potentials. If African states would ever attain credible socio-economic development, we must begin with the internalisation of human rights ethos and the establishment of credible democratic culture. For now, there is rather too much rhetoric, window-dressing and grand-standing about human rights in Africa. There remains a long way to go but it appears we are now headed in the right direction, at the instance of the people themselves rather than of governments. We will get there.

Righting Wrongs: How do you see regime changes happening in sub-Saharan African countries which have had the same head of state for 20 years and more?

PROF OLOWU: The people constituting each African state must determine the terms and processes for changing their regimes. When these terms and processes are people-owned and people-controlled, it ensures credibility, accountability and sustainability. However, when it is engineered from and by external forces, the outcome may be disastrous. That brings back my response about the internalisation of human rights ethos and the establishment of credible democratic culture. I am heartbroken by the prospect of uprooting a brutal regime only to have another one taking over. It is a very sad reality of the African scenario.



2011 Helen Kanzira Memorial Lecture

Presented by Ms Mary Robinson: **Climate Change and Human Rights: Connecting the Dots on Sexual and Reproductive Health**

The late Helen Kanzira is an alumna of the pioneer class (2000) of the LLM HRDA from Uganda. She passed away in October 2007 due to complications arising from giving birth to a baby girl.

In celebration of Helen's memory, the Centre instituted a public lecture. Every year, at the University of Pretoria, the lecture offers an opportunity for eminent speakers to address an audience of academics, civil society and government representatives, as well as law (human rights) students on topics related to reproductive health.

This year, on 29 November, the lecture was presented by Ms Mary Robinson, President of the Mary Robinson Foundation for Climate Justice, former President of the Republic of Ireland and former United Nations High Commissioner for Human Rights. As many of them confessed to our reporter, members of the audience were excited to listen again to this phenomenal speaker. More specifically, any informed observer would wonder how one would connect climate change with reproductive health. Ms Robinson yet convinced the audience.

Displaying actual cases from Mali, Sierra Leone, or South Africa, Ms Robinson drew from her personal experience to demonstrate how severe drought succeeded devastating floods and constrained women as to their reproductive health rights, particularly in Africa. For instance, how does one disconnect climate change from reproductive health while the quality of livelihood mainly impacts the choice of number of children especially in rural areas? How do women in rural areas secure the necessary means to cater for their basic health needs while they heavily rely on agricultural and pastoral sources of income to survive? Those are some of the issues on which the audience engaged Ms Robinson following her presentation.

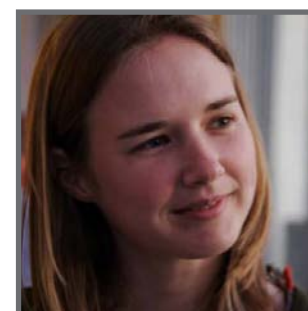


Ms Mary Robinson, President of the Mary Robinson Foundation for Climate Justice delivered the 2011 Helen Kanzira Memorial Lecture

Righting Wrongs

Issue No 3 - December 2011

This year's Helen Kanzira Memorial Lecture was a success thanks to the Centre for Human Rights and its Director, Prof Frans Viljoen, who acted as programme director of the lecture. Special acknowledgements go to Ms Karen Stefiszyn, Head of the Centre's Gender Unit, who put her invaluable time and skills in organising the event.



Alumni News

Alumni participate in "Women in the legal profession" workshop in Cape Town

*Wilhelmina Wicomb (South Africa, 2008)
Attorney, Legal Resources Centre, Cape Town*

The Legal Resources Centre, in collaboration with Freedom House, brought together women in the legal profession from across Africa for a workshop in Cape Town in September this year. The workshop was to provide an opportunity for women in the profession to share their experiences, in particular of discrimination and marginalisation in the legal world.



Righting Wrongs

Issue No 3 - December 2011

In addition, it provided a platform for these lawyers from across the continent to discuss the impact of law on women in Africa: in terms of access to land, gender-based violence, access to justice and socio-economic rights.

Amongst the facilitators were former South Africa Constitutional Court judge Kate O'Regan and Western Cape High Court judge Chantel Fortuin, Mazibuko Jara (of the Law, Race and Gender Unit at the University of Cape Town) and Dr Louise du Toit (of the Department of Philosophy at the University of Stellenbosch).

As always, the event also managed to bring together alumni from the Centre for Human Rights. Wilmien Wicomb (South Africa, 2008) was the project leader within the LRC, while Christele Alexandra Diwouta Tiki (Cameroon, 2004) and Ololade Olakitan Shyllon (Nigeria, 2007) were amongst the participants.



Social News

Class of 2009 family extends!

Chinedu Nwagu (Nigeria, 2009)
Manager, Accountability and Justice
CLEEN Foundation

Greetings from the Nwagu dynasty.
We have been blessed with a baby boy.

Yes, Jasmine now has a brother, Jason. He was born at
3:25am on Monday 21 November 2011.

God has indeed crowned our year with goodness!
I am grateful to God and my darling wife Ijeoma for this
precious gift.

And the LLM 2009 family just keeps getting bigger.
So who's next, James, Berna ... ?!
Lots of love.
Chinedu Nwagu (Nigeria, 2009).

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Is your profile online? Submit your profile here:

<http://www.chr.up.ac.za/index.php/alumni.html>



LLM Alumni who attended the Doctoral Winter School,
presented by the Faculty of Law, University of Pretoria in August 2011.