



Litigation & Implementation Clinic Report

Clinic Coordinators

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Table of Content

1. Introduction	3
2.0 Mandate of the Clinic	3
2.1. Group membership and team work	3
3.0 Research methodology for the mandates	4
3.1. Impact of the mandates	4
4. Challenges and mitigation measures	5
4.2 Mitigation measures	5
5.0 Recommendations	5

1. Introduction

This report outlines the activities carried out by the Litigation and implementation Clinic (the Clinic) in the period between February 2020 to June 2020. The Clinic consists of five students: Masalu Masanja, Wilson Macharia, Bowoulo Taylor Kelley, Maria Mutui Emmanuel Njoku. The Clinic has two Coordinators: Foluso Adegalu and Michael Gyan Nyarko. This Report is structured as follows: First part is the introduction; the second part sets out the Clinic's mandates; the third part outlines the methodology and the impact of the mandate, the fourth part covers the challenges faced by the students and measures taken to mitigate the challenges; and the final part constitutes the conclusion and recommendations.

2.0 Mandate of the Clinic

The Litigation and implementation clinic mandates initially had four mandates as follows:

1. The impact of the UN Human Rights treaties in South Africa.
2. The impact of the UN Human Rights treaties in Kenya.
3. Looking on discriminatory law on citizenship in Western African countries.
4. Researching on the impact of criminal defamation on Freedom of expression in African countries.

As a result of time constraint and the feasibility of managing all the mandates, the litigation related aspects of the mandate (mandate 3 & 4) were excluded. As at the time of preparing this report, the final output for South Africa has been completed and the final output for Kenya is near-completion.

2.1. Group membership and team work

In completing the mandate of the clinic, five students were assigned to this clinic and concluded the mandate on the impact of the United Nations Human Rights treaties on the Republic of South Africa and on the impact of the UN Human Rights treaties on Kenya.

- ❖ Maria Mutui worked on the impact of the Convention on the Elimination of all forms of Racial Discrimination (CERD) in South Africa and Kenya.

- ❖ Bowoulo Taylor Kelley worked on the impact of the International Covenant on Economic Social and Cultural Rights (CESCR) in South Africa and Kenya.
- ❖ Masalu Masanja worked on the Convention Against Torture (CAT) in South Africa and Kenya.
- ❖ Wilson Macharia worked on The Convention on the Rights of Persons with Disabilities (CPRD) South Africa and Africa.
- ❖ Emmanuel Njoku worked on policies and judicial decisions in relation to the CERD, CAT, CESCR & CRPD in South Africa and the Convention on the Rights of the Child in Kenya.

3.0 Research methodology for the mandates

In course of research, we looked at the influence of UN human rights treaties on Acts of National Assembly, State policies, judicial decisions, academic publications, non-governmental organisations (NGOs) and activities of non-state actors in South Africa and Kenya.

The methodology for the research was desk based. It encompassed the utilization of academic and non-academic journal sites, media sites, government departments websites. The research found evidence of influence of the treaties on legislation, policies, judicial decisions, academic publications, and the works of NGOs in South Africa and Kenya.

3.1. Impact of the mandates

a. The practical effect of the mandate on the impact of the UN treaties in South Africa is that it will contribute to a chapter on South Africa in the forthcoming book titled *“The Impact of the United Nations Human Rights Treaties on the Domestic Level”*. The book is co-edited by Prof. Christof Heyns and Prof Frans Viljoen.

b. The practical effect of the mandate on the impact of the UN treaties in Kenya is that it will contribute to an online comprehensive database to monitor the influence of the UN human rights treaty system. The online database is a collaborative effort of the Centre for

Human Rights, OHCHR, Geneva Academy, Harvard Law School Advocates, University of Bristol Law School, and the Danish Institute for Human Rights.

4. Challenges and mitigation measures

4.1 Challenges

- ❖ Late arrival of a team member due to Visa issues.
- ❖ Broad mandates due to the merging of the Litigation & implementation clinics.
- ❖ Some information on impact would require interviews with stakeholders.

4.2 Mitigation measures

- ❖ Re-strategised and re-organised our tasks a Team
- ❖ Coordinators adjusted the mandates
- ❖ Relied on desktop research

5.0 Recommendations

- ❖ The litigation and implementation clinics should be restructured as two distinct units.
- ❖ There should be an updated future study to assess the impact of the AU Human Rights treaty system (should resources allow).