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## Mapping the Role of Law Clinics under the Legal Aid Act of Nigeria

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### Abstract

Legal aid and the provision of legal assistance to poor and indigent citizens forms a core to the promotion, protection and enforcement of fundamental human rights especially for a vast majority of Nigerians who live below the poverty line and cannot afford the services of legal practitioners which constitutes a major impediment to access to justice. When individuals have access to legal aid, they are able to enforce and seek the protection of their basic rights in line with the principles of equality and the rule of law. In furtherance of these objectives, the Legal Aid Act of Nigeria 2011 was passed, which provided a mechanism for a scheme to provide legal assistance to those entitled to such services. The law sets out the operational framework for legal aid, the scope of legal aid, those entitled to legal assistance and specially recognizes the role of non-state actors such as NGO's, Law Clinics and Paralegals in providing legal aid.

This paper identifies and maps the role of law clinics as provided under the law in the areas of criminal defense, advice and assistance in civil matters and community legal services. The work will also highlight some of the challenges that hinder the effective provision of legal assistance under the scheme, which include insufficient personnel and funding for the scheme.

**Keywords:** Legal Aid; Mapping; Law Clinics; Access to Justice

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## تحديد دور العيادات القانونية بموجب قانون المساعدة القانونية النيجيري

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### ملخص

تشكل المساعدة القانونية وتقديم المساعدة القانونية للمواطنين الفقراء والمعوزين نواة لتعزيز حقوق الإنسان الأساسية وحمايتها وإنفاذها. خاصة بالنسبة إلى الغالبية العظمى من النيجيريين الذين يعيشون تحت خط الفقر، ولا يمكنهم تحمل تكاليف خدمات الممارسين القانونيين الذين يشكلون عقبة رئيسية أمام الوصول إلى العدالة. فحينها يحصل الأفراد على المساعدة القانونية، فإنهم يكونون قادرين على إنفاذ حقوقهم الأساسية والسعي إلى حمايتها بما يتماشى مع مبادئ المساواة وسيادة القانون. وتعزيزًا لهذه الأهداف، أُقر قانون المساعدة القانونية لنيجيريا عام 2011، الذي وفر آلية لتقديم المساعدة القانونية لمن يحق لهم الحصول على تلك الخدمات. ويحدد القانون الإطار العملي للمساعدة القانونية، ونطاقها، كما يحدد الأشخاص الذين يحق لهم الحصول عليها، ويضبط بشكل خاص دور الجهات الفاعلة غير الحكومية مثل المنظمات غير الحكومية والعيادات القانونية والمساعدين القانونيين في تقديم المساعدة القانونية.

تحدد هذه الورقة وترسم خرائط لدور العيادات القانونية على النحو المنصوص عليه بموجب القانون في مجالات الدفاع الجنائي والمشورة والمساعدة في الأمور المدنية والخدمات القانونية للمجتمع. كما يسلط الضوء على بعض التحديات التي تعيق التوفير الفعال للمساعدة القانونية بموجب المخطط والتي تشمل عدم كفاية الموظفين والتمويل للخطة.

### الكلمات المفتاحية: المساعدة القانونية، التخطيط القانوني، العيادات القانونية، الوصول إلى العدالة

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© 2022، سان ويوسف، الجهة المرخص لها: دار نشر جامعة قطر. تم نشر هذه المقالة البحثية وفقًا لشروط Creative Commons Attribution-NonCommercial 4.0 International (CC BY-NC 4.0). تسمح هذه الرخصة بالاستخدام غير التجاري، وينبغي نسبة العمل إلى صاحبه، مع بيان أي تعديلات عليه. كما تتيح حرية نسخ، وتوزيع، ونقل العمل بأي شكل من الأشكال، أو بأية وسيلة، ومزجه وتحويله والبناء عليه، طالما يُنسب العمل الأصلي إلى المؤلف.

## Introduction

Legal aid refers to the provision of free legal or advisory services to poor and underrepresented persons who cannot afford to pay for the services of lawyers. Access to legal assistance has been described in different International Instruments<sup>1</sup> as a fundamental principle of human rights and “one of the fundamental rights enjoyed by every citizen under the common law.”<sup>2</sup> It is comprised of the right to legal representation, the right to have access to the courts and the right to a free and fair trial. It is also considered as “...the ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards, and it is also seen as fundamental to the protection of human rights.”<sup>3</sup> Invariably, “it is only when individuals have access to legal assistance that they can enforce and seek the protection of their basic rights.”<sup>4</sup>

It is worthy to note that legal aid works to strengthen the principle of equality before the law which “...is an important component towards entrenching a fair justice system to ensure that laws are applied equally to all persons who come before the courts, regardless of wealth, family history and social position as well as gender, race, religion, or any other considerations in the determination of the legal issues before the courts.”<sup>5</sup> This serves to guarantee access to justice and forms an integral aspect of social justice and the rule of law. This right to legal aid is considered as a fundamental right and entrenched in the 1999 Constitution of the Federal Republic of Nigeria<sup>6</sup>.

However, with the rising rate of poverty, “a vast majority of Nigerians living below the poverty line cannot afford the services of legal practitioners and are therefore unable to access justice through the institutions or recognized mechanisms for resolving disputes which has been considered as a major impediment for access to legal services.”<sup>7</sup>

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1 United Nations Declaration of Human Rights (1948), Article 8; African Charter of Human and People’s Rights, Article 7.1; European Convention on Human Rights, Article 7.

2 Per Lord Hope of Craighead in *R v Shayler* [2003] 1 AC 247 at [73] (House of Lords).

3 United Nations Office on Drugs and Crime, *Global Study on Legal Aid Global Report*, <[https://www.unodc.org/documents/justice-and-prison-reform/LegalAid/Global-Study-on-Legal-Aid\\_Report01.pdf](https://www.unodc.org/documents/justice-and-prison-reform/LegalAid/Global-Study-on-Legal-Aid_Report01.pdf)>, accessed 6 April 2022 Pt 1, Pg 8.

4 Nwankwo C.K “The Dialectics of Legal Assistance in Nigeria: Extending the Frontiers of the Law on Discrimination” in Ernest Ojukwu & C.K. Nwankwo (eds), *Law and Social Development, Essays in Honour of Chief Echeme Emole* (2012) 138.

5 Nwankwo C.K. ‘A Review of the Nigerian New Legal Aid Act’ (2012) *African Journal of Clinical Legal Education and Access to Justice* Vol. 1 Page 129.

6 Constitution of the Federal Republic of Nigeria (1999), S. 36.

7 Nwankwo C.K “The Dialectics of Legal Assistance in Nigeria: Extending the Frontiers of the Law on Discrimination” in Ernest Ojukwu & C.K. Nwankwo (eds.), *Law and Social Development, Essays in Honour of Chief Echeme Emole* (2012) 137.

This paper sets out to map the role and activities of one of the actors provided in the Legal Aid Act of Nigeria to render legal aid or assist with rendering legal aid—the law clinics. Before going into the mapping, a short background to the Legal Aid Act will be explained.

## Right to Legal Aid

To emphasize the importance of the right to legal aid, the Universal Declaration of Human Rights<sup>8</sup> classifies legal aid as an essential element of a fair, humane and efficient criminal justice system based on the rule of law. In addition to this, the International Covenant on Civil and Political Rights states that everyone should be entitled, among other rights, “*to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it.*”<sup>9</sup>

Further to this, the United Nations at its 60th plenary meeting in 2012, adopted the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems,<sup>10</sup> to serve as a useful framework to guide Member States on the principles on which a legal aid system in criminal justice should be based. These principles and guidelines which are drawn from international standards and recognized good practices, are built on the ideals that “*...a functioning legal aid system, as part of a functioning criminal justice system, may reduce the length of time suspects are held in police stations and detention centers, in addition to reducing the prison population, wrongful convictions, prison overcrowding and congestion in the courts, and reducing reoffending and revictimization. It may also protect and safeguard the rights of victims and witnesses in the criminal justice process. Legal aid can be utilized to contribute to the prevention of crime by increasing awareness of the law.*”<sup>11</sup>

From the above, it can be concluded that legal aid means much more than legal representation, rather, it includes ‘*...providing public access to law, that is preventive and protective, that brings change and hope, that relieves poverty and promotes prosperity.*’ In the same way, legal aid can be seen ‘*...as providing public access to legal information, to legal advice and to legal education and knowledge.*’<sup>12</sup>

In Nigeria, as in other countries, the right to legal aid is considered as a fundamental right and entrenched in the 1999 Constitution of the Federal Republic of Nigeria. The State social

8 Universal Declaration of Human Rights, Article 11, paragraph 1.

9 International Covenant on Civil and Political Rights, Article 14, paragraph 3 (d).

10 United Nations General Assembly, Resolution 67/187, December 2012.

11 Resolution 67/187, Annex Part A, paragraph 3.

12 Rice, Simon, A Human Right to Legal Aid (2009) Macquarie Law Working Paper No. 2007-14, Available at SSRN: <<https://ssrn.com/abstract=1061541> or <http://dx.doi.org/10.2139/ssrn.1061541>>

order is founded on ideals of freedom, equality and justice; and in furtherance of this, the Nigerian Constitution provides that “every citizen shall have equality of rights, obligations and opportunities before the law. The Constitution also enjoins the State to direct its policy towards ensuring that provision is made for public assistance in deserving cases or other conditions of need.”

Section 46(1)(b) of the Constitution directs the legislature to make provisions for:

- i. “...the rendering of financial assistance to any indigent citizen of Nigeria where his fundamental right has been infringed or with a view to enabling him to engage the services of a legal practitioner to prosecute his claim;” and,
- ii. “...for securing that allegation of infringement of such rights are substantial and the requirement or need for financial or legal aid is real.”

A reading of the Legal Aid Act of Nigeria shows that the Act was designed in line with the spirits of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which both presuppose legal aid as an important safeguard towards ensuring fairness and general trust in the criminal justice system.<sup>13</sup> It should be noted that *this right to legal representation though rarely stated explicitly in some national legislations, it can be established by inference from the systems and institutions of state through constitutional guarantees of equality, and by implication in a guarantee of a fair trial.*<sup>14</sup>

In recent years, legal aid across Africa has been structured in line with the Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System in Africa and the Lilongwe Plan of Action for the implementation of the Declaration, the Principles and Guidelines,<sup>15</sup> which adopts a broader concept of legal aid. The Declaration recognizes and supports the right to legal aid in criminal justice noting that *‘all governments have the primary responsibility to recognize and support basic human rights, including the provision of and access to legal aid for persons in the criminal justice system. In addition to this, governments are encouraged to adopt measures and allocate funding sufficient to ensure an effective and transparent method of delivering legal aid to the poor and vulnerable, especially women and children, and in doing so empower them to access justice. Legal aid should be defined as broadly as possible to include legal advice, assistance, representation, education, and mechanisms for alternative dispute resolution; and to include a wide range of stakeholders, such as non-governmental organizations, community-based organizations, religious and non-religious charitable organizations, professional bodies and associations, and*

13 Ibid.

14 Simon Rice, Op cit.

15 The Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System in Africa was adopted by delegates at the Conference on Legal Aid in Criminal Justice: The Role of Lawyers, Non-Lawyers and other Service Providers in Africa held in Lilongwe, Malawi from November 22-24, 2004.

*academic institutions.*<sup>16</sup> Other responsibilities imposed by the Declaration include:

1. Sensitizing all criminal justice stakeholders.
2. Providing legal aid at all stages of the criminal justice process.
3. Recognizing the right to redress for violations of human rights.
4. Recognizing the role of non-formal means of conflict resolution.
5. Diversifying legal aid delivery systems.
6. Diversifying legal aid service providers.
7. Encouraging pro-bono provision of legal aid by lawyers.
8. Guaranteeing sustainability of legal aid.
9. Encouraging legal literacy.

The importance of this Declaration is that, while an individual is entitled to legal representation, it is the responsibility of governments to set up structures for legal aid in a way that ensures the protection and enforcement of the rights of individuals to due process, a fair hearing, and legal representation. It is worthy to note, that the Declaration expands the meaning of the term 'legal aid' to include legal advice, assistance and representation for persons detained, arrested or imprisoned, suspected or accused of, or charged with a criminal offence and for victims and witnesses in the criminal justice process that is provided at no cost for those without sufficient means or when the interests of justice so require. It also includes the concepts of legal education, access to legal information and other services provided for persons through alternative dispute resolution mechanisms and restorative justice processes, while suggesting that governments involve a diverse group of stakeholders as legal aid service providers in the form of non-governmental organizations, community-based organizations, religious and non-religious charitable organizations, professional bodies and associations and academia.

### **The Legal Aid Act of Nigeria**

To ensure access to the under-privileged, the Legal Aid Council was established in 1976<sup>17</sup> to render legal aid and access to justice services to indigent persons within its mandate. Thereafter there were some amendments to the Act of 1976, culminating in promulgation of the Legal Aid (Amendment) Act (Decree) No. 22 of 1994 that expanded the scope of services provided by the Legal Aid Council to include damages for breach of Fundamental Human Rights as guaranteed

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<sup>16</sup> Ibid.

<sup>17</sup> Legal Aid Decree No. 56, 1976.

by the Constitution. In 2011, the Legal Aid Act of 1976 was repealed and re-enacted as the Legal Aid Act of 2011.<sup>18</sup>

These amendments, were aimed at giving better legal services to indigent Nigerians for the interest of justice and reinforce the mandate of the Council in providing the needed legal services to secure, defend, enforce, protect or otherwise exercise such rights provided under the Nigerian Constitution<sup>19</sup> such as of rule of law, right to fair trial, legal representation and access to justice on behalf of indigent citizens.

In order to achieve its constitutional mandate, the Nigerian Legal Aid Act states the role-actors that should work to achieve the goals and outcomes for justice. At the top of the list of these role-actors is the Governing Council charged with the functions of the establishment of broad policies and strategic plans in accordance with the provisions of this Act.<sup>20</sup> There is the Director-General of Legal Aid Council, who shall be the Chief Executive Officer of the Council, who shall be responsible for the day-to-day management of the human, financial and material resources in accordance with this Act.<sup>21</sup> The Governing Council is empowered to appoint such supporting legal and other staff as may be required for the purposes of the efficient performance of the duties of the Council under or pursuant to the Act.<sup>22</sup>

The Nigerian Legal Aid Act provides for the use of Panels of Legal Practitioners willing to act for persons receiving legal aid (whether gratuitously or otherwise).<sup>23</sup> Lawyers who generally are less than one year qualified and who serve the mandatory one-year National Service and paid stipend from public funds under the National Youth Services Corp scheme (NYSC) are recognized and deployed to the legal aid scheme too. Section 16 of the Legal Aid Act 2011 provides that:

“Notwithstanding the provisions of any other enactment including rules of court, legal practitioners for the time being serving in the National Youth Service Corps shall, if the Council so directs, act for a person receiving legal aid, in which case no professional fees shall be made by the Council except stipend and travelling allowance.”

In the same way, it is imperative to note that the provision of legal aid and assistance does not rest solely on the government alone; and for the first time in Nigeria, the Act recognizes the need for non-state actors' support from private entities like law firms, NGOs and Legal Clinics in the provision of legal aid services. Section 17 of the Legal Aid Act provides as follows:

18 Legal Aid Council of Nigeria, *Forty Years of Legal Aid Council in Nigeria* (2016).

19 Constitution of the Federal Republic of Nigeria (1999), Chapter IV.

20 Legal Aid Act 2011, S. 3.

21 Legal Aid Act 2011, S. 4.

22 Legal Aid Act 2011, S. 4(4).

23 Legal Aid Act 2011, S. 14(1).

“(1) The Council shall maintain a register of non-governmental organizations and law clinics that are engaged in the provision of legal aid or assistance to persons who are entitled to legal aid under this Act. (2) The Council may partner with or otherwise engage the services of such organizations in a manner consistent with the mandate of the Council.<sup>24</sup> (3) The Council may grant licenses to persons who have undergone a prescribed course in paralegal services to render such services in appropriate situations.”

This provision is consistent with the provisions of the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems which requires States to, where appropriate, make adequate and specific provisions for staffing the nationwide legal aid system that is commensurate with their needs<sup>25</sup> and where there is a shortage of qualified lawyers, the provision of legal aid services may also include non-lawyers or paralegals.<sup>26</sup>

### Scope of Legal Aid in Nigeria

Section 8(1) of the Act provides that the grant of legal aid, advice and access to justice shall be provided by the Council in three broad areas, namely: Criminal Defense Services, Advice and Assistance in Civil Matters including legal representation in the court, and Community Legal Services:

**1. Criminal Defense Services:** The Act mandates that the Council shall establish, maintain, and develop a service known as Criminal Defense Service for the purpose of assisting indigent persons involved in criminal investigations or proceedings specified in the second schedule to the Act, access to such advice, assistance, and representation as the interest of justice requires.<sup>27</sup>

The second schedule to the Act outlines the categories of proceedings in respect of which legal aid may be given under criminal defense services as follows:

1. Murder of any degree or culpable homicide punishable with death.
2. Manslaughter or culpable homicide not punishable with death.
3. Maliciously or willfully wounding or inflicting grievous bodily harm or grievous hurt.
4. Assault occasioning actual bodily harm or criminal force occasioning actual bodily hurt.

<sup>24</sup> This provision corresponds to Principle 14 paragraphs 39 & 40 of the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems which requires States to recognize and encourage the contribution of lawyers' associations, universities, civil society and other groups and institutions in providing legal aid and where appropriate, public-private and other forms of partnership should be established to extend the reach of legal aid.

<sup>25</sup> Guideline 13, paragraph 63.

<sup>26</sup> Guideline 13, paragraph 65.

<sup>27</sup> Legal Aid Act 2011, Section 8(2).

5. Common assault.
6. Affray.
7. Stealing.
8. Rape.
9. Armed robbery.<sup>28</sup>

These services also cover aiding and abetting or counseling or procuring the commission of or being an accessory before or after the fact to or attempting or conspiring to commit any of the offences listed above in the schedule.<sup>29</sup>

**2. Advice and Assistance in Civil Matters including Legal Representation in Court:** The Council shall establish and maintain a service known as Civil Litigation Service for the purpose of assisting indigent persons to access such advice, assistance, and representation in court where the interest of justice demands, to secure, defend, enforce, protect or otherwise exercise any right, obligation, duty, privilege, interest or service to which that person is ordinarily entitled under the Nigerian Legal system.<sup>30</sup> Further to this, legal aid shall also be granted in respect of any breach or denial of any such right, obligation, duty, privilege, interest or service and the Council shall be responsible for the representation before any court or tribunal for such civil matters.<sup>31</sup>

Similarly, the Council is empowered to undertake civil claims in respect of accidents including employee's compensation claim (under the Employee's Compensation Act, for damages for breach of fundamental rights as guaranteed under Chapter Four of the Constitution of the Federal Republic of Nigeria)<sup>32</sup> and civil claims arising from criminal activities against persons who are qualified for Legal Aid under this Act.<sup>33</sup>

**3. Community Legal Services:** Section 8(7) mandates the Council to establish, maintain and develop a service known as Community Legal Service for the purpose of promoting individual services and, for ensuring that individuals have access to service that effectively meets their needs. Community Legal Services for the purpose of this section includes:

- a. The provision of general information about the law and legal system and the availability of legal services.

28 Legal Aid Act 2011, Second Schedule, Pt A (1-9).

29 Legal Aid Act 2011, Second Schedule Pt B.

30 Legal Aid Act 2011, S. 8(3).

31 Legal Aid Act 2011, S. 8(4).

32 Constitution of the Federal Republic of Nigeria (1999), S. 46(4) (b).

33 Legal Aid Act 2011, Second Schedule Pt C (3).

- b. The provision of assistance in preventing or settling or otherwise resolving disputes about legal rights and duties.
- c. The provision of assistance in enforcing decisions by which disputes are resolved.
- d. The provision of assistance in financial support and rendering, and
- e. The provision of assistance concerning claims against public authorities, private organizations, and individuals.

With the level of poverty and illiteracy among most citizens especially those in the rural communities, the lack of knowledge of the availability of legal remedies has led to widespread victimization, abuse, and exploitation of the poor, which has made the provision of legal aid a high priority. Therefore, it can be said that legal aid means much more than legal representation in court, it encompasses providing public access to law that is preventive and protective, providing public access to legal information, legal advice, legal education, and knowledge.<sup>34</sup>

### **Challenges to Legal Aid in Nigeria**

The effective provision of legal aid in Nigeria is plagued with a number of challenges such as insufficient funding, illiteracy, poverty and ignorance of legal rights. Despite widening the scope of legal aid services under the 2011 Act, the provision of legal aid is still restricted under the Act by a means test. Section 10 of the Act provides that:

(1) Legal aid shall only be granted to a person whose income does not exceed the national minimum wage. (2) Notwithstanding the provision of subsection (1), the Board may, in exceptional circumstance, grant legal aid service to a person whose earning exceeds the national minimum wage. (3) Notwithstanding the provisions of subsection (1) of this section, the Governing Board may approve the giving of legal aid on a contributory basis to a person whose income exceeds ten times of the national minimum wage.

The current minimum wage per annum in Nigeria is N360, 000.00 (about 800 US Dollars). Based on this very low wage level, majority of Nigerians cannot still afford to pay for legal services. There is therefore an army of indigent people waiting for legal aid. To support legal aid services, the Act now provides for a legal Aid Fund. In section 9, it provides that: a Legal Aid General Fund shall be established, where funds appropriated by the National Assembly or provided from time to time by the government of each state shall be paid for the day-to-day administration of the Council.

34 Rice, Simon, A Human Right to Legal Aid (2009). Macquarie Law Working Paper No. 2007-14, Available at SSRN: <<https://ssrn.com/abstract=1061541> or <http://dx.doi.org/10.2139/ssrn.1061541>>, accessed 8 April 2022, p.16

Though the provision for a legal aid fund has helped, yet the greatest impediment to the Legal Aid Council's effort has been limited funding because the demand outpaces fund support which in turn affects the number of personnel and lawyers that can be hired to assist with the provision of legal aid.

Nigeria has a population of over 200 million people. The country is a federal system of government with powers divided between the federal government and states. There are 36 states in the country. Section 6 of the Legal Aid Act provides for zonal and state offices. The provision is as follows:

(1) There shall be a zonal office of the Council in each of the six geo-political zones to be headed by a zonal officer who shall be a lawyer of appropriate rank, who shall be responsible for the coordination of State offices and their activities. (2) The Zonal officer shall report to and be responsible to the Director of Litigation. (3) The Council shall establish one office in each State of the Federation to be headed by an officer of appropriate rank who shall be responsible for provision of service in the State and reports to the zonal officer in whose jurisdiction the State belongs. (4) Each state office of the Council shall operate 3 legal service units, namely (a) Criminal Defense Unit; (b) Civil Litigation Unit; (c) Community Legal Service Unit.

The zonal and state structures require human capacity in terms of administration and in terms of direct legal aid services. The resources of Legal Aid Council are severely limited. While it has offices in all the States of the Federation and some Local Government Council headquarters, these offices are understaffed, under-resourced and therefore unable to reach majority of indigent persons who need their service, especially in rural areas. Available statistics show that between December 2018 – August 2019, 7,587 cases were handled across the 36 states and zonal offices of the Council out of which 2,367 were completed.<sup>35</sup>

As stated above, the major constraint to legal aid in Nigeria is funding which in turn constrains human capacity. This is why the recognition and use of NGOs and Law Clinics under the Act has been lauded as a positive development for legal access to justice.

### **Role of Law Clinics Under the Legal Aid Act**

Law Clinics across the world play an important role in the provision of legal aid to indigent persons who ordinarily are not able to afford paid legal assistance. In the United States of America, the American Bar Association (“the ABA”) and judges in the United States have long supported the important role clinical programmes play in ensuring that access to the courts-a precondition for access to justice-will not be limited to only those who can afford to hire lawyers. Thousands of law students taking in-house and externship clinical courses each year

35 Legal Aid Council Report to The Nigerian Bar Association Annual General Conference Lagos 26th – 30th August 2019, <<https://legalaidcouncil.gov.ng/annual-nba-reports-2/>>, accessed 8 April 2022.

join the mere 5,000 to 6,000 lawyers working for organizations that represent the 45 million Americans who are so poor that they qualify for civil legal aid.<sup>36</sup>

The Nigeria Legal Aid Act 2011 provides a framework and recognition for the role Law Clinics and Non-Governmental Organizations play in complementing the Council's legal aid functions. This is within the context of the services paralegals and law students' clinics are permitted to provide in view of the professional law practice.<sup>37</sup> "Therefore the role of Law Clinics under the Legal Aid Act is generally limited by the capacity of paralegals and students who do not have the right to be heard in representation before courts or any tribunal where the determination of the rights of such an individual comes up."<sup>38</sup>

It should be noted that the Act also recognizes non-governmental organizations and is mandated to grant licenses to persons who have undergone a prescribed course in paralegal services to render such legal aid or assistance. From the above, law clinics, non-governmental organizations and paralegals are able to provide counseling/legal advice, mediation, street law outreaches, prison pre-trial detainee services, public interest advocacy and litigation, case referral and advocacy. Their tasks in this regard include interviewing, counseling/legal advice, visits to clients and other parties to settle disputes; alternative dispute resolution, research, fact-finding, case analysis, writing legal opinions, file management, letter writing, filing court processes, and provision of support services that enhance access to justice.

Although, there has been a growth and recognition of the role of law clinics in the provision of legal aid across Africa, especially in Nigeria and South Africa, there has been no specific legislation governing law clinics in other parts of Africa. However, there has been some considerable progress in this regard, as for instance, the recent enactment of the Kenya Legal Aid Act<sup>39</sup>, which recognizes the role of law clinics in legal aid.

## Models of Law Clinics

Many Law Clinics around the world are set up to provide legal aid and other services to mostly indigent clients and community members in addition to providing hands-on experiential learning to law students in clinical law programmes. There are different models of Law Clinics depending on the type of clients they serve and "the learning objectives of the Law

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36 Holness, Dave, Improving Access to Justice Through Compulsory Student Work at University Law Clinics (December 10, 2013). Potchefstroom Electronic Law Journal, Vol. 16, No. 4, 2013, Available at SSRN: <https://ssrn.com/abstract=2389972>.

37 Legal Practitioners Act, CAP 207 Laws of the Federation of Nigeria (LFN), S. 2(1); A person shall have his name enrolled if he has been called to the Bar and produces a certificate of his/her call to the Bar to the registrar of the Supreme Court.

38 Ernest Ojukwu et al, *Handbook on Prison Pre-trial Detainee Law Clinic* (2018) NULAI Nigeria, p. 157.

39 Act No 16 of 2016.

programme”<sup>40</sup>, which may be in any of the following forms:

- i. Community Law Clinics:** This model of law clinic carries out scheduled visits to the communities they serve outside the campus. The clinic sessions are conducted at convenient meeting places usually selected by representatives of the community. The visits are carried out on specific days in the semester as agreed by the clinic and community representatives. In Nigeria, mobile clinics are held on market days where members of the community converge to buy and sell goods. This strategy provides access to clients with complex legal needs and who have not sought assistance from or are unable to afford the services of lawyers or other legal service providers. This model of law clinic may have the same operational strategy regarding the type of clients they cater for. However, in this case, students meet their clients at convenient meeting places within the communities they serve thus placing them in direct contact with clients at the grassroots level. The clinic provides a wide range of services such as counseling and advice, dispute resolution using alternative methods of dispute resolution (ADR) on issues such as simple contract, tenancy, fundamental rights, women and children’s rights, matrimonial causes etc.
- ii. Street Law Clinics:** “This model of law clinics trains students to teach people legal issues that affect them in their everyday life on the street. This helps them to understand how the law works and how it can protect them”<sup>41</sup> The target groups for this type of clinic includes school pupils/students, prisoners,<sup>42</sup> interest groups<sup>43</sup> etc. Here, “students help to provide practical legal information which can help people in making decisions on how to tackle legal problems, what their rights are, and where to get assistance when they have legal problems. In the Street Law Model, law clinics and law students are trained to teach members of the community about law, human rights and democracy”<sup>44</sup> Before the training, students develop lesson plans on the different areas of law such as child rights, human rights, freedom of information, criminal law, family law etc., using interactive teaching methods which provide the students an opportunity to acquire first-hand knowledge of the social justice issues affecting the communities they serve.<sup>45</sup>

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40 Ronan Fahy & Mireille van Eechoud (2015) *Establishing a Start-up Law Clinic in Law School: A Practical Guide*. Institute for Information Law, University of Amsterdam, <<https://www.ivir.nl/publicaties/download/1686.pdf>>, accessed 10 April 2022.

41 McQuoid-Mason, D. *et al* ‘*Street Law South Africa: Practical Law for South Africans*’ (2004), 2<sup>nd</sup> Edition JUTA Law Co. Ltd, South Africa, p.5.

42 For example, pre-trial detainees.

43 Market Women Associations etc.

44 Palmer R, McQuoid-Mason D ‘*African Law Clinicians’ Manual*’, (2013) <<https://ir.canterbury.ac.nz/bitstream/handle/10092/15366/African-Law-Clinicians-Manual-McQuoid-Mason.pdf?sequence=2&isAllowed=yb>>, accessed 7 April 2022.

45 *Ibid.*

**iii. Placement Clinics:** Under this model, students are provided the opportunity to develop a wide range of critical skills needed for the practice of law. “In a placement program, students are placed on externship in a variety of practice settings, including at law firms, non-profit organizations, government agencies, prosecutors’ or public defender offices, and judicial chambers where they work closely with barristers, solicitors, and other stakeholders in justice sector administration to provide them with an educational experience that is supervised by experienced practitioners who offer an excellent model for practice.”<sup>46</sup>

**iv. Campus-based Law Clinics:** This is the most common type of clinic in Nigeria. It operates in university campuses and are mostly integrated as part of the faculty programme and housed within the faculty or elsewhere on campus. “The target client for this type of clinic varies from individual clients requiring general legal services to clients requiring specialized services and public interest services.”<sup>47</sup> Services provided by campus-based clinics may vary from general practice to specialized services and public interest litigation.

However, most law clinics provide legal aid on an individual basis to persons who cannot afford to pay for the services of lawyers, with prospective clients attending on a ‘walk-in’ basis. The general practice section of the clinics exposes students to a variety of social justice issues that affect the poor and underserved within a particular community, thus requiring students to be trained on a wide range of social justice issues such as employment related issues, consumer protection, tenancy, matrimonial causes, contract, criminal law, and human rights.<sup>48</sup> However, some campus-based clinics operate specialized units/departments such as women’s rights<sup>49</sup>, children’s rights, prison/pretrial detention & freedom of information, Ethics Law Clinic, International Humanitarian Law Clinic, etc. In this regard, students need to be trained in the area in which the clinic specializes. Whereas some campus-based clinics specialize in public interest issues and accept cases that have impact on issues such as environmental protection, healthcare etc. Students represent clients directly in a law office atmosphere under the supervision and mentorship of qualified faculty members. Students in these clinics interact directly with clients, drafting and filing legal documents and briefs, and conduct alternative dispute settlements, and in some instances appearing in court on behalf of clients.<sup>50</sup> This model of clinic is the most ideal for staff and students because it provides easy access to resources and research materials with a pool of faculty members who can aid in cases that require expert knowledge.

46 Nigerian Law School, ‘*Externship Handbook for Field Supervisors*’ (2013) p. 9.

47 McQuold-Mason, D. & Palmer, R., *Op.cit.*, p.37.

48 Most law clinics in Nigeria operate as general practice clinics.

49 University of Ibadan Women’s Law Clinic is a specialized clinic focused on women’s issues only.

50 Where clinics engage in litigation on behalf of a client, qualified members of staff supervise students and endorse pleadings and often appear in court.

## University-Based Law Clinics in Nigeria

With the integration of clinical legal education in the law curriculum in Nigeria, many law faculties have integrated the Clinical Programme and set up Law Clinics, which provide a platform for students to gain practical skills with a service-oriented approach that integrates knowledge, skills, ethics, values, and professional responsibility within a social justice context.

Some of these Law Clinics are stated below:

1. **ABSU Law Clinic, Faculty of Law, Abia State University, Abia State:** The ABSU Law Clinic is an in-house client service, one with street law and prison service units.

The focus areas of the Clinic include:

- a. Community human rights education.
- b. Child rights education at primary and secondary schools.
- c. Freedom of information community education and support.
- d. Prison pre-trial detainee unit.

The types of services provided by the Clinic include counselling and legal advice, ADR (mediation and negotiation), access to justice for prison pre-trial detainees, child rights, citizenship/community sensitization outreaches and access to information services and case referrals. Students' tasks include interviewing, counselling/legal advice, case analysis and research, fact investigations, writing legal opinions, file management, letter writing, filing court processes and provision of support services that enhance access to justice, and presentations at community outreaches.

2. **Akungba Law Clinic, Faculty of Law, Adekunle Ajasin University Akungba, Ondo State:** This Clinic operates as a general interest clinic. It also has the following units: prison/pre-trial detainee, child rights and human rights, street law, community citizenship and environmental law units. The Clinic also run a volunteer internship programme, where graduate students awaiting admission to the Nigerian Law School assist in carrying out clinic activities. The Clinic is managed by a clinic coordinator assisted by a supervisor and a National Youth Service Corps Lawyer. The Clinic Coordinator appoints a student from the 5th year class as clinic head, charged with the responsibility of the daily administration and management of the Clinic. Clinic focus areas include:

- i. Community citizenship and human rights education.
- ii. Child rights education at primary and secondary schools.

- iii. Freedom of information community education and support.
- iv. Prison pre-trial detainee unit.
- v. Environmental law and Right to Sanitation unit.

Types of services provided include general services, police duty solicitor, prison pre-trial detainee services, court monitoring, community enlightenment and access to information. Students' tasks include interviewing, counselling/legal advice, case analysis, writing legal opinions, file management, letter writing, research, filing court processes and provision of support services that enhance access to justice.

**3. AAU Law Clinic, Faculty of Law, Ambrose Alli University Ekpoma:** The Clinic is an in-house general interest clinic with a prison pre-trial detainee service unit with focus in the following areas:

- i. Community outreaches on Human Rights.
- ii. Alternative Dispute Resolution (ADR).
- iii. Child Rights.
- iv. Prison and pre-trial detainees.

Types of services provided include general services, Alternative Dispute Resolution (ADR), prison pre-trial detainee services, Child Rights and Human Rights education, and police watch.

**4. ABU Law Clinic, Faculty of Law, Ahmadu Bello University, Kaduna State:** The ABU Law Clinic is a voluntary clinic which was started in 2006 by a group of students with a passion to provide community justice and development services within and outside the school. In 2010, the Clinic was designated as one of 10 pilot mediation centers for the World Bank Access to Justice for the poor project in Kaduna, supported by the Japanese Social Development Fund and administered by the Legal Aid Council of Nigeria. The Law Clinic's focus areas are:

- i. Community outreaches on Human Rights.
- ii. Alternative Dispute Resolution (ADR).
- iii. Prison and pre-trial detainees.

Services provided include, community outreaches and Human Rights education, mediation and prison pretrial detention services.

**5. EBSU Law Clinic, Faculty of Law, Ebonyi State University, Ebonyi State:** It is a general

interest clinic with specialty in public interest law, Prison pre-trial detainee services and environmental law with focus in the following areas:

- i. Street law and community outreaches.
- ii. Child rights education at primary and secondary schools.
- iii. Freedom of information community education and support.
- iv. Prison pre-trial detainee unit.
- v. Environmental law unit.

The Clinic provides counselling/legal advice, mediation, street law outreaches, prison pre-trial detainee services, public interest law, case referral and advocacy on health and environmental protection. Students' tasks include interviewing, counselling/legal advice, visits to clients and other parties to settle disputes; case analysis, writing legal opinions, file management, letter writing, filing court processes, and provision of support services that enhance access to justice.

**6. Maiduguri Law Clinic, Faculty of Law, University of Maiduguri:** The Clinic is an in-house clinic with a street law component and prison service unit with focus on:

- i. Human Rights.
- ii. Alternative Dispute Resolution (ADR).
- iii. Matrimonial/Reproductive Health and Rights.
- iv. Labour-related matters.
- v. Child Rights.
- vi. Prison and pre-trial detainees.

The Clinic provides the following services: Counselling/legal advice, mediation, child rights support, legal support services, citizenship/community sensitization and case referrals to the Legal Aid Council and other NGO's working on access to justice.

**7. NSUK Law Clinic, Faculty of Law, Nasarawa State University, Nasarawa State:** The Clinic is a general service center, with a specialized freedom of information, Child Rights and prison pre-trial detention unit. Its focus areas include prison pre-trial detention, freedom of information, mediation, and Community Human Rights education. The Clinic provides services such as Human Rights education through community outreaches. It also offers mediation, counselling and advisory services on Child Rights, matrimonial issues, landlord/tenant relations, contracts, and employer/employee relations.

8. **OOU Law Clinic, Faculty of Law, Olabisi Onabanjo University, Ogun State:** This is a general services clinic with specialized prison pre-trial detainee unit and freedom of information unit:

- i. Community outreaches on Human Rights.
- ii. Alternative Dispute Resolution (ADR).
- iii. Prison and pre-trial detainees.
- iv. Freedom of information.

Services provided include general services, Alternative Dispute Resolution (ADR), Prison/Pre-trial detainee services and Human Rights education.

9. **UNIUYO Law Clinic, Faculty of Law, University of Uyo, Akwa Ibom State:** The Clinic is a general service center and is involved in litigation and prison visits. The Clinic also engages in community outreaches and street law. The Clinic's focus areas include:

- i. Community outreaches.
- ii. Child Rights education at primary and secondary schools: special focus on sexual harassment and child trafficking.
- iii. Freedom of information community education and support.
- iv. Prison pre-trial detainee unit.

The Clinic provides services in the following areas: Counselling/legal advice, mediation, Child Rights issues, legal support services, and citizenship/community sensitization and case referrals.

10. **UniAbuja Law Clinic, Faculty of Law, University of Abuja, FCT:** The Clinic is a general focus in-house clinic with specific interest on Human Rights generally, child rights, access to justice, public safety, community education and empowerment. The Law Clinic's focus areas include:

- i. Community Human Rights education (street law projects).
- ii. Child Rights education at primary and secondary schools.
- iii. Freedom of information community education and support.
- iv. Prison pre-trial detainee projects.
- v. Public safety and environmental protection.

The Clinic provides general legal advice and services to indigent members of the Gwagwalada Community including university students on a variety of issues ranging from tenancy, matrimonial and commercial disputes. These services are provided to clients on walk-in basis.

Other services are provided through outreach programs to community groups.

11. **University of Ilorin Legal Aid Clinic, Faculty of Law, University of Ilorin, Kwara State:** The Clinic is a general services center with a specialized prison pre-trial detention unit. The clinic focus areas include prison pre-trial detention, freedom of information, mediation, and Community Human Rights education.

The Clinic provides services such as Human Rights education through community outreaches. It also offers mediation, counselling and advisory services on Child Rights, matrimonial issues, landlord/tenant relations, contracts, and employer/employee relations.

12. **Women's Law Clinic, Faculty of Law, University of Ibadan, Oyo State:** Women's Law Clinic of the Faculty of Law University of Ibadan was established to provide free legal services to poor and underserved women in the community. The Clinic is an in-house specialized one focused on Human Rights and family law as it relates to women and children. Focus areas include:

- i. Community outreaches on Human Rights.
- ii. Alternative Dispute Resolution (ADR).
- iii. Women's Rights.
- iv. Reproductive Rights.
- v. Family law.

The Clinic provides legal and counselling services, and ADR services. The Clinic specializes in the areas of family law and Human Rights relating to women and children.

13. **The Yola Law Clinic, Nigerian Law School Yola Campus, Adamawa State:** The Clinic is an in-house client service clinic providing access to justice services to pre-trial detainees and even some convicted persons awaiting appeal. The Clinic provides the following services: access to justice by contacting with detainees' relatives; getting free legal representation through the NBA and Legal Aid Council; ensuring speedy trial by liaising with Ministry of Justice, the police, the court and other stake holders and also by providing rehabilitation services such as counselling and educating and advising detainees on their rights and other issues pertaining to life outside the prison.

14. **Baze Law Clinic, Baze University, Abuja FCT:** The Clinic is a general service center and is involved in public interest litigation, Environmental Rights, and prison visits. The focus areas include:

- i. Women's Rights.
- ii. Child Rights.
- iii. Pre-trial detention.

- iv. Environmental Rights.
- v. Torture and police brutality.
- vi. Human trafficking.
- vii. Access to justice.
- viii. Social justice issues.

Services provided by the clinic include client counselling, client referrals, legal drafting, submitting amicus briefs to courts, legal research, Public Interest Advocacy and litigation, community outreaches, Human Rights education, and freedom of information requests.

### **Some Specific Legal Aid Projects of Law Clinics in Nigeria**

The specific projects carried out by some law clinics in Nigeria fall under the three broad services outlined under Section 8(1) of the Legal Aid Act, namely: Criminal Defense Services, Advice and Assistance in Civil Matters including Legal Representation in the court, and Community Legal Services.

For effective coordination of their programmes and projects, university-based law clinics came together and formed a network called Network of University Legal Aid Institutions (NULAI) Nigeria.<sup>51</sup> There are 43 registered university law clinics under the network at this time.<sup>52</sup> The Legal Aid Council of Nigeria is also an institutional partner of the Network.<sup>53</sup>

This part highlights the activities of Law Clinics under the Network, carried out to promote access to justice and legal aid within the broad mandate prescribed under the Act:

1. **Criminal Defense Services:** Respect for the rule of law and the enforcement of fundamental rights are cardinal principles towards a fair and transparent system of Criminal Justice Administration where those who commit offences or come in conflict with the law are treated in line with the principles of equality and fairness in line with the rule of law. Legal representation is a critical ingredient to guaranteeing a fair hearing for suspects in criminal proceedings. Criminal Defense Services are provided by the Law Clinics through the prison pre-trial project. Between 2011 and 2015, 12 Law Clinics working on Prison/pre-trial detention with support from Open Society Foundations (OSF) and DFID Justice for All (J4A). Programme provided access to justice services to 1200 detainees in various prisons at Enugu, Kaduna, Zaria, Kuje, Dukpa, Okigwe, Umuahia, Abakaliki, Afikpo, Ubiaja, Auchi, Yola, Jimeta, Mandala, Keffi, Eket, Uyo, Ikot-Ekpen, Owo, Ijebu-Ode, and Olokuta Prisons. At the end of 2014, the following milestones

51 <<https://nulai.org/>>, accessed 30<sup>th</sup> January 2022.

52 Network of University Legal Aid Institutions, 'Compendium of Campus Based Law Clinics in Nigeria' <<https://nulai.org/document/compendium-of-campus-based-law-clinics-in-nigeria/>>

53 <<https://nulai.org/who-we-are/>>, accessed 30<sup>th</sup> January 2022.

were achieved:

- i. 1043 detainees were provided access to justice services in 21 prisons.
- ii. Investigations and file verifications carried out at the courts, follow-up prison visits, and police for 950 detainees.
- iii. Advocacy visits resulted with interventions on behalf of 150 detainees at Ministries of Justice and DPP. While 33 detainees were advocated for under prerogative of mercy with State Chief Judges.
- iv. Relatives were visited and contacted on behalf of 386 detainees.
- v. Court appearance made on behalf of 371 detainees by law clinic supervisors on pro-bono basis.
- vi. 183 cases referred to Legal Aid Council and Pro-bono lawyers.
- vii. 68 ATPs regained their freedom through bail while 126 cases were disposed of through acquittals, convictions or the cases being struck out for want of diligent prosecution.

Similarly, from 2018 to 2021, 4 Law Clinics working under the Reforming Pretrial Detention in Nigeria project funded by INL, US Department of State provided Legal representation to 589 detainees at Kuje and Keffi Custodial Centers.<sup>54</sup>

2. **Community Legal Services:** In line with the provision of Section 8(7) of the Legal Act, Law Clinics were engaged in the provision of general information about the law and legal system and the availability of legal services through Street Law and community outreaches, provision of assistance in preventing or settling and resolving disputes about legal rights and duties through mediation. Some of the activities carried out by the clinics in consonance with this mandate include:

- i. **Child Rights:** With support from the European Union, 4 Law Clinics namely, Akungba Law Clinic, Adekunle Ajasin University, Ambrose Alli University Law Clinic Ekpoma, EBSU Law Clinic Ebonyi State University and University of Uyo Law Clinic carried out a project from 2011 -2013 to build capacity of women and children for the effective implementation of Child Rights Act and law against trafficking of persons in rural areas. The project was implemented in 12 communities across four states. At the conclusion of the project in 2014, **252** law students were trained and carried out Street Law outreaches on Child Rights in target communities educating **15,537** women, men, youth and children. Similarly, NULAI develop Child Rights information education and communication (IEC) materials in English and translated into the

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54 Network of University Legal Aid Institutions (NULAI) Nigeria, "Access to justice for pre-trial detainees in Nigeria Project" (2015) Final Report, *unpublished*.

indigenous local languages of the project communities.<sup>55</sup>

- ii. **Freedom of Information:** With support from the United Nations Democracy Fund (UNDEF) 13 Law Clinics implemented a Freedom of Information project to build capacity of community-based groups for the effective use of Freedom of Information Act in Nigeria. The project was aimed to build capacity of community-based groups to effectively use the Freedom of Information (FoI) Act in accessing public records through community outreaches using Street Law to 26 communities in 13 local government councils across Nigeria with the goal of enhancing citizens' access to information and improved community participation in governance. At the end of the project, 24,561 community members were enlightened on the freedom and access to information while 6036 were trained on how to utilize the Act to promote good governance and transparency in governance with 55 requests for information submitted on behalf of community members.<sup>56</sup>
- iii. **Community Human Rights Education:** 47,750 community members across all the law clinics have received Human Rights education through Street Law outreaches on environmental issues, healthcare and sanitation, women rights education, child labor, and training on dispute resolution mechanisms. Locations used for Human Rights education include markets, motor-parks, schools, hospitals-maternal wards, town-hall meetings, village squares, churches, and mosques.

## A Clearing House for Law Clinics in Nigeria under the Legal Aid Act

Since there are many different NGOs and Law Clinics carrying out legal aid work independently, the Legal Aid Council recently embarked on a project to establish a clearinghouse for law clinics in Nigeria. This will create a database and a reporting system and make their work more efficient and better organized. The project led by Prisoners Rehabilitation and Welfare Action (PRAWA) in collaboration with the Legal Aid Council is in progress. Under section 17 of the Legal Aid Act, the Council is empowered to maintain a register of non-governmental organizations and law clinics that are engaged in the provision of legal aid or assistance to persons who are entitled to legal aid under this Act.

### Benefits

There have been tremendous benefits of law clinics' participation in the provision of legal aid in Nigeria. Law clinics have provided human capacity to the legal aid scheme; enhanced access to justice; created opportunities for students' training, skills acquisition, capacity building, and nurturing of future lawyers' conscious of social justice; raised the capacity and profile of

55 Network of University Legal Aid Institutions (NULAI) Nigeria, "Building the capacity of women and children for the effective implementation of Child Rights Act and Law against trafficking in persons" (2014) Final Report, unpublished.

56 Network of University Legal Aid Institutions (NULAI) Nigeria "Building the Capacity of Community-based Groups for the Effective Use of Freedom of Information Act in Nigeria" (2016) Final Report, Unpublished.

law teachers that supervise these law students; raised the profile of the universities and the legal profession and made these universities relevant to the communities around them; and supported community development and good governance.

## **Conclusion**

From the preceding discussions, this paper has shown that Law Clinics play a significant role under the Legal Aid Act of Nigeria. With these developments, the support of the Legal Aid Council and the Universities and other stakeholders, legal aid will be enhanced to reach the most vulnerable persons who qualify for these services. There are over 60 law faculties in Nigeria and a total graduating number of law students per annum is about 6,000. This is a massive pool of human resource if properly injected into the mainstream services for legal aid that could go a long way in ameliorating the challenges of capacity and funding facing legal aid in Nigeria.

However, to fully harness the potential of this massive pool of human resource, there is more that needs to be done to enable law clinics play a greater role in the promotion of access to justice. This paper concludes that Clinical Programmes should be integrated as part of the law curriculum of law clinics to ensure institutional support. Additionally, government should make concerted efforts at providing adequate financing to fund legal aid so as to make access to justice a reality to all citizens irrespective of their circumstances.

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