



Reviewed Article

The Legal Frameworks for Clinical Legal Education in Nigeria

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Abstract

This paper critically examines the legal and institutional frameworks of Clinical Legal Education (CLE) in Nigeria, comparing them with those in the United States. Although CLE has gained global recognition as an essential part of legal training, Nigeria still lacks a dedicated and enforceable legal framework to regulate its operation, sustainability, and standards. The examination highlights constitutional provisions, statutes, and guidelines related to legal aid and access to justice, which underpin the operation of CLE in Nigeria. However, the absence of specific laws or regulations governing the operation of law clinics and clinical programmes hampers their full effectiveness and sustainability. Drawing lessons from the US, with its laws governing the administration of CLE, the paper advocates for the enactment of laws and the development of policies to formalise and regulate CLE in Nigeria. It emphasises that strong legal and institutional frameworks are vital for ensuring the quality, accountability, and sustainability of CLE programmes, which are crucial for facilitating access to justice and training future lawyers. The paper concludes with recommendations for legislative reforms and the institutionalisation of regulatory standards to embed CLE within Nigeria's legal education system.

Key Words: Access to Justice, Law Clinics, Regulatory Standards, Nigerian Legal Education.

1. Introduction

1.1. Clinical Legal Education

Clinical Legal Education (CLE) is a learning environment where students identify, research, and apply knowledge in a setting that replicates, at least in part, the world where it is practised; it almost inevitably means that students take on some aspect of a case and conduct it as it would be performed in the real world.¹ CLE provides an experiential learning platform where law students offer legal aid services under the supervision of law professors or practising attorneys. This hands-on model not only instils the necessary professional competence and skills in future lawyers but also develops the fundamentals of legal education through public service, thereby fostering a commitment to pro bono work among law students and new lawyers.² CLE programmes are typically structured to serve

¹ George S. Grossman, 'Clinical Legal Education: History and Diagnosis' *Journal of Legal Education* [1974] (26) 162 - 193.

² Richard J. Wilson, 'Training for Justice: The Global Reach of Clinical Legal Education' *Penn State International Law Review* [2003] (22) 421–431.

individuals and communities who usually lack access to legal aid due to financial constraints. The goal of the CLE programme is to bridge this gap by offering law students a platform to apply their academic knowledge practically, from providing legal aid to impoverished individuals to educating the public on legal provisions.³ CLE equips law students with essential professional skills, such as advocacy, analytical, research, negotiation, and drafting skills. Through CLE programmes, law students are introduced to professional ethics and values by engaging with real-world legal dilemmas, which involve offering legal aid to underserved members of society. By providing legal aid services, law students gain experience in handling ethical considerations, maintaining client confidentiality, and upholding professional standards. The core values of the legal profession, such as access to justice, integrity, honesty, accountability, competence, and professionalism, are also systematically embedded in students. These CLE programmes not only enhance students' legal skills but also promote access to justice and foster an understanding of the socio-economic factors that restrict it.⁴

Access to justice as a fundamental right should be universal because it includes the character and procedures, such as attainable justice, and an individual's position within the judicial system. It serves as a measure of the rule of law and the standard of governance in society.⁵ Access to justice refers to individuals' ability to seek and obtain remedies through formal or informal justice institutions for grievances, in accordance with human rights standards. As a core principle of the rule of law, access to justice must be unobstructed, enabling individuals to utilise legal tools and mechanisms to protect their rights.⁶ This is essential for ensuring equality, dignity, and the safeguarding of fundamental human rights for everyone. When all individuals can seek legal remedies without undue barriers, whether economic, social, or institutional, it promotes fairness, accountability, and social cohesion. Obstacles to access can entrench discrimination, inequality, and injustice, thereby eroding trust in the rule of law and weakening democratic institutions. Guaranteeing unrestricted access to justice as a universal right allows societies to foster inclusive development, empower marginalised groups, and uphold principles of fairness and human dignity for all. Despite its importance, access to justice remains a contentious issue worldwide due to persistent disparities in legal resources, systemic inequalities, and differing economic circumstances that hinder equitable legal protection. Many members of society, especially those with low incomes, are unable to afford adequate legal representation. Access to justice symbolises the institutional requirements for realising legal rights, highlighting the need for accessible, fair, and efficient legal systems that enable individuals to seek remedies, protection, and enforcement of their rights without unreasonable barriers such as high costs, complexity, or discrimination.⁷ It is inherently multidimensional, involving various interconnected elements that enable individuals to effectively seek and secure legal remedies. These include legal awareness, understanding one's rights and legal processes; affordability, ensuring legal services are financially accessible to all regardless of economic status; availability of legal infrastructure, courts, legal aid, and trained professionals; accessibility addressing physical, geographical, and systemic barriers; and procedural fairness, ensuring processes are transparent,

³ Anthony G. Amsterdam, 'Clinical Legal Education - A 21st - Century Perspective' *Journal of Legal Education* [1984] (34) 612-618.

⁴ Stephen Wizner, 'Beyond Skills Training' *Clinical Law Review* [2001] (7) 327-340.

⁵ Mauro Cappelletti, Bryant Garth, and Nicolò Trocker, 'Access to Justice, Variations and Continuity of a World-Wide Movement' *Rabels Zeitschrift Für Ausländisches Und Internationales Privatrecht / The Rabel Journal of Comparative and International Private Law*, [1982] (46) (4) 664 -707.

⁶ Trevor C. W. Farrow, 'What is Access to Justice' *Osgoode Hall Law Journal* [2013] (51) 987 - 957.

⁷ Michael R. Anderson, *Access to Justice and Legal Process: Making Legal Institutions Responsive to Poor People in LDCs* (Institute of Development Studies, Sussex 2003), 1-30.

impartial, and respectful of rights.⁸ Collectively, these dimensions demonstrate that access to justice is not merely about the existence of laws but also involves the practical, social, and systemic factors that influence individuals' ability to realise their rights effectively.

CLE is rapidly becoming a global phenomenon in legal education, and to date, it has improved access to justice through law clinics.⁹ Traditionally, CLE developed to address the rigidity of conventional legal training. It faced criticism for its theoretical focus, which left new lawyers inadequately prepared for real-world legal issues.¹⁰ The origins of CLE can be traced back to the US in the 1920s; it is believed to have originated from volunteer legal work by Yale Law School students, who provided legal aid without receiving academic credit.¹¹ The faculty permitted these students to provide legal assistance at Legal Aid Offices. Still, they were informed that they would not earn academic credit, as their legal aid work was not included in their coursework. It was not until the 1960s that the modern clinical movement emerged in the US.¹² A social upheaval marked that decade, as Americans experienced a surge in legal rights. Consequently, Congress, state legislatures, and courts began to establish and expand statutory rights on an annual basis. However, for low-income individuals, accessing remedies under these rights proved even more challenging; thus, the modern clinical movement aimed to institutionalise CLE to meet the legal needs of these marginalised populations, whose limited resources were insufficient to approach courts for justice. By 1987, approximately 98 per cent of law schools accredited by the American Bar Association (ABA) offered some form of clinical programme. Under the ABA's curricular requirements, all ABA-accredited law schools are mandated to have a CLE programme in place, ensuring that CLE is incorporated into their legal education.¹³

CLE, which originated in the US, has proven to be an effective means for law students to acquire practical legal skills and for underserved individuals and communities to access justice. This led to CLE becoming a global phenomenon, spreading from the US and being embraced outside its borders through its integration into the legal education of other countries and continents, including Asia, Africa, Australia, Canada, Europe, and the UK.¹⁴ It aimed to provide law students with hands-on legal experience and to provide access to justice for financially disadvantaged individuals in need of legal aid. In Nigeria, however, the Network of University Legal Aid Institutions (NULAI) introduced the CLE programme into Nigeria's legal education in 2004 to complement traditional legal training and address its rigidity. NULAI Nigeria launched its clinical programmes at universities with just five pilot law clinics.¹⁵ Today, many law faculties in Nigeria, including those at the Nigerian Law School campuses, have incorporated the CLE programme into their curricula, allowing law students to benefit from its

⁸ Hugh McDonald, 'Assessing Access to Justice: How Much "Legal" Do People Need and How Can We Know?' *UC Irvine Law Review* [2020] (11), 693 – 752.

⁹ Stephen Wizner and Jane Aiken, 'Teaching and Doing: The Role of Law School Clinics in Enhancing Access to Justice' *Fordham Law Review* [2004] (73), 997 - 1101.

¹⁰ Wilson, Richard J. *The Global Evolution of Clinical Legal Education: More Than a Method*. Cambridge University Press, 2017.

¹¹ *Ibid* at 1.

¹² Jeff Giddings, et al. "The First Wave of Modern Clinical Legal Education: The United States, Britain, Canada and Australia" Frank S. Bloch (ed), in *The Global Clinical Movement: Educating Lawyers for Social Justice* [Oxford University Press, 2010], 3-22.

¹³ Standard 303 (a) (3) Revised Standards for Approval of Law Schools, Section of Legal Education and Admissions to the Bar, American Bar Association. August 2014.

¹⁴ *Ibid* at 12.

¹⁵ Majekodunmi, et al. "Issues and Challenges Concerning Access to Justice in Nigeria: Clinical Legal Education Aid as a Panacea." *NIU Journal of Legal Studies* [2024] (10) (2), 37-50.

experiential learning opportunities and integrating it into their traditional legal education.¹⁶ Conventional legal education, the dominant approach before the introduction of the CLE, primarily involves classroom instruction, legal analysis, case studies, the application of legal principles, and mock oral arguments. However, scholars such as Sullivan, Colby, Wegner, and Bond have criticised traditional legal education for its heavy reliance on legal theory, doctrines, and case law, which they argue leaves law students insufficiently prepared for the practical realities of the legal profession. They claim that its rigidity and homogeneity fail to reflect the diverse career interests of law students, overlooking the multifaceted roles and responsibilities of lawyers in society. This divide between legal theories and practical legal work presents challenges for new lawyers as they enter the profession. Such issues highlight a gap left unmet by traditional legal education, which scholars believe is the reason behind the introduction of CLE programmes into legal pedagogy.¹⁷

2. The Legal Framework of Clinical Legal Education

2.1. The Legal Framework of Clinical Legal Education in Nigeria

The legal framework of CLE in Nigeria encompasses the Constitution of the Federal Republic of Nigeria 1999, the Administration of Criminal Justice Act (ACJA) 2015, Legal Aid Act 2011, Child Rights Act 2003, 2022 Guidelines for the Conferment of the Rank of Senior Advocate of Nigeria and related matters, Rules of Professional Conduct (RPC) 2023, and the Core Curriculum and Minimum Academic Standards (CCMAS).

The Constitution of the Federal Republic of Nigeria 1999, under the fundamental objectives and directive principles of state policy, particularly the provisions of S. 17(2)(c) of the 1999 Constitution, states that the government must ensure that every citizen has unfettered access to the courts. In guaranteeing such access, an individual's lack of resources to cover court processes and legal representation, without the possibility of legal aid, renders the courts inaccessible to them. The essence of that constitutional provision is that the government must ensure that every person has access to the courts. To uphold this mandate, the government must ensure the availability of adequate and efficient legal aid for indigent and marginalised populations. Consequently, the government established the legal aid scheme. The creation of this scheme marks one of the most significant advancements in the Nigerian legal system. It was introduced to address inequalities in financial resources among Nigerians seeking access to justice, serving as a fundamental element in the realisation of the principles of the rule of law. Since the Nigerian legal system, like others, depends on sufficient funding, it has become essential for the government to protect and facilitate access to justice for indigent and marginalised Nigerians. This need led to the establishment of the Legal Aid Council of Nigeria by Decree No. 56 of 1976. Over the years, the government's provision of legal aid services through this scheme has become a vital part of the Nigerian legal framework, reaching a level of indispensability in the administration of justice.¹⁸

Despite the Council's crucial role in administering justice, it faces significant funding challenges that impede the proper provision of legal aid, as well as the welfare and quality of its staff, particularly lawyers. Limited funding restricts the Council's ability to fulfil its responsibilities and maintain

¹⁶ Charles O. Adekoya, "Meeting the Required Reforms in Legal Education in Nigeria: Clinical Legal Education-Ten Years after." *International Journal of Clinical Legal Education* [2014] (20), 603-613.

¹⁷ Ibid.

¹⁸ Samuel O. Ekpewoh, Emmanuel E. Okon, 'Legal Aid and Access to Justice for Inmates in Nigeria: Challenges and Solutions' *International Journal of Research and Innovation in Social Science (IJRISS)* [2024] (VIII) (X), 530-542.

adequate office furnishings, equipment, and resources. Reliant on government support, the Council struggles to recruit and retain skilled legal practitioners and professionals, such as interpreters and psychiatrists, which diminishes the quality of the legal aid provided. Although the obligation of the state to deliver legal assistance is embedded in the fundamental objectives and directive principles of state policy contingent on S. 6(c) of the Constitution, which renders them non-justiciable despite the progressive provisions of S.17, the state is not liable nor accountable for failing to provide adequate legal aid or any legal assistance at all. Scholars argue that the non-justiciability of provisions concerning these fundamental objectives and directive principles primarily benefits the government, reducing these obligations to mere noble ideals rather than enforceable duties, effectively making them advisory. The lack of legal enforceability explains the government's indifference towards implementing these vital responsibilities, which are essential for national development. Consequently, the fundamental objectives and directive principles of state policy are often seen as ineffective, with Section 6(c) of the Constitution providing a convenient excuse for the government's reluctance to address the people's social security needs.

Another constitutional provision for the application of CLE in Nigeria is S. 46(4)(1)(b) (i-ii) of the Constitution, and provides that:

(4) The National Assembly -

(a) may confer upon a High Court such powers in addition to those conferred by this section as may appear to the National Assembly to be necessary or desirable for the purpose of enabling the court more effectively to exercise the jurisdiction conferred upon it by this section; and

(b) shall make provisions-

(i) for the rendering of financial assistance to any indigent citizen of Nigeria where his right under this Chapter 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 ensuring that allegations of infringement of such rights are substantial and the requirement or need for financial or legal aid is absolute.

The significance of the above constitutional provision grants the High Courts the authority to provide legal aid to individuals who have faced, are facing, or may face a potential breach of their fundamental rights. Moreover, the provision emphasises the importance of protecting the basic rights of all citizens, thereby promoting access to justice for marginalised groups who may lack resources to enforce their rights effectively. The provision encourages the judiciary to establish mechanisms for legal aid and to assess the circumstances of each case to ensure that the assistance offered is necessary and appropriate. As a result, the High Court plays a crucial role in improving access to legal aid by ensuring it is available to deserving individuals. It also supports a more just legal system, where people can seek justice irrespective of their financial situation. Under Section 46(4) of the Constitution, the National Assembly is required to enact legislation that funds indigent individuals whose fundamental rights have been violated, enabling them to access legal aid; however, no such legislation has been passed to date. The closest provision is the Council, which is severely underfunded and solely serves indigent persons, defined as those earning no more than the national minimum wage. Nonetheless, it suffers from a shortage of personnel necessary to deliver adequate legal aid. The institutionalisation of legal assistance within the Constitution underscores its importance for a fair society, which justifies including CLE in Nigeria's legal education system to supplement the legal aid services provided by the Council. Given that the demand for legal aid in Nigeria exceeds the supply offered by the Council, and

that limited access to legal services contributes to rising poverty and ignorance, there is a pressing need for law students to provide free legal services. Therefore, the constitutional legal framework for CLE in Nigeria can be derived from section 17(2)(c) and section 46(4)(1)(b)(i-ii) of the Constitution.

The Administration of Criminal Justice Act (ACJA) 2015, enacted to improve and simplify Nigeria's criminal justice system, is characterised by the promotion of expeditious, effective, and equitable criminal justice procedures; protection of defendants' rights; implementation of bail provisions to safeguard the conditional release of non-capital and low-risk offenders; encouragement of alternative dispute resolution mechanisms; enhancement of the Benchers' authority to administer court proceedings efficiently and ensure accountability; the inclusion of electronic methods to improve various criminal processes; the introduction of community service as an alternative to detention for minor offences to help reduce congestion in correctional facilities; and the creation of supervisory bodies to monitor the implementation and effectiveness of ACJA reforms. According to Section 6(2)(c) of the ACJA, the Police or any other arresting agency is required to inform suspects at the point of arrest of their right to legal aid. This underscores the duty of Nigerian law enforcement agencies to notify suspects of their right to legal assistance, which is vital for safeguarding access to justice. Consequently, this protects suspects' right to legal representation, shields them from injustice, raises public awareness of legal aid, promotes access to legal assistance, fosters accountability and transparency, prevents coercion and unjust treatment during interrogations, and guards against confessions or statements obtained under duress. The provision emphasising the right to legal aid highlights the importance of suspects' access to legal representation, ensuring they receive professional legal advice and advocacy. Globally, the right to legal assistance is a fundamental element of justice, ensuring that individuals, regardless of their financial means, can still access legal services. This right is crucial for maintaining impartial adjudication, balancing the scales between prosecution and defence, and enabling suspects to mount a compelling and credible defence. The practical enforcement of Section 6(2)(c) is therefore essential, as it profoundly influences the Nigerian criminal justice system, ultimately ensuring fair and impartial outcomes.¹⁹

The Legal Aid Act 2011, under Section 1, establishes the Council as a statutory body responsible for delivering legal aid to individuals who lack the financial means to afford legal services. Its primary aim is to facilitate access to justice, particularly for indigent and marginalised populations. This provision defines the legal foundation upon which the Council operates, enabling it to meet its obligations. The Act was enacted to establish and regulate the Legal Aid Council of Nigeria (the Council). The Council's goal is to provide legal aid services to impoverished members of society. The institutionalisation of government legal aid services in Nigeria began in 1961 when the then Chief Justice of Nigeria, Sir Adetokunbo Ademola, emphasised the need for an institutionalised legal aid fund to ensure its sustainability. His remarks initiated preparations for establishing a legal aid law for Nigerians and led to the formation of the Council. The objective of the Act is to establish a legal aid and access to justice fund, into which financial assistance is made available to the Council on behalf of indigent citizens to pursue their claims, as mandated by the Constitution; and to empower the existing Legal Aid Council to operate a scheme that grants legal aid and access to justice in specific cases or proceedings for persons with limited resources, as provided by this Act. The next important aspect is the scope of the Council's legal aid, as outlined in Section 8 of the Act, which covers both civil and criminal cases. The Act states that the Council shall provide legal assistance, advice, and access to justice across three main areas: the Criminal Defence Service, Advice and Assistance in Civil Matters (including legal

¹⁹ Mary J. Omachi and Anthony A. Sule, 'The Administration of Criminal Justice Act, 2015: Pathway to A Reformed Criminal Justice System in Nigeria' *ABUAD Law Journal* [2023] (7) (1), 130-152.

representation in court), and Community Legal Services, subject to merit and indigence assessments for the parties.²⁰

The scope of legal aid, as outlined in the above provision, is crucial to enhancing access to justice for individuals who cannot afford legal services. The Act's extension of legal aid to civil matters demonstrates a commitment to safeguarding individuals' rights across various legal contexts. By covering these two key and prevalent areas of law, the Council confirms that persons facing any legal issue involving civil or criminal charges can access legal services to seek justice. This is particularly important in criminal cases, as access to legal representation is fundamental to ensuring a fair trial and upholding the principle of "innocent until proven guilty," thus preventing miscarriages of justice and enabling defendants to mount a proper defence. Legal aid in civil cases assists marginalised or impoverished populations in a range of disputes, notably in family law, property, and labour issues. Providing legal aid in civil matters ensures individuals can obtain expert assistance in navigating complex legal situations, helping to prevent injustices. The provision of legal assistance creates opportunities for impoverished and marginalised communities to access legal support, empowering them to address their legal challenges.

Under the Criminal Defence Service, the Council provides legal aid in the areas of criminal investigation, legal advice, and representation.²¹ The criminal offences covered within the Council's mandate, according to the Act's second schedule, include: affray; assault occasioning bodily harm; armed robbery; common assault; malicious or grievous hurt; manslaughter; murder; rape; theft; and aiding and abetting the commission of any of these offences. Under the civil litigation service, legal aid includes legal advice; court or tribunal representation; enforcement and protection of rights, obligations, and interests; and civil claims, such as those arising from accidents, including employees' compensation claims, breaches of fundamental rights, and claims resulting from criminal activities. The Community Legal Service offers legal aid services, including providing legal assistance and resolving disputes related to legal duties and rights.

The third provision defines the indigent test as outlined in Section 10 of the Legal Aid Act, which states that "legal aid shall only be granted to a person whose income does not exceed the national minimum wage." This sets a financial threshold to focus legal aid on individuals unable to afford legal services, prioritising those with no financial means. By restricting legal assistance to those earning at or below the national minimum wage, the law promotes fairness and equality. It ensures that individuals from lower socioeconomic backgrounds can access legal support, which is crucial for maintaining equity within the legal system, particularly since an individual's financial capacity can significantly influence legal outcomes. Given the limited resources available for legal aid, setting the income cap at the national minimum wage helps distribute these resources efficiently, ensuring that assistance is reserved for those most in need. The indigence test requirement ensures that only eligible individuals benefit from legal aid. However, some critics rightly note that, considering the current economic climate and rising inflation, many individuals earning above the minimum wage still face financial hardships. They argue that restricting access to those below or equal to the minimum wage may create significant barriers, ultimately denying many Nigerians the opportunity to seek justice.²²

²⁰ Legal Aid Act 2011, section 8.

²¹ Ibid.

²² Akintunde A. Adebayo and Olugbenga Oke-Samuel and Olabanjo O. Ayenakin, Pro Bono Legal and Quasi-Legal Services for Indigents in Nigeria: 'The Legal Aid Council of Nigeria and University Based Law Clinics in Focus' *AFJCLJ* [2020] (5),78-92.

The fourth provision is section 17(1)(2) of the Act, which establishes statutory recognition for other bodies and persons providing legal aid, and it states that:

(1) The Council shall maintain a register of non-governmental organisations 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 organisations in a manner consistent with the mandate of the Council.

This provision recognises the contributions of law clinics and non-governmental organisations (NGOs) to the legal aid system. The formal acknowledgement of these institutions by the Act, which identifies these bodies, broadens the legal aid coverage available to deserving persons, thereby promoting a more accessible approach to free legal services. The Council's duty to maintain a register of these bodies implies a system of coordination and oversight, and the register serves as a guide for individuals in need of legal aid, ensuring that these bodies meet specified requirements. By mandating the Council to collaborate with these organisations, the law encourages partnerships that can improve the efficiency and accessibility of legal aid services. Such collaborations can facilitate resource sharing, increased accessibility, and better service delivery for those in need. The requirement that any partnership aligns with the Council's mandate helps to preserve the primary objectives of the legal aid framework. This safeguards accountability and quality in the legal aid provided. The inclusion of law clinics and NGOs by the Act supports its aim to ensure that legal assistance is adequate to meet the legal needs of all deserving individuals. This provision addresses gaps and utilises the expertise of other bodies capable of providing legal aid. Access to legal assistance enables individuals to navigate the legal system effectively by providing the necessary knowledge and resources, thereby promoting fairer outcomes in legal proceedings. Consequently, the provision serves as a fundamental yet vital step in ensuring that all persons have unrestricted access to legal aid, fostering fairness and impartiality within the justice system.

The Child Rights Act 2003 also makes provisions for legal aid through its S. 155, which states that “a child has the right to be represented by a legal practitioner and to free legal aid in the hearing and determination of any matter concerning the child in the Court.” This highlights the importance of legal representation in proceedings involving minors, ensuring access to legal assistance for children throughout legal processes that affect them. This is crucial for safeguarding their interests and ensuring that their opinions or positions are considered. The provision of legal aid removes financial barriers that could prevent a child from having legal representation, which is particularly significant because many minor families are impoverished or low-income and cannot afford legal fees. Access to legal aid helps promote fairness in the legal system, ensuring that all children, regardless of background, can enforce their rights. Children are often in circumstances where their livelihood, well-being, and future are being decided for them. Having access to legal aid guarantees that each child has an advocate who can effectively represent their views, circumstances, and needs in a way that the court can understand and evaluate. Therefore, this provision underscores that the legal system recognises minors as persons with rights that require special guidance and protection.

The provision emphasises the importance of legal representation for minors who are accused of a crime or need care and protection. This right to legal aid is crucial as it guarantees that a minor's interests are properly represented in court and their concerns are considered. The court must ensure that a child is fully informed about their right to legal aid, enabling them to understand their rights and access legal help. The provision also stresses the importance of interaction with lawyers. Children are allowed to communicate with their counsel during preliminary inquiries. This communication is

essential for building a strong defence or making sure their care and protection needs are properly addressed. Furthermore, the provision underlines the legal system's commitment to protecting the rights of vulnerable individuals, ensuring that every minor can access legal aid. Overall, the provision highlights the vital role of legal assistance in defending children's rights within the legal system, recognising minors' vulnerability and the necessity for appropriate legal representation to advocate for their concerns and needs.

The Rules of Professional Conduct (RPC) 2023 establish minimum standards for the professional conduct of lawyers and include provisions for legal aid through R. 38. This rule states that "A lawyer assigned to defend an indigent prisoner shall not ask to be excused except for substantial reason but shall exert his best effort in the defence of the accused." It indicates that the RPC's provisions regarding legal aid are limited to indigent detainees. Legal practitioners must not withdraw from such legal representation without substantial justification. This requirement reflects the ethical duty of defence counsel to provide competent and diligent representation, regardless of the client's financial situation. The provision inherently acknowledges that the right to a fair trial is vital for upholding the rule of law and protecting individual rights. The emphasis on lawyers giving their best efforts for indigent detainees helps prevent abandonment of clients. It ensures that every person, regardless of circumstances, has access to effective defence. This benefits the defendant and upholds the integrity of the judicial system, fostering public confidence in the justice process and reinforcing that justice should be accessible to all equally. Consequently, this requirement embodies a commitment to the principle of equality before the law. It underscores society's responsibility to guarantee the right to legal representation for all, especially the most impoverished and marginalised.

When a lawyer is appointed by the court to a *pro bono* brief, they are obliged to accept it and to defend the defendant competently and diligently until a final judgment is delivered. However, a lawyer may refuse such a brief only for substantial reasons, which may include that the brief lies outside their area of practice, conflicts of interest, financial incapacity, or personal beliefs that must be disclosed to the court. Failure to accept an indigent brief without a substantial reason may be seen as a refusal to uphold their duty to the court and the justice system. When a legal practitioner accepts a court brief, they are required to be fully committed to the client's case, regardless of whether the case is *pro bono*, since neglect constitutes professional misconduct. The Rules, therefore, encourage legal practitioners to provide competent and diligent legal aid to the indigent, thereby ensuring their access to justice.²³

The 2022 Guidelines for the Conferment of the Rank of Senior Advocate of Nigeria and for Related Matters specify that one of the requirements for a lawyer to be conferred with the rank of Advocate of Nigeria (SAN) is the mandatory provision of legal aid by lawyers seeking to join the inner bar as SAN. This is outlined in Rule 10 (7)I, which states that a candidate must have participated in at least three *pro bono* legal services for indigent clients or engaged in some form of community service. This underscores the necessity for legal practitioners to employ their skills and expertise to assist vulnerable individuals who cannot afford legal representation. Performing these *pro bono* legal services fosters a comprehensive understanding of the challenges faced by marginalised populations and cultivates empathy and fairness in candidates. The rank of SAN is comparable to that of Queen's Counsel (QC) in other jurisdictions and is awarded to Nigerian lawyers who meet the criteria outlined in the Guidelines. A significant condition for candidates is their commitment to providing legal aid services. The emphasis on the *pro bono* provision highlights the critical role of legal aid within the legal profession and the legal community's dedication to ensuring justice is accessible to all. This

²³ Legborsi Tony-Francis, 'The Cab Rank Rule: A Legal Practitioner's Role in its Observance with Respect to Cases of Murder or Manslaughter' *Achievers University Law Journal* [2023] (3) (1), 56-66.

signifies that lawyers, akin to ministers in the temple of justice, have an ethical obligation to guarantee that justice is available to everyone, regardless of their financial means. The requirement of legal aid in the application process signifies that lawyers, beyond excelling professionally, also serve as agents of social change by engaging in social justice work.

2.2. The Legal Framework of Clinical Legal Education in the United States of America

The US legal system is not based on a single system but consists of fifty-one separate legal systems, most of which are founded on common law, except for Louisiana, which has a Napoleonic civil code.²⁴ While the Napoleonic civil code is a French civil law that manages legal issues between private individuals, such as contracts, leases, property, sales, and wills, the common law relies on judicial precedent, meaning laws made by judges.²⁵ These fifty-one legal systems are spread across the US; although the federal government has its own constitution, each of the fifty states has its own constitution as well. When there is a conflict between federal and state law, the federal law takes precedence.²⁶ In the US, it is the highest state appellate court, also called the state supreme court, that admits individuals into the legal profession, authorising practice only within that state. However, some states have agreements allowing lawyers admitted in one state to practise in others without sitting for another state's bar exam. To practise before federal courts, one must be admitted to the bar of that specific federal court. For admission to the US Supreme Court, a lawyer must have been admitted to the bar in a state's highest court of appeals for at least three years.²⁷ In Nigeria, a person is admitted into the legal profession by the highest court in the land, that is, the Supreme Court of Nigeria, which issues a licence to practise law in any Nigerian state.

Based on the US system of admission to the bar, each state has its own rules governing student practice (SP), which regulate the conduct of student clinicians while they undertake their clients' legal cases. The SP rule of each state was passed by the supreme court of that state, being the body with the authority to make rules for the court and rules that regulate the professional conduct of lawyers that appear before it.²⁸ The state courts entertain matters that fall under the powers of the state government, including the establishment of local governments, issuing licences for marriage, driving, hunting, etc., regulating commerce within the state, conducting elections, ratifying amendments, supporting the public health of the citizens, setting laws for legal drinking and smoking ages, creating state constitutions, and any power not explicitly given to the national government.²⁹ The federal courts handle matters falling under the powers of the federal congress, such as levying taxes, duties, and excises to fund federal duties, empowering the government to lend money, regulating commerce both domestically and with foreign nations, establishing laws for naturalisation and bankruptcies, coining money, regulating its value, punishing counterfeiting, and establishing postal services.³⁰ They also define and punish maritime crimes, declare war, and maintain armed forces with specific

²⁴ Friedman, Lawrence M. "A history of American Law" (New York, 2005), 367-389.

²⁵ George Spence, "The Code Napoleon, Or, The French Civil Code" (The Lawbook Exchange Ltd. Lincoln's Inn, 2004), 627.

²⁶ Ibid at 24.

²⁷ William Burnham and Stephen F. Reed, *Introduction to the Law and Legal System of the United States* (West Academic Publishing 2021) 189.

²⁸ Ibid at 13.

²⁹ Felix Frankfurter, "Distribution of Judicial Power Between United States and State Courts." *Cornell LQ* 13 (1927): 499.

³⁰ Adrian Vermeule, "The Judicial Power in the State (and Federal) Courts." *The Supreme Court Review* 2000 [2000], 357-432.

provisions for appropriations and military governance, organise and oversee the militia, with states retaining authority over their appointment and training.³¹ The federal court system comprises the District Courts, which are the federal trial courts with ninety-four district courts; the Circuit Courts of Appeal, which are the appellate courts for the District Courts, with twelve circuits; and the Supreme Court, which is the highest court in the land.³²

The CLE programme in the US has developed to include the provision of secondary legal aid services (SLAS) by clinical students. Therefore, SP is allowed in the United States. All 50 states have a SP Rule, which is sometimes included in local court rules, incorporated into state statutes, or outlined in state bar rules.³³

Aside from state rules, US federal courts have also established regulations for SP in certain federal courts.³⁴

³¹ Peter E. Quint, 'The Federalist Papers and the Constitution of the United States' *Kentucky Law Journal* [1988] (77) (2), 369-401.

³² David P. Currie, "The Constitution in the Supreme Court: The Powers of the Federal Courts, 1801-1835." *U. Chi. L. Rev.* [1982] (49), 646-724.

³³ Alabama Rule for Legal Internship by Law Students; Rule 44, Legal Interns; Alaska Bar Rules; Rule 38(d); Arizona Rules of the Supreme Court; Rule XV. Student Practice, Arkansas Judiciary; Rule 9. 42. Certified Law Students, California Rules of Court; Colorado Student Practice Rules; Sec. 3-14. Legal Interns, Connecticut Practice Book; Rule 56, Rules of the Supreme Court of the State of Delaware; Practice by Law Students, Rules of the United States District Court for the District of Columbia; Rules Governing the Law School Practice Program, Rules Regulating the Florida Bar; Student Practice Rule, Rules of the Supreme Court of Georgia; Student Practice Rule, Rules of the Supreme Court of the State of Hawaii; Legal Intern License, Idaho Bar Commission Rules; Representation by Law Students, Illinois Supreme Court Rules; Legal Interns, Indiana Rules of Court; Iowa Court Rule 31. 2; Legal Intern Practice Rule, Supreme Court of Kansas; Limited Student Practice, Rules of the Supreme Court of Kentucky; Louisiana Law Student Admission; Maine Law Student Admission; Legal Assistance by Law Students, Rules Governing Admission to the Bar of Maryland; Massachusetts Supreme Judicial Court Rule 3: 03; Law Student Practice, Michigan Court Rules; Student Practice Rules, Minnesota Court Rules; Mississippi Law Student Practice Rule; Missouri Law Student Practice Rule; Montana Student Practice Rule; Nebraska Law Student Admission; Nevada Law Student Admission; New Hampshire Law Student Admission; New Mexico Law Student Admission; Student Practice Rules, New York Court Rules; North Carolina Student Practice Rule; North Dakota Admission to Practice Rules; Ohio Law Student Admission; Rules of the Supreme Court on Legal Internship, Oklahoma; Oregon Law Student Admission; Pennsylvania Bar Admission Rules 321 and 322; Rhode Island Law Student Admission; South Carolina Law Student Admission; South Dakota Law Student Admission; Tennessee Student Practice Rule; Texas Law Student Admission; Utah Law Student Admission; Vermont Law Student Admission; Third Year Practice Rule, Virginia; Washington Admission to Practice Rule; West Virginia Rules for Admission to the Practice of Law, Rule 10.0. 0; Clinical Programme Student Practice Rule and Wyoming Law Student Admission, <<https://guides.ll.georgetown.edu/c.php?g=271042&p=1808947>> accessed 22nd April 2024.

³⁴ The Middle District of Alabama: M.D. Ala. LR 83.2; District of Alaska: D.Ak. LR 83.2; District of Arizona: D. Ariz. LR Civ 83.4; Eastern District of Arkansas: E.D. Ark. Gen. Order 15; Western District of Arkansas: W.D. Ark. Gen. Order 41; Central District of California: C.D. Cal. L.R. 83-4; Eastern District of California: E.D. Cal. Rule 181; Northern District of California: N.D. Cal. Civil L.R. 11-9; Southern District of California: Student Practice Form; District of Colorado: D.Colo. LAttyR 14; District of Connecticut: D.Conn. L. Civ. R. 83.9; District Court for the District of Columbia: D.D.C. LCvR 83.4; Middle District of Florida: M.D.Fla. Rule 2.05; Southern District of Florida: S.D.Fla. Special Rule Governing Admission 5; Middle District of Georgia: M.D. Ga. L.R. 83.4; District of Hawaii: D. Haw. LR 83.7; Central District of Illinois: C.D.Ill. LR 83.5; Northern District of Illinois: N.D.Ill. LR 83.13; Southern District of Illinois: S.D.Ill. LR 83.1; Northern District of Indiana: N.D.Ind. L.R. 83.9; Northern and Southern Districts of Iowa: N.D. and S.D. Iowa LR 83.1(i); District of Kansas: D.Kan. L.R. 83.5.6; Eastern District of Louisiana: E.D. La. LR 83.2.13; Middle District of Louisiana: M.D.La. LR 83(b)(15); Western District of Louisiana: W.D. La. LR 83.2.13; District of Maine: D. Me. Rule 83.4; District of Maryland: D.Md. LR 702; District of Massachusetts: D.Mass. LR

From the provisions of the above-listed law, the rules regarding SP will be discussed in relation to the various regulations on SP, namely Purpose, Conditions for Practice, Consent and Supervision, Services, and Privileged Communication. The primary objective of these student practice rules nationwide is to support educational goals and enhance access to legal aid. The educational aim is to enhance learning while providing students with meaningful opportunities to gain practical experience in the legal profession. These rules are designed to strike a balance between fostering experiential learning and maintaining the integrity and professionalism of the legal field. By creating structured pathways for law students to offer legal services under supervision, these rules ultimately deepen their understanding of legal principles and procedures. Moreover, a key objective is to promote access to legal aid for individuals who might otherwise lack such services due to financial barriers or illiteracy. This serves the broader public interest. In doing so, the rules help bridge the gap between legal education and real-world practice, preparing law students to become competent, ethical, and socially responsible practitioners.

According to practice conditions, while student practice is permitted in the USA, it is not available to all law students because specific requirements must be fulfilled before a student can participate. The conditions for student practice are similar, though with minor variations. These typically require that the student be enrolled in a law school, be a senior law student, be endorsed by the Dean, not be compensated for legal services rendered, and be committed to demonstrating knowledge of the rules of professional conduct. The Law School Enrolment general rule for student practice states that a student clinician must be undertaking legal studies at an approved law school. Some states specify particular law schools permitted to engage in student practice; for example, South Carolina requires students from South Carolina School of Law and Charleston School of Law, North Dakota recognises either the University of North Dakota School of Law or any other law school approved by the American

83.5.4; Eastern District of Michigan: E.D. Mich LR 83.21; Western District of Michigan: W. D. Mich. LCivR 57.1(h); District of Minnesota: D. Minn. LR 83.8; Northern and Southern Districts of Mississippi: N.D. and S.D. Miss. LR 83.1; Eastern District of Missouri: E.D. Mo. L.R. 83-12.05; Western District of Missouri: W.D. Mo. L.R. 83.8; District of Montana: D.Mont. L.R. 83.7; District of Nebraska: NEGenR 1.7(j); District of Nevada: D.Nev. LR IA 11-5; District of New Hampshire: D.N.H. LR 83.2(c); District of New Jersey: D.N.J. L.Civ.R. 101.1(h); District of New Mexico: D.N.M. LR 83.11; Eastern District of New York: E.D. Student Practice; Northern District of New York: N.D.N.Y. L.R. 83.10; Northern District of New York: N.D.N.Y. Gen. Ord. 13; Southern District of New York: Plan for SP in Civil Actions; Western District of New York: W.D.N.Y. L.R. 83.6; Eastern District of North Carolina: E.D.N.C. Local Civil Rule 83.2; Eastern District of North Carolina: E.D.N.C. Local Criminal Rule 57.2; Western District of North Carolina: W.D.N.C. LCvR 83.1(H); District of North Dakota: D.N.D. Gen. L.R. 1.4; Northern District of Ohio: N.D. Ohio LR 83.6; Northern District of Ohio: N.D. Ohio LCR 57.6; Southern District of Ohio: S.D. Ohio Civ. R. 83.6; District of Oregon: D. Or. LR 83-5; Eastern District of Pennsylvania: E.D. Pa. Civ. Rule 83.5.1; Middle District of Pennsylvania: M.D. Pa. LR 83.19; Western District of Pennsylvania: W.D. Pa. LCvR 83.2D; District of Puerto Rico: D.P.R. L.Cv.R. 83B; District of Rhode Island: DRI LR 206(f); District of South Carolina: Local Civil Rule 83.I.09. DSC; District of South Dakota: Civil - D.S.D. Civ. LR 83.2I; District of South Dakota: Criminal - D.S.D. Crim. LR 44.1I; Eastern District of Tennessee: E.D. Tenn. Standing Order 13-04; Western District of Tennessee: W.D. Tenn Admin Ord. 2013-14; Northern District of Texas: N.D. Tex. Misc. Ord. 47; Western District of Texas: W.D.Tex. Local Court Rule AT-8; District of Utah: DUCivR 83-1.6; District of Vermont: D.Vt. Rule 83.1(e); District of the Virgin Islands: D.V.I. LRCi 83.1(b)(8); Eastern District of Virginia: E.D.Va. Local Civil Rule 83.1(K); Western District of Virginia: W.D.Va. Gen. R. 6(g); Western District of Virginia: Standing Order 2015-6; Western District of Washington: W.D.Wash. LCR 83.4; Northern District of West Virginia: N.D.W.Va. LR Gen P 83.04; Southern District of West Virginia: S.D.W.Va. LR Civ P 83.2 and LR Cr P 44.2; and District of Wyoming: D.Wyo. U.S.D.C.L.R. 84.2(e). The following rules guide SP in the 11 Circuit Courts of Appeal: First Circuit: 1st Cir. R. 46.0(f); Second Circuit: 2nd Cir. LR 46.1(e); Third Circuit: 3rd Cir. L.A.R. 46.3; Fourth Circuit: 4th Cir. R. 46(a) and Fourth Circuit: Appearance of Qualified Law Student; Sixth Circuit: 6th Cir. R. 46(d); Seventh Circuit: 7th Cir. R. 34(h); Eighth Circuit: 8th Cir. R 46B; Ninth Circuit: 9th Cir. R. 46-4 and Ninth Circuit: Requirements for Student Practice; Tenth Circuit: 10th Cir. R. 46.7; Eleventh Circuit: 11th Cir. R. 46-11; and D.C. Circuit: D.C. Cir. R. 46(g).

Bar Association (ABA), South Dakota requires the University of South Dakota or a law school approved by the ABA, Hawaii requires the University of Hawai'i School of Law, and New Mexico requires the University of New Mexico School of Law. Out-of-state students must attend a law school approved by the ABA. Law schools in the US are accredited by the ABA, which ensures they meet institutional standards through regular monitoring and comprehensive assessments every ten years. However, Texas makes provisions for both licensed and unlicensed law schools, making students from either eligible for SP, provided the Supreme Court of Texas approves licensed law schools. The requirement for senior law students to be eligible for student practice applies generally, though the definition of a senior law student varies by state. For states within the First Circuit-Maine, Massachusetts, New Hampshire, and Rhode Island-there are specific provisions. Massachusetts requires senior students who have completed a graded course in Evidence or Trial Practice. Maine and New Hampshire specify that students must have completed four semesters of legal studies; the latter also offers an alternative for students who have completed at least two semesters and are enrolled in a law school clinical course that involves classroom components and legal aid training, provided they maintain good moral character. Rhode Island defines "senior law student" as someone who has completed at least three full-time semesters of legal studies and either concluded or is enrolled in a graded Evidence or Trial Practice course. For the Second Circuit, Connecticut, Vermont, and New York have different standards.

Connecticut and New York require the completion of at least two semesters, with provisions allowing certification by the Dean for students who have completed fewer. Vermont requires at least three semesters of legal studies. States within the Third Circuit, Delaware, New Jersey, and Pennsylvania, also have varying requirements: Delaware mandates four semesters, New Jersey requires third-year status, and Pennsylvania specifies at least three semesters. In the Fourth Circuit, Maryland, North Carolina, South Carolina, Virginia, and West Virginia require different requirements; South Carolina, Virginia, and West Virginia all require a minimum of four semesters, North Carolina requires three, and Maryland stipulates that students must have completed at least one-third of the total credits needed for graduation. The Fifth Circuit, which includes Louisiana, Mississippi, and Texas, has mixed provisions. Louisiana requires four semesters plus coursework in Legal Ethics, while Mississippi offers two options: either two-thirds of the required hours if enrolled in an internship or half if in a clinical course. Texas requires students to be in good academic standing and to have completed either two-thirds or half of the coursework needed for graduation, depending on their registration in clinical legal education. The Sixth Circuit, Kentucky, Michigan, Ohio, and Tennessee, sets similar standards: Kentucky and Ohio require completion of at least two-thirds of the academic hours, Michigan requires the first year to be completed with passing grades, and Tennessee requires half of the legal studies for graduation. The Seventh Circuit, Illinois, Indiana, and Wisconsin, also requires students to have completed at least half of their legal studies to qualify.

States in the Eighth Circuit (Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota) also have different provisions, although they are similar in nature. Minnesota adopted the same provisions that require the completion of a minimum of 2 semesters of legal studies necessary for graduation, although the latter requires full-time study. Iowa requires the completion of a minimum of 3 semesters of legal studies for graduation. For Missouri, the requirement is the completion of at least half of the essential credit load in legal studies for graduation. North Dakota and South Dakota require the completion of a minimum of 4 semesters, although the former permits at least 3 semesters if the student is registered in the CLE Programme at the University of North Dakota School of Law. Nebraska leaves the discretion of senior law students to the law school by stipulating that the student must have completed the legal studies required for senior law status at their law school. Arkansas' general provisions require that law students have completed a course in professional responsibility. Some states in the Ninth Circuit (Alaska, Arizona, California, Idaho, Montana, Nevada,

Oregon, Washington, Guam, Hawaii) specify details regarding compulsory completion of a certain number of credit hours of legal studies, like Montana, which requires 2/3 of the total credit hours necessary for graduation, and Nevada, which requires a minimum of 30 semester credit hours, amongst other requirements. Both Idaho and Washington require the completion of two-thirds of a three-year legal studies programme. Still, Washington also offers an alternative of completing five-eighths of a four-year programme in legal studies.

California requires a minimum of one year of legal studies, among other requirements. In contrast, Alaska requires the successful completion of at least half of the total legal studies needed for graduation. Arizona mandates the successful completion of at least three semesters to be eligible, whereas Oregon requires a minimum of four semesters of legal studies. Hawaii requires completing at least one-third of the necessary legal studies for graduation. In the states within the tenth circuit (Colorado, Kansas, New Mexico, Oklahoma, Utah, Wyoming), Utah and Wyoming each require a minimum of four semesters, Kansas requires at least 60 hours of legal studies, New Mexico mandates a minimum of 30 hours, Colorado specifies two years of legal studies, and Oklahoma requires completion of half of the total credit hours for legal studies. This is necessary for graduation and includes maintaining a qualifying grade point average. States in the Eleventh Circuit (Alabama, Florida, Georgia) require a minimum of four semesters or their equivalent. The Dean's endorsement for each student's participation in student practice is essential in every student practice rule. All rules governing student practice demand written endorsement from the Dean of the law school, which must be filed and submitted for an SC to obtain a licence or permit to engage in SP. The Dean will confirm that the student possesses good moral character, has competent legal skills, and is eligible to participate in student practice.

Consent and supervision requirements mandate that a student clinician's court appearance is only permitted after obtaining consent and under the supervision of a licensed professional. This appearance involves representing an indigent client, meaning they are unable to afford legal services. Various Rules of Student Practice specify that client consent must be obtained and that a licensed lawyer conduct mandatory supervision. In Massachusetts, the rule states that "...the general conduct of the case is under the general supervision of a member of the bar of the Commonwealth who is a regular or special assistant district attorney, a regular or special assistant attorney general, an agency counsel or assistant agency counsel or a corporation counsel, city solicitor, town counsel, assistant municipal counsel or assistant solicitor..." and clarifies that "general supervision" does not require the supervising attorney to be present in court. In New York, a student clinician must obtain the client's written consent and be under the supervision of a Licensed Bar member. Supervision is divided into two categories: immediate and general. Immediate supervision requires the supervising attorney's personal presence throughout proceedings, whereas general supervision does not, provided that their written supervision has been filed with the court. All legal documents, including memoranda, briefs, and pleadings, must be endorsed by this supervising lawyer, though they may also include the name of the SC involved.

Additionally, the supervising solicitor shall be personally responsible for all legal work undertaken by the SC. In Pennsylvania, the client's consent and the supervision of an attorney are also required, and such consent and supervision must be in writing and filed with the court. Furthermore, the supervising solicitor shall be responsible for providing guidance and ensuring the quality of the SC's work. In Maryland, a supervising solicitor must be appointed for the SC, who will be responsible for guiding the SC and ensuring the quality of its legal work. The state of Texas, aside from requiring the client's consent and supervision by a solicitor, also mandates that the supervising solicitor must: be a solicitor called to the bar by the Supreme Court of Texas for at least three years, have insurance covering

professional misconduct, errors or omissions of the SC unless they are a public prosecutor or assistant prosecutor or protected by government immunity, supervise no more than four SCS simultaneously, and demonstrate to the satisfaction of the General Counsel of the State Bar of Texas that they are skilled in the preparation and trial of cases.

The state of Kentucky requires that the SC engage in SP under the supervision of a law school director who may work full-time or part-time at the law school. The state of Wisconsin, in addition to requiring the client's consent, also mandates direct and immediate supervision by the supervising lawyer, meaning the lawyer must be present with the student throughout the proceedings unless the court and the client have already agreed that the lawyer's presence can be waived. Additionally, the supervising lawyer must be an active member of the bar, supervise no more than five SCS, be personally responsible for the legal work of the SC while under their supervision, personally approve and sign all legal documents prepared by the SC, inform the state bar of the start and end dates of the supervision, and file a statement with the SC Dean detailing the types of activities involved. Missouri also requires written consent from the client and supervision by a lawyer who must be a member of the Missouri Bar in good standing, guide the SC, and be personally responsible for the quality of the legal work performed under their supervision. Washington requires that the SC be supervised by a lawyer who must be an active, in good standing member of the bar. The lawyer must sign all legal documents prepared by the SC or have a lawyer in their firm sign them. Such a lawyer must qualify as a supervising lawyer and is not required to be physically present during court proceedings. Depending on circumstances, a supervising lawyer can oversee between one and ten SCS at a time. Failing to provide adequate supervision can lead to disciplinary action against the supervising lawyer. Wyoming mandates that the client's consent be obtained and oversight be provided by an active Bar member who must not supervise more than three SCS simultaneously. Georgia not only requires the supervision of a lawyer, who must be physically present in court, but also supervision by the Attorney General, a district attorney, a solicitor general of a state court, a solicitor of a municipal court, or a public defender. All legal documents must be signed by the individuals mentioned above.

According to the Services, legal services provided by the SC to clients must be offered free of charge. This emphasises the core purpose of the CLE programme, which is to make free legal services accessible to indigent members of society. Free legal services are essential because, without legal aid, indigent individuals will lack access to adequate legal representation, potentially obstructing their access to justice. Privileged communications refer to protected information that is also subject to confidentiality rules. These rules specify that all communications, whether oral or written, between the SC, the supervising attorney, and a client are legally protected and cannot be disclosed. Some rules on SP include provisions regarding privileged communications. In contrast, others state that the professional conduct of the SC will be governed by the rules of professional conduct, which also encompass the principle of privileged communications. The state of Alaska has a clear rule on privileged communications within its SP regulations. It states that "...the rules of law and evidence relating to privileged communications between attorney and client shall govern communications made or received by and among professors, supervising attorneys (and designated attorneys), and certified limited student practice students. All persons participating in any programme of instruction or professional activity for which a student is certified under these rules must not disclose privileged or confidential communications, whether during instruction or otherwise." Similarly, the state of Minnesota incorporated the rule on confidentiality into its SP regulations by stating that "...Communications between the client and the student shall be privileged under the same rules that govern the attorney-client privilege and work product doctrine, and the presence of the student during communications between the lawyer and client shall not, standing alone, waive these evidentiary privileges." The SP rule on privileged communications in Ohio states that "The

communications of the client to the legal intern shall be privileged under the same rules that govern the attorney-client privilege.” In Ohio, a legal intern certificate is issued for SP, and individuals holding this certificate are referred to as legal interns. Furthermore, the SP rule in Texas states that “The rules of law and evidence relating to privileged communications between attorney and client shall govern communications made or received by qualified law students or by qualified unlicensed law school graduates certified under the provisions of these rules,” but the sentence appears incomplete.

3.1. Conclusions and Recommendations

In examining the legal frameworks for CLE in Nigeria and the US, this research found that the Nigerian framework includes the Constitution of the Federal Republic of Nigeria 1999 (as amended), the Legal Aid Act 2011, and the Education (National Minimum Standards and Establishment of Institutions) Act. In contrast, the research found that the legal framework for CLE in the US is quite comprehensive and robust, as each state has its own CLE laws, including national laws regulating SP in federal and appellate courts.

Currently, there is no legal framework that sets the standard and regulates CLE in Nigeria, unlike in South Africa, where the Legal Practice Act 2014 and the South African Legal Practice Council Rules (LPC) govern CLE. These laws, especially the Legal Practice Act 2014 and the LPC Rules, establish regulations for the operation of law clinics to ensure uniformity and uphold high standards. This has significantly contributed to keeping law clinics operating strictly within regulated standards. As a result, law clinics in such environments are more likely to reach their full potential.

However, in Nigeria, the legal framework for CLE is inferred from the Legal Aid Act and the NUC BMAS Law, as there is no clearly defined law for its operation, maintenance, and sustainability, which are insufficient for the long-term viability of CLE in Nigeria. While the CCMAS provides for the compulsory inclusion of CLE in legal pedagogy and recommends a dedicated department of CLE within the faculty of law, the Legal Aid Act states that “the Council shall maintain a register of non-governmental organisations and law clinics that are engaged in providing legal aid or assistance to persons who are entitled to legal aid under this Act.”³⁵

Could it be that the operation of CLE is neither encouraged nor supported by the Council of Legal Education, Body of Benchers, and the Nigerian Bar Association, or is it simply an oversight? This conclusion is reached because these bodies, unlike their South African counterparts, have not established regulations, policies, guidelines, or rules to oversee and control the operation of law clinics in Nigeria, nor to ensure their suitability and sustainability. This is evident in Rule 36 of the South African Legal Practice Council Rule, which provides the standards for operating a law clinic. This rule states that the South African Legal Practice Council may, on an annual basis, accredit the operation of a law clinic if it is satisfied that the entity is constituted correctly, organised, and controlled; if it provides legal services to the public; if the legal services are rendered free of charge; and if legal practitioners employed by the clinic are remunerated only by way of salary paid by the clinic or the organisation to which it is attached. This provision has significantly contributed to the effective operation of law clinics in South Africa. It has led to the international recognition of notable law faculties in South Africa, such as the University of Cape Town Law Clinic and the Stellenbosch University Law Clinic.

The CLE programme is a global initiative aimed at training and integrating ethically conscious and professionally competent lawyers into the labour market, thereby improving access to justice in

³⁵ Legal Aid Act 2011, s.17.

Nigeria. Clinical programmes have become vital components of various law faculties, as mandated by the NUC CCMAS. These programmes should meet high standards to guarantee effectiveness and positive outcomes. Therefore, the programme must be transparent, accountable, and free from bureaucracy, nepotism, politics, and selfish interests, which can only be achieved through clearly defined laws, rules, and regulations. Consequently, the Council of Legal Education, the Body of Benchers, and the Nigerian Bar Association urgently need to establish rules like those of their South African counterparts for recognising, operating, supervising, and sustaining law clinics in Nigeria.

To establish a legal framework specifically for the operation of CLE in Nigeria, the LPA and the RPC must be amended again to include provisions regulating CLE in Nigeria. Accordingly, the following amendments are proposed to the LPA.

Firstly, S. 1(2) should be amended to include an experienced clinician as a member of the General Council. S. 1(2) states that:

The Bar Council shall consist of-

- a) The Attorney-General of the Federation, who shall be the president of the Council;
- b) The Attorneys-General of the States; and
- c) Twenty members of the Association.

The proposed amendment to S.1(2) is:

The Bar Council shall consist of-

- a) The Attorney-General of the Federation, who shall be the president of the Council;
- b) The Attorneys-General of the States;
- c) An experienced Clinician, and
- d) Twenty members of the Association.

Second, a separate heading titled 'Law Clinic' should be included in a new section, which may follow the section titled '*Practice as a Legal Practitioner*', and conclude with Section 14. The proposed law clinic could then commence with section 15.

Law Clinic

1. Establishment of a law clinic
2. Forms of Legal Practice
3. Right of Appearance
4. Recovery of costs
5. Licensing

Establishment of a law clinic ---Subject to the approval of the General Council of the Bar, a law clinic may be established by:

- A. Any university in the country, if it is constituted and governed as part of the faculty of law at that university,

- B. A non-profit juristic entity registered under the Corporate Affairs Commission to conduct *pro bono* legal practice if—
- i. The majority of its governing body is comprised of legal practitioners, and
 - ii. Upon its winding-up, dissolution, or voluntary deregistration, any assets remaining after all liabilities have been settled are transferred to another non-profit organisation with similar objectives; or

Forms of Legal Practice---(1) a law clinic:

- i. may only render legal services if those services are rendered by or under the supervision of attorneys;
- ii. may not distribute any of its income or property to its members, governors, or employees, except as reasonable compensation for services rendered.
- iii. may not render those legal services determined by the Council in the RPC.

(2) Legal services rendered by a law clinic referred to in

subsection (1) are—

- i. must be accessible to the public; and
- ii. must be rendered to the recipient of those services free of charge, except that the law clinic may recover any amounts actually disbursed on behalf of the recipient of the services.

Right of Appearance—law clinic students participating in the law clinic programme have the right to appear and represent indigent clients of the law clinic in courts, excluding the Supreme Court.

Recovery of costs—(1) Where in any legal proceeding or dispute costs become payable to a law clinic client, the law clinic is entitled to 60% of such payable costs, which are to be kept in the law clinic's bank account for the general administration of the clinic and its activities.

Licensing: The General Council of the Bar will make rules relating to:

- A. The approval for establishing law clinics as outlined in section 15.
- B. The general administration of the law clinic.

The following amendments are proposed in the RPC:

There should be included in the RPC a new part, which may be Part G titled Law Clinics

G----Law Clinics

55. (1) The Council may grant recognition annually to an entity as a law clinic if it is satisfied that the entity meets the following requirements:
- (a) if it complies with the provisions of section 15 of the Act;
 - (b) if it is properly constituted, organised, and controlled to the satisfaction of the Council;
 - (c) if it provides legal services to the public;
 - (d) if the legal services provided by the clinic are rendered free of charge, direct or indirect, to the recipient of those services, provided that –

- i. The clinic may recover from the recipient of its services any amounts actually disbursed by the clinic on behalf of the recipient;
 - ii. where the clinic acts for a successful litigant in litigation, it will be entitled to take cession from that litigant of an order for costs awarded in favour of the litigant, and to recover those costs for its own account;
- (e) the services may be rendered only to persons who, in the opinion of the Council, would not otherwise be able to afford them, or, with the prior written approval of the Council, services rendered in the public interest. The Council may, from time to time, issue guidelines to assist clinics in determining to whom services may be rendered.
- (f) the clinic may not undertake work in connection with the administration or liquidation or distribution of the estate of any deceased or insolvent person, mentally ill person or any person under any other legal disability, or the liquidation of a company, nor in relation to the transfer or mortgaging of immovable property, or such other work as the Council may from time to time determine;
- (g) the name under which the clinic is to carry on its activities, and the letterheads and other stationery of the clinic will require the prior approval of the Council; and
- (h) legal practitioners in the employ of the clinic may be remunerated only by way of salary payable by the clinic or by the organisation to which it is attached.