

# INTERNATIONAL WOMEN'S HUMAN RIGHTS CLINIC

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Faculty	Professor Susan Deller Ross and Supervising Attorney & Teaching Fellow
What do students do	Students partner with NGOs to advance women's human rights by working on litigation for domestic courts and human rights treaty bodies (in the Fall) or participating in a fact-finding trip, writing a human rights report, and drafting legislation (in the Spring).
Semester or year-long	One semester, Fall or Spring
Open to	All 2Ls, 3Ls, 3Es, and 4Es (with at least 30 credits)
Prerequisite(s)	All first year courses and (as a pre- or co-requisite) International and Comparative Law on Women's Human Rights
Credits	10
Requires Student Bar Certification	Yes
How many students	8/semester
Conflicts	Handled on a case-by-case basis
Average time commitment	35 hours/week, on average. Work on projects will continue throughout the exam period. Spring semester students must also be able to travel abroad during the spring break for a fact-finding project.
Seminar hours	Tuesday 3:30-5:30 p.m. & Friday 3:30-5:30 p.m.
Orientation	Each semester, all students are required to return one week early for pre-semester orientation sessions.
Information session(s)	TBD. Students are also welcome to contact Prof. Susan Deller Ross (662-9641; ross@law.georgetown.edu) for more information, or Supervising Attorney Michelle Liu (661-6613; xml@law.georgetown.edu)

## FALL SEMESTER IWHRC STUDENT AND PROJECT EXPERIENCE

### **IWHRC Students helped persuade the Kenyan High Court to strike down laws that permitted unmarried fathers to avoid all forms of child support and that imposed financial and legal obligations to care for children solely on their mothers**

JULY 23, 2019 – Lamiya Rahman (C'08, L'14) and Pepis Rodriguez (L'15) never met the plaintiff, but they knew the legal challenges she faced as an unwed mother in Kenya. Back in 2013, as students in the International Women's Human Rights Clinic at Georgetown Law, they had drafted a complaint and brief to be filed on her behalf in Africa.

So, Rodriguez said, it was “pretty stunning” to learn of Nelly Susan Atingo's victory in the spring of 2019, when the High Court of Kenya ruled that many of the nation's laws violate the constitutional rights of children of unmarried parents.

“I was proud to have had a part in it, but the outcome was really the result of other people's hard work,” said Rodriguez (L'15), now with the Lawyering Project in New York.

Rodriguez and Rahman had worked on the lawsuit under the close supervision of the clinic's director and founder, Professor Susan Deller Ross. Partnering with FIDA Kenya, a nonprofit women's rights organization, they researched the legal issues and delivered a complaint that needed one more element: an individual co-plaintiff. FIDA Kenya selected Atingo in 2014 and has litigated the suit ever since.

“Once we prepare materials, it's up to the partners to run with them,” Ross said. “The whole point of this clinic is to help NGOs without the in-depth resources we have. Our work gives them a head start.”

Initially, FIDA Kenya targeted birth registration provisions that gave unwed fathers the right to keep their name off of the child's birth certificate, leaving children subject to ridicule and many harms. The law predated the 2010 overhaul of Kenya's constitution, which guarantees gender equality in Article 27 and the rights of children in Article 53.

“Because the constitution is so new, there were very few cases interpreting it,” said Rahman, now at Blank Rome in Washington, D.C. “We looked at the language of the constitution, international treaties and what courts in other countries have done.”

Ross “literally wrote the book” on that approach, Rodriguez added – a reference to *Women's Human Rights: The International and Comparative Law Casebook*. “A clinic like this can only work with someone like Professor Ross.”

As the students' knowledge grew, so did the list of statutes they believed were unconstitutional – but they weren't sure whether FIDA Kenya would want to expand the litigation's scope.

Ross had them put their arguments in writing, then scheduled a practice run before their weekly conference call with the organization.

“She wanted to see how we would react if there was push-back,” Rodriguez said.

“[Ross] told us, ‘think about all the work you've done; the case you've laid out in the memo. Trust your work. Trust your instincts.’ And sure enough, in our call, local counsel pushed back but we were able to convince them,” Rodriguez said. “That experience has stayed with me and I'm incredibly grateful for it.”

Their persistence paid off in March 2019, when Justice Jesse Njagi of the High Court at Kakamega declared nine sections of three separate laws “null and void” in light of the 2010 constitution. Each law gave children of married parents full rights but denied children of unwed parents many rights from their father if he kept his name off the birth certificate and avoided paying any child support, creating what the complaint and the court called “optional paternity.”

Njagi invalidated Section 12 of the Births and Deaths Registration Act, which gave an unwed father the absolute right to keep his name off the child’s birth certificate. That section alone had been challenged by another organization in the High Court at Nairobi, which ruled in 2016 that it discriminated against unwed mothers on the basis of sex and their children on the basis of their birth to unwed parents.

Although the 2016 decision was not binding in this case, Njagi said he was “in agreement with the reasons given by the learned judge in that judgment.”

Njagi also struck provisions of the Law of Succession Act, which denied the unacknowledged child the right to inherit from his unwed father; and sections of the Children Act which gave the unwed father who avoided responsibility for his child the right not to be considered the child’s “relative” and to avoid paying child support.

Njagi based those rulings on the rights of children, “which the Constitution places at a higher pedestal than that of the father or mother,” he wrote. He emphasized that a “parent cannot opt out of parental responsibility” by repeatedly citing the Constitution Article 53(1)(e)’s requirement that unwed fathers and mothers exercise “equal responsibility” for their children.

Ross and her students were disappointed by Njagi’s failure to specifically note the sex discrimination against the unwed mother, but happy with the outcome.

“Obviously, we wanted more for the women, to serve as precedent,” Rahman said. “Even so, it is a step in a positive direction. It shows that these laws can be dismantled.”

Ross was heartened by Njagi’s repeated admonition that under Article 53, “fathers and mothers have equal responsibility to a child they bear, and this responsibility is not left to the volition of the man or woman.”

That language, she said, “has the effect of giving women the right we sought: the right to have fathers share the burden of supporting their children.”

**IWHRC Students Win a Case before the U.N. CEDAW Committee  
From the UN Press Release on the Case:**

**“Widows’ eviction highlights need to abolish or amend Tanzania’s discriminatory laws,” UN experts say**

GENEVA (1 April 2015) – Tanzania should take steps to revise or repeal laws, customs and practices that discriminate against women, a UN Committee has said after considering the case of two widows who were prevented from inheriting their late husbands’ property and were left homeless.

The Geneva-based Committee on the Elimination of Discrimination against Women (CEDAW) issued its call after considering a complaint by the women, who under local customary laws could not inherit upon their respective husband’s death and were subsequently evicted from their homes by their in-laws.

In 2005, the women, referred to as E.S and S.C, began legal proceedings, arguing that inheritance provisions be struck down because they contravened Tanzania's Constitution and the country's international obligations under the Convention on the Elimination of All Forms of Discrimination against Women, which it ratified in 1985. They also argued that millions of other women in Tanzania experience the same violations they have faced as a result of discriminatory customary laws.

In 2006, the High Court agreed that the provisions were discriminatory but said it would not overturn them as doing so would "be opening a Pandora's box, with all the seemingly discriminative customs from our 120 tribes plus following the same path."

Customary law is in force in 30 districts, making it the most commonly applied form of law in Tanzania. Regarding widows, it states that she "has no share of the inheritance if the deceased left relatives of his clan; her share is to be cared for by her children, just as she cared for them."

In its findings, the 23-member Committee said that Tanzania should grant the two women adequate reparation and compensation, noting that they had been left "economically vulnerable, with no property, no home to live in with their children and no form of financial support."

CEDAW called on Tanzania to ensure that rights guaranteed under the Convention have precedence over inconsistent and discriminatory provisions. The Committee noted that States parties have an obligation to adopt measures to amend or abolish "not only existing laws and regulations, but also customs and practices that constitute discrimination against women." This includes countries such as Tanzania that have "multiple legal systems in which different personal status laws apply to individuals on the basis of identity factors such as ethnicity and religion". Courts should also refrain from resorting to unreasonable and undue delays, CEDAW said, noting that shortcomings in the Tanzanian judiciary had denied the women justice, with their appeal pending before the Court of Appeal for more than six years.

Among several other recommendations, CEDAW called on Tanzania to encourage dialogue on the removal of discriminatory law provisions and provide mandatory training for judges, prosecutors and other judicial personnel on the Convention and the Committee's jurisprudence. CEDAW said Tanzania should submit a written response within six months, including information on any action taken in light of its recommendations.

\*The Committee adopted its views on 2 March 2015 and published them on 1 April 2015:  
<http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/JurisprudenceSession60.aspx>

## Clinic students also helped win right to divorce for women in Uganda's Constitutional Court:



In March 2004, as International Women's Human Rights Clinic (IWHRC) students and faculty sat in the courtroom, the justices of the Constitutional Court of Uganda read their decisions from the bench. The next day's Kampala Monitor newspaper (pictured above) sensationalized the holding, but what the court had done was spectacular: for the first time, Uganda's Constitutional Court had used the gender equity provisions in the Ugandan Constitution and in human rights treaties to invalidate a discriminatory law. The court extended to wives the right to divorce based on a husband's adultery that the old law gave only to him – a right of great importance in the era of rampant HIV/AIDS. The attorneys of Law and Advocacy for Women – Uganda (LAW-U) (pictured on the next page in the Constitutional Courtroom just before the decision was handed down) had won an amazing victory. But it was a victory for the Georgetown's International Women's Human Rights Clinic as well: the case had begun life as a joint project between IWHRC and LAW-U. Clinic students drafted the Constitutional Court petition and brief, working in tandem with the lawyers who later filed the case in Uganda.

These cases are typical of the kind of work students do in the fall semester. Students have worked on similar challenges to many different discriminatory laws, ranging from criminal adultery laws that apply only to women, to laws permitting men to practice polygamy, to laws that deny women the right to inherit land and other property.

When one student learned of her team's victory before the CEDAW Committee in the case highlighted above, she wrote:

*“The International Women's Human Rights Clinic was one of the most transformative experiences of my time at Georgetown Law. Not only did I gain substantive knowledge of international women's human rights law, but I honed my legal research, writing, and professional skills. The practical tools and advocacy skills I gained translated seamlessly into my current career as a litigator. Additionally, the clinic affirmed my belief that international women's human rights work is essential, and I continue to use the substantive knowledge I gained in my pro bono practice.”*

*– Mason Hubbard (Fall 2010; now practicing law at DLA Piper)*



*LAW-Uganda lawyers prepare to hear the Constitutional Court's historic decision granting women equal rights with men*

Another student talked about his experience writing a brief on behalf of a woman who was threatened with execution for so-called adultery:

***“I learned more about being a lawyer in one semester of the IWHR Clinic than I have in the rest of law school combined.”***

*– Alexandros Papanikolaou*

*In the Fall '02 Clinic, Alex worked on a Nigerian Supreme Court appeal for Amina Lawal, who had been sentenced to death by stoning for zina (“adultery” between a divorced woman and an unmarried man). Amina Lawal’s death sentence was overturned on appeal.*

Another issue that frequently arises in Clinic projects is polygamy, a practice denounced by the Committee on the Elimination of Discrimination against Women because “polygamous marriage contravenes a woman’s right to equality with men, and can have such serious emotional and financial consequences for her and her dependents that such marriages ought to be discouraged and prohibited.” One student reported of her work on this issue:

***“The Clinic was amazing on so many levels. Not only as a law school class did I learn more in this past semester than I ever would have anticipated, but, and more importantly, it was a great feeling to actually be able to use the law in order to improve the lives of others. It was wonderful that at the end of the semester instead of having a grade on an exam, we have produced an end product that will directly benefit the lives of women in South Africa.”***

*– Maeve K Townsend*

*In the Fall 2007 Clinic, Maeve worked on a constitutional challenge to polygyny in South Africa.*



## SPRING SEMESTER IWHRC STUDENT AND PROJECT EXPERIENCE

In the spring semester, students' work includes a fact-finding trip to work with in-country partners to interview people about the effects of discriminatory laws and practices. Another student talks about that experience:

***“The opportunity to participate in the IWHRC was one of the main reasons I chose to come to Georgetown, and it lived up to all my expectations.... My work in the clinic trained me in many of the investigatory and advocacy skills necessary in crafting a human rights campaign, and solidified my techniques in making arguments that are not just morally forceful, but also legally compelling.”***

*– Eric Tars*

*In the Spring 2003 Clinic, Eric traveled to Ghana to conduct fact-finding interviews for a report and proposed bill on integrating Queenmothers (traditional women leaders) into the National House of Chiefs.*

*The Ghana Government has now begun accepting the Queenmothers as equal participants with equal pay in both the Regional and National Houses of Chiefs.*

***“[Our fact-finding trip to Uganda about FGM] allowed us to understand how much the issue involves members of the family [and] what political context this recommendation is going to go through.... I learned everything from actual tangible legal skills to analytical skills to skills that apply to discussions about culture and tradition that are so relevant to this historical moment in which we're living – when politics, and women's bodies, and the concept of culture interact.”***

*– Adriana Kertzer*

*In the Spring 2004 Clinic, Adriana worked on a human rights report and draft legislation to combat female genital cutting/mutilation in Uganda.*

*Uganda subsequently enacted the Prohibition of Female Genital Act, 2010.*



*Spring 2007 student, Nicolas Mitchell with local attorney supervisor, Sibonelo Mdluli, of Women and Law in Southern Africa – Swaziland (now, Eswatini), preparing to interview participants at a rural community gathering. His team was exploring the laws and practices that denied women access to communal land and private property.*



#### **CLINIC PARTNERS AND APPLICATION OF HUMAN RIGHTS LAW**

Under the guidance of Professor Susan Deller Ross and a Teaching Fellow, 2020-2021 Clinic students will spend a semester developing human rights advocacy skills while working on an international women’s human rights project with a non-governmental organization (NGO). The clinic partner is most often based in an African country but some clinic partners are located in other parts of the world (e.g., the Philippines; Poland; the Middle East; Latin America). In the fall semester, students work on litigation projects; in the spring, on fact-finding trips, human rights reports, and draft legislation. The clinic may also work with regional and international bodies on country- or theme-specific submissions, or individual complaints, as in the Tanzania case for the evicted widows. All these projects require students to work intensively with international and regional human rights treaties.

All human rights treaties require equality between men and women and equal protection of the law. Nations ratify these treaties but may not fully comply with their treaty obligations to change or implement laws to provide equality. Many of these laws curtail women’s opportunities and condemn them, and frequently their children, to a life of subordination and destitution. Every student project addresses violations of these treaties. Governments routinely violate their duty to exercise due diligence to prevent, investigate, and punish violations of women’s human rights to equality, life, health, liberty, security of the person, and freedom from cruel treatment by leaving in place laws and practices that subject women to many forms of violence and discrimination. Past semester students have addressed these human rights violations in working on such issues as female genital mutilation/cutting, so-called “honor” crimes (murders of women by family members), polygamy, brideprice, human trafficking, domestic servitude, domestic violence, marital rape, the denial of women’s right to own or inherit land and property, and laws and policies denying girls and women equal rights in education, employment, and reproductive health services. Student projects apply national, comparative, regional, and international human rights law. If efforts to win equal rights through litigation or legislation do not succeed at the national level, the Clinic and its partners can then pursue protection before regional and international human rights bodies, such as



the U.N. Human Rights Committee or the Committee on the Elimination of Discrimination against Women.

Partner NGO lawyers and clinic faculty collaboratively choose the projects and supervise the work. Students work closely with women's human rights lawyers and organizations in the relevant country to develop policy, strategy, and proposed legislation or court papers. They exchange drafts of their work with each other and with their international partners by email, and they teleconference with their international partners frequently. Students also have many opportunities to improve their interviewing and oral advocacy skills through formal class presentations, reviews of their performance, in-country spring fact-finding interviews, and a final simulated hearing before a court or a mock presentation to a legislative or international body.

## CLINIC SEMINAR AND SUPERVISION

In the Clinic's twice-weekly two-hour seminars, students study the host country's or thematic laws and their context, learn how to research international and comparative law and conduct that research, present drafts of their work in progress, critique each other's work, and develop interviewing and oral and writing advocacy skills. Outside the classroom, supervisors work with individual students and teams to provide in-depth guidance on a variety of skills, from setting agendas, holding professional conferences, and interviewing to developing policy and law and persuading an intended audience. During the semester, each student completes a minimum of three complete drafts of his or her Clinic project, which typically includes: a legislative bill and supporting human rights report in the spring; litigation papers, including a petition or notice of appeal, along with a supporting legal brief and affidavits in the fall; or submissions to human rights bodies applying the relevant law and policy.

## RECENT PROJECTS

During the 2018 spring semester, students travelled to Uganda, where they interviewed about 80 people about the human rights violations caused by customary and religious laws permitting men to practice polygamy and the many harms it causes wives and children, leaving wives subordinate and both the women and children poverty-stricken. They also explored the effects of a ban on sexual education in schools. The persons interviewed included victims of these human rights violations, NGO activists, human rights organizations, lawyers, journalists, government ministers and staff, judges, members of Parliament, and other stakeholders. The fact-finding interviews allow students to understand the problem in depth and to write powerful human rights reports, effective legislation, and persuasive arguments to adopt the legislation.

In Fall 2018, clinic students worked on test-case litigation for Botswana's High Court. The litigation projects were to challenge as unconstitutional, and against human rights treaties, marriage and divorce statutes that denied wives in customary and religious marriages equal rights with their husbands. These statutes did so despite giving women in civil marriages equal rights with their husbands. Thus, the Abolition of Marital Power Act did not apply to wives married under customary or religious laws, leaving those women's husbands with the right to own and control all property acquired during their marriages, to forbid their wives from working and to treat them like children, and to have sole power to make decisions about their children. The Marriage Act permitted children to marry and did not prohibit polygamy in customary and religious marriages. And customary wives were only permitted to use customary law for divorces, a system that favored men in granting divorces, getting custody of the children, and receiving most of the couple's property.

Although projects, topics, and host countries vary from semester to semester, all emphasize the application of international, regional, and national human rights standards in the domestic context and all require extensive comparative analysis with such standards in other countries. This spring, students are travelling to Botswana to explore the effects of the marriage and divorce laws that deny wives married under customary and religious law equal rights with their husbands. They will also be examining a Constitutional provision that permits sex discrimination in marriage, divorce, inheritance, and customary laws.

## TIME COMMITMENT

The average weekly time commitment for the Clinic is 35 hours per week. Because this is a significant time commitment, Clinic faculty urge you to carefully consider and limit - to the extent possible - your other time commitments during the semester you are in the Clinic. We require students in both the fall and spring semesters to return to school one week before the beginning of classes for a pre-semester orientation.

## SELECTION CRITERIA/APPLICATION PROCESS

### Application Process, Prerequisites, Orientation, and MPRE Exam Conflict

The clinic is open to students who will have completed 30 credits by the beginning of the semester in which they are enrolled in the clinic. To enroll in the International Women's Human Rights Clinic, students must also have already taken or be concurrently taking International and Comparative Law on Women's Human Rights, taught by Prof. Ross. This course teaches Clinic students the international, regional, and comparative human rights law they need to know to complete their Clinic projects. The International/Comparative course is offered in the Fall 2020 semester only, so Clinic students who have not yet taken it must enroll in it for the Fall 2020 semester.

Spring students must be available to work abroad during the spring break week on their clinic project. Students' costs for the spring fact-finding trip are covered; there is no additional fee. **Because the March MPRE exam often coincides with Georgetown's spring break, students should make sure to take the MPRE on a different exam date in August or November.** Students should also be aware that some states require a student to sit for and pass the MPRE before taking the bar exam. Some legal employers may require the same thing. It is the student's responsibility to determine before accepting a space in the spring clinic what rules apply in the state where they plan to take the bar and what their employer may require, and to arrange to take the MPRE on a date that doesn't conflict with the Clinic's fact-finding trip.

In both semesters, all students must return to the Law Center a week before classes begin to attend the mandatory week of orientation classes.

Interested students must select the IWHRC on the online application and submit an IWHRC-specific statement of interest. All applications must be submitted no later than 12:00 p.m. (noon) on April 13, 2020. The system will close at 12:01 p.m., and no exceptions will be made for late applications. Start the application by going to <http://apps.law.georgetown.edu/clinic-application/>.

### Selection Criteria

We select students on the basis of their statement of interest in the IWHRC and demonstrated experience and/or interest in women's human rights. Students who have not had any academic or professional experience in the area of women's human rights will still be strong candidates if they convey their interest and enthusiasm for the subject area. We also give preference to students entering their final year of law school and to Global Law Scholars.

## FOR FURTHER INFORMATION

For more information about the Clinic, please feel free to contact Prof. Ross at 662-9641; McDonough 562; [ross@law.georgetown.edu](mailto:ross@law.georgetown.edu) or Supervising Attorney Michelle Liu at 661-6613; [xm1@law.georgetown.edu](mailto:xm1@law.georgetown.edu) . Also, please feel free to contact the following students currently enrolled in the Clinic or who have recently taken it and are still students here:

### **SPRING 2020**

Asees Bhasin  
Allison Carlon  
Mariame Dangnokho  
DaNia Henry  
Eric Holleran  
Amy Uihlein  
Darya Vakulenko  
Jade Zhong

### **FALL 2019**

Lucy Baeurle  
Ally Creel  
Izzie DeSpirito  
Amina Mokel  
Katie Priester  
Juliette Singarella  
Rena Winick  
Xi Yu