



## Seminar Role of Clinics in Strategic Litigation

### Workshop descriptions and schedule

#### Round 1

##### 1. The Human Rights and Migration Law Clinic of Ghent University: good practices and challenges

**Organisers:** Birte Schorpion (teaching assistant, UGent), Wout Van Doren (partner, UNCHR), Charlotte Coenen (partner, NANSEN), Ellen Desmet (co-lecturer, UGent)

The 'Human Rights and Migration Law Clinic' of the University of Gent is a master course that is incorporated in the curriculum of the Faculty of Law and Criminology. The clinic aims at providing students with intensive, hands-on, practical education in the form of clinical legal education in the field of human rights and migration law. At the same time, it aims at fulfilling a central social justice role by contributing to the effective protection of human rights, in particular those of disadvantaged persons and groups. The students benefit from receiving intensive, practical and hands-on education from a team consisting of both academics and law practitioners. The Clinic works together with, among others, UNHCR and the European Council for Refugees and Exiles (ECRE).

In the workshop, some good practices of the first years of functioning of the clinic will be shared. More importantly, some challenges will be identified, relating to – for instance – the weight of the clinic course in the curriculum, the identification of adequate / strategic cases, working with interpreters, the relationship with the responsible lawyers, and the connections with external actors (e.g. courts). The participants at the workshop will then be invited to creatively think together on how these challenges could be further addressed, in order to enhance mutual exchange and learning.

##### 2. Should We Litigate this Case? – Clinics in Highly Controversial Cases

**Organiser:** Attorney Anat Ben-Dor, Clinical instructor, the Refugee Rights Clinic at the Buchmann Faculty of Law, Tel-Aviv University

The aim of the workshop is to expose considerations and constraints which may obstruct a clinics' ability to litigate controversial policy issues. While clinics offer particular expertise and ability to provide services, they may also face particular institutional and educational restrictions in comparison to human rights NGOs. The workshop is designed to expose the potential conflicts a clinic may face, and to urge the participants to suggest best practices and solutions.

The workshop will evolve around a case study, which is based on the litigation against the 1952 Anti-Infiltration Law conducted by several Israeli human rights NGO and the Refugee Rights Clinic. The three amendments to the Law ordered a mandatory detention of asylum seekers in prison and later in a closed facility. The three consecutive petitions filed by the Clinic and its partner NGOs resulted in striking down the amendments but also in a legislation bill to limit the Court's jurisdiction in immigration issues. In



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In addition, the Minister of education is currently pursuing measures which will limit legal clinics' ability to handle "politically controversial" issues or to cooperate with NGOs with a "political agenda"

### 3. Strengthening Collaborations between Law Students Globally for Refugees and Migrants

**Organisers:** Chhaya Bharadwaj, Assistant professor, Deepali Aswal, Karishma Ramchiary, Ashish Sharma, students at Lloyd Law College (India).

Indian practices believe in "*Vasudheva Kutumbkam*" i.e., *the whole world is my home*. The world needs collaborations especially for multi-dimensional problems like these.

International Migration and Refugee law center, for short IMRLC proposes collaborations between Law students, law schools and lawyers for protecting the refugees and migrants. The objective of this proposal is three fold:

- To present the socio-economic challenges faced while generating education and awareness for refugee and migrant rights.
- To understand the multi-dimensional challenges through storytelling, sharing their experiences and interaction.
- To establish, or at least conceptualize collaboration between law clinics in developing countries and law students, lawyers, NGO's or Law clinics in other developed countries to strengthen the protection of refugees and migrants rights.

### 4. The virtual lawyer

**Organisers:** The Public International Law and Policy Group and the International Law Clinic Vrije Universiteit Amsterdam

PILPG NL works together with the International Law Clinic at VU Amsterdam to provide legal assistance in the areas of transitional justice, international criminal law, and human rights. This workshop will be centered around PILPG NL and the International Law Clinic's Virtual Human Rights Lawyer (VHRL). The VHRL is a tool that aims to provide victims of human rights violations with a platform to inquire which judicial and non-judicial mechanisms are available in their situation. It takes the form of a 'chatbot' based on specific decision trees that guide the user from his or her legal issue to the appropriate mechanism.

During the workshop we will first discuss the motivations for creating this chatbot as well as our three project partners and their roles within the project. We will then outline the work that has been completed thus far within the project and how it relates to the creation of the final product. Next, we will discuss next steps for the VHRL and ways to grow and develop. Following this, we will outline the impact the VHRL could have for access to justice and strategic litigation uses. Finally, we will close this workshop with a simulation of the functioning of the VHRL by means of a walk-through of its operation.

## Round 2

### **5. The Regensburg Strategic Litigation Unit - our first case, lessons learnt and how can we evolve?**

**Organisers:** Georg Freiß and Michael Justice, students at Regensburg Strategic Litigation Unit

This workshop will introduce the background of the Strategic Litigation Unit (SLU) and its vision. Moreover, it will discuss the first case the SLU litigated before the European Court of Human Rights: Issa Pene v. Germany. This case concerns a victim of forced labour and slavery from Senegal/Mauritania, who seeks to get protection. We will talk about the work the SLU has done in this case and the lessons learned from it. Together with the participants in this workshop we will think about the future of strategic litigation units all over Europe (particularly with regard to the cooperation with refugee law clinics), possibilities to cultivate the lessons of our 'season one' and picking a "good case" for strategic a litigation.

### **6. Strategic Litigation Based on a Labor Approach to Human Trafficking: The Israeli Case of Temporary Migrant Workers in Foreign Construction (Execution) Companies**

**Organiser:** Idit Zimmerman, clinician at the workers' rights Clinic, Faculty of Law, Tel Aviv University; Dr. Hila Shamir, TraffLab (PI), Faculty of Law Tel Aviv University

In the workshop we seek to discuss the ways in which strategic litigation can be used in legal clinics to promote protection of the rights of temporary migrant workers who suffer from exploitative employment conditions. We will do so by:

- Presenting the labor approach to human trafficking and the academic clinical collaboration on this subject.
- Learn from the participants' experience in the field.
- Share the unique Israeli experience – the strategic litigation against the Turkish building company Yilmazlar, and the cooperation between the clinic, civil society organizations & academia.

### **7. Cooperation between clinics, lawyers, NGO's or other partners in strategic litigation: Strengthening refugee rights by uniting different strengths**

**Organisers:** Strategic Litigation Committee Dutch Council for Refugees, Flip Schuller (lawyer) and Sadhia Rafi (Dutch Council for Refugees)

The Strategic litigation Committee of DCR aims to enhance the legal position of asylum seekers and refugees by supporting and initiating strategic cases both at the domestic courts and the European courts. The Committee consists of academics, lawyers and a staff member of DCR who also coordinating the Committees work. The cooperation between these different actors increases the quality and effectiveness of our work. Where relevant we also work together with UNHCR and the European Council for Refugees and Exiles (ECRE), other ngo's and the VU Migration Law Clinic.



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The Goal of the workshop is to show the added value of cooperation between ngo' s, academics and lawyers. In addition this workshops aims to have participants think about different possible approaches in litigation a problem encountered by refugees and to gain insights on what strategic considerations are relevant when deciding which road to take.

#### **8. The VU Migration Law Clinic: Expertise centre or learning institution? Educational challenges in a strategic litigation clinic**

**Organiser:** Migration Law Clinic Vrije Universiteit Amsterdam

This workshop addresses the tension between the two main goals of a strategic litigation clinic: the provision of high quality legal argumentation in important cases on the one hand and offering a useful and rewarding learning experience to the participating students on the other hand. During the workshop we will first give a short introduction of the work of the Migration Law Clinic of the Vrije Universiteit Amsterdam and explain the type of case it has worked on in the past five years. After that the teachers and students of the Migration Law Clinic will introduce three tensions or challenges, which we have encountered and discuss them together with the audience.

9. High quality advice v the learning experience of the students
10. Time pressure v the need for a structured learning process
11. Working in a group on one expert opinion

### **Round 3**

#### **9. On the border – Strategic litigation experience from Turin/Italy”**

**Organiser:** Ulrich Stege, Director Clinical Legal Educational Programme International University College of Turin, Executive Secretary of ENCLE

The Human Rights and Migration Law Clinic of Turin, organized in cooperation between the Departments of law of the University of Turin and the University of Eastern Piedmont (Alessandria) and the International University College of Turin, runs since 2013 a strategic litigation activity. Since then, it has been involved in several migration law cases in front of the European Court of Human Rights. In addition, attempts have been made to present one case to the Human Rights Committee and to achieve a preliminary rulings referral to the Court of Justice of the EU. The session will start with some more systemic reflections about the requirements related to strategic litigation in migration law cases in general. Based on the Turin experiences of the last 5 years, it will then discuss the challenges/best practices of law clinic involvements in strategic ligations. The discussions will include reflection about the structure and managements of such clinical activities (e.g. specific activity, partners, case management, etc.) as well as the educational implications for the students involved and the strategic migration law outcomes (for the client and the law practice).



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## **10 How to Combine Different Kinds of Litigation Strategies in Favor of the Rights of the Poor Migrants: The Case of Venezuelan Migration to Colombia**

**Organiser:** Carolina Moreno, Head of The Legal Aid Clinic (*Consultorio Jurídico*) of Los Andes University, Bogota, Colombia.

This workshop will focus on how to create a clinic involved in litigation to contribute to the advance of the rights of the migrants. The discussion will especially consider the situation of the poor migrants who are exposed to a critical situation of vulnerability and who cannot afford professional legal services. During the discussion, the participants would be able to consider a set of different litigation strategies -individual and collective-, and the criteria to establish when to use one or another or how to combine various of them. This conversation will be illustrated by the experience that we have gained during the last year of work in The Legal Clinic for Migrants (CJ-Migrantes) at The Consultorio Jurídico of Los Andes University in Bogotá, Colombia. The workshop will also create a space to develop a conversation between the organizer and the participants about the challenges and opportunities which faces clinical legal education, especially when working with disadvantaged individuals and groups. This workshop will be developed using a problem-based learning methodology (PBL) where participants will first work in little groups to discuss a case about migrants in a situation of vulnerability looking for legal advice. Then, we will have a whole group discussion where we will identify the main problems posed by the case. Each little group will present its own selected legal strategy and will also propose an ethical tension to be considered. During the group discussion, participants are very welcome to share their own experiences when working with migrants or any other vulnerable group that may enrich the discussion.

## **11. Cooperation between Clinics, Lawyers, NGO's or other partners in strategic litigation**

**Organisers:** Ms. Shiksha Dahiya, Faculty Convener, Legal Support and Services Clinic, Ms. Meenal Choubey, Faculty Adviser, Ms. Savya, Ms. Tripti, Mr. Zuheb, Mr Girijesh, Student volunteers Legal Support and Services Clinic at School of Law, GD Goenka University, Gurugram, Haryana, India

This workshop will convey the idea of collaborating as clinicians with Para-legal volunteers, NGO'S and District legal services authority in order to bridge the gap and also help people in need of legal assistance. We will especially be discussing national migration in India, i.e. within the country as that is equally stressful and exhausting for those who are not a part of the area where they wish to work. Despite being constitutional right to work anywhere in any part of the country, migrants are facing challenges in getting access to many benefits.

## **12. Is this case strategic enough? How case assessments lead to critical third-party interventions - European Council on Refugees and Exiles**

**Organiser:** Stavros Papageorgopoulos. Legal Assistant, European Council on Refugees and Exiles (ECRE)

Strategic litigation starts with careful and responsible assessment. You cannot force a case to align itself with your litigation aims but you can try to evaluate whether its impact will forward your cause along with



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the rights of different groups of people. An intervention might hold back jurisprudence advancement if the timing is not right; it could be too early or too late.

During this workshop the participants will have to strategically assess a case before the European Court of Human Rights and reach a conclusion on the possibility and usefulness of a third-party intervention. The assessment will be centred on the line of jurisprudence of the Court on the specific issue, as well as on its real-life impact. The participants will be separated into two groups, with one team identifying the positive aspects of an intervention and the other team addressing possible challenges and unfortunate outcomes. This workshop will aim to offer a practical insight on how the work that goes into strategic assessment of cases can benefit both the clinics undertaking it and the intervening actors.

### Schedule Workshop 10 May 2019

Time	Best Practices	Strategy	Collaborations	Various
Round 1 9:50u- 10:45u	1. The Human Rights and Migration Law Clinic of Ghent University: good practices and challenges  <b>Room IN3B-44</b>	2. Should We Litigate this Case? – Clinics in Highly Controversial Cases  <b>Room IN-3B45</b>	3. Strengthening Collaborations between Law Students Globally for Refugees and Migrants  <b>Room IN-3B50</b>	4. International Law Clinic Vrije Universiteit Amsterdam: The virtual lawyer  <b>Room IN-3B52</b>
Round 2 11:05 – 12:00	5. The Regensburg Strategic Litigation Unit - our first case, lessons learnt and how can we evolve?  <b>Room IN3B-44</b>	6. Strategic Litigation Based on a Labor Approach to Human Trafficking: The Israeli Case of Temporary Migrant Workers in Foreign Construction (Execution) Companies  <b>Room IN-3B45</b>	7. Cooperation between clinics, lawyers, NGO's or other partners in strategic litigation: Strengthening refugee rights by uniting different strengths  <b>Room IN-3B50</b>	8. The VU Migration Law Clinic: Expertise centre or learning institution? Educational challenges in a strategic litigation clinic  <b>Room IN-3B52</b>
Round 3 12:05- 13:00	9. On the border – Strategic litigation experience from Turin/Italy  <b>Room IN3B-44</b>	10 How to Combine Different Kinds of Litigation Strategies in Favor of the Rights of the Poor Migrants: The Case of Venezuelan Migration to Colombia  <b>Room IN-3B45</b>	11. Cooperation between Clinics, Lawyers, NGO's or other partners in strategic litigation in India  <b>Room IN-3B50</b>	11. Is this case strategic enough? How case assessments lead to critical third-party interventions - European Council on Refugees and Exiles  <b>Room IN-3B52</b>