



# LRC

Legal Resources Centre

ANNUAL  
REPORT  
2014

WE NEED A  
**NATIONAL PLAN**  
TO END THE VIOLENCE.

**NO** EMPTY  
**MORE** PROMISES



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# The Legal Resources Centre's Vision and Mission

## Vision

Inspired by our history, the Constitution and international human rights standards, the LRC is committed to a fully democratic society based on the principle of substantive equality. The LRC seeks to ensure that the principles, rights and responsibilities enshrined in our national Constitution are respected, promoted, protected and fulfilled.

## Mission

To strive, both for itself and in its work, for a fully democratic society based on the principle of substantive equality and to ensure that the principles, rights and responsibilities enshrined in our national Constitution are respected, promoted, protected and fulfilled.

To function as an independent, client-based, non-profit public interest law clinic which uses the law as an instrument of justice and provides legal services for the vulnerable and marginalised, including the poor, homeless and landless people and communities of South Africa who suffer discrimination by reason of race, class, gender, disability or by reason of social, economic and historical circumstances.

To work towards a fully democratic society and to build respect for the rule of law and constitutional democracy, enable the vulnerable and marginalised

to assert and develop their rights, promote gender and racial equality and oppose all forms of unfair discrimination, contribute to the development of a human rights jurisprudence and to the social and economic transformation of our society.

The LRC seeks creative and effective solutions by using a range of strategies, including impact litigation, law reform, participation in partnerships and development processes, education and networking within South Africa, the African continent and at the international level.





## Chairman's report 2014

*Thandi Orleyn*

The year 2014 marked 20 years of democracy for South Africa. It also marked 35 years since the Legal Resources Centre was established. In 1979, when the LRC was formed by the late Felicia Kentridge, the late Arthur Chaskalson and Geoff Budlender, South Africa was on the brink of a crucial period of change as mass mobilization, unrest, conflicts and states of emergency gripped the country. The struggle during the decades of apartheid rule was for a democratic state that recognises equality and dignity of all South Africans; today, although much progress has been made, we are still fighting for these goals. An upsurge of protests, both peaceful and violent, teaches us that progress has not been widely accepted or felt by the majority. More can be done to assert justice and fairness, and the LRC will continue to be part of this. We are proud of our achievements and look forward to contributing to ongoing democratic transformation.

In June 2015, we paid tribute to Felicia Kentridge, who passed away after a long illness. Her contribution to advancing human rights in South Africa cannot be emphasised enough. She was integral to establishing and sustaining the LRC in the early days. Her motivation

was to contribute to society through what she knew, the law, and we would like to think that we have continued her legacy with sustained passion and commitment. Her influence on many young lawyers, including myself, was fundamental to the establishment of a public interest movement. She was also someone to aspire to as she navigated her life as a woman, a fundraiser, lawyer and activist.

It has been heartening to see the LRC continue on its path of growth, in the number of employees and projects it takes on, but also in stature and reputation. Our global reach and influence has been expanding and we are occupying a space on the global and national front, both in terms of how our work is seen, how our experiences have assisted others and how we have contributed to the national debate. It is also important to consider that our day-to-day activities are still contributing to improving the lives of thousands of beneficiaries. While we expand our focus to include

issues of information rights, accountability and protest, we have not given up the struggle against homelessness, landlessness, gross discrimination and inequality.

Once again it is important to thank those who stand with me; the trustees, the LRC's national director, Janet Love, and her deputy, Teresa Yates, who we warmly welcome. The work of the LRC is not possible without the staff and lawyers that work long hours to assist their clients. We wholeheartedly thank all our donors, some of whom have been with us since the beginning and others that have joined along the way. Our partners, Canon Collins Trust and the Southern Africa Legal Services Foundation continue to support our work from afar, thank you. We say goodbye to Sandy Balfour from Canon Collins Trust; we wish him all the best with his new endeavours. Lastly, we would like to thank our clients, who it is a privilege to work with and who make our work possible.



## National Director's report

*Janet Love*

It is always hard to reflect on a year gone by without wondering whether the significant moments and cases referred to can adequately convey the trust and commitment of our clients to making our democracy work and the extraordinary energy and dedication of the members of the LRC team – whether support staff, lawyers, grant officers or paralegals.

The year under review has seen the LRC responding to a number of key matters – a few of these are examined in greater detail in this report. This work has included addressing issues that relate to land, rural development and environmental justice, including around the impact of mining. We have continued to tackle questions that relate to housing and local government services – also looking at issues of informal trade and the need for economic inclusion.

Many of the cases we deal with appear resolved but instead have to be taken up again and again: for example, the Ebenhaeser land claim which has been going on for 18 years. A settlement agreement was finally signed in December 2014 but it seems that the Minister may be renegeing and on-going vigilance is required.



We have intervened in defence of refugees and continue to engage around the policies and practices that relate to migration. Files have been opened to contribute to ending discrimination including in relation to gender and disability. Our litigation around education has been complemented by important engagements with principals and teachers, parents, pupils and communities in an effort to combat violence that undermines the development of our children.

We have engaged in key issues related to the quality of education, including conditions within which education takes place (classrooms, furniture, toilets and so on); the appointment (and payment) of teacher and other staff complements; and the provision of on-going teacher support and the provision of Learner Teacher Support Materials (LTSM) including workbooks, chalk and other necessary stationery. While litigation is not the preferred method to deal with the crisis in education, it is often the only intervention that works to trigger some positive processes and responses.

The Marikana Commission of Inquiry finally wrapped up its hearings at the end of 2014. This was an intensive,

resource-sapping process that reflected what can happen when poor communities seek to exercise their civil liberties, and the response of a militarised police force. In addition to providing support for civil society organisations, we have also increased our work with regard to openness and accountability: from working around problems that relate to policing, freedom of assembly and access to information, to taking up challenges regarding State procurement and private sector accountability.

Intersectionality is a key feature of much of our work: a matter may begin with a community talking about the provision of services, but the focus may then shift to debt management, health, social grants and other issues. In this regard, the Johannesburg office, for example, has begun to examine more closely the value of workshops in terms of their impact on communities. Growing demand for paralegal workshops attest to the strong track record the LRC Johannesburg office has built in communities. An important lesson has been recognition that we get maximum impact of workshops when they take place consistently within the same community and deal with a variety of rights.

In the course of our work, there has been on-going and rich engagement with communities and clients, engaging with policy development and law reform and extensive interaction with local, regional and global networks. While the work that we have carried out in response to the concerns of our clients has been further enriched by our engagements within regional and global contexts, we have simultaneously been part of infusing the international human rights agenda with perspectives from the South.

The year has also seen us engaged in a number of internal discussions that aim to crystalize our key challenges and ways to respond going forward. We have looked at issues that relate to our role in defence

of the Constitution and the institutions it establishes, as well as engaging intensely around each focus area of work to ensure that we put in place appropriate capacity and can mobilise the necessary funding and support.

Our work is made possible through the solidarity and support of organisations and individuals within South Africa and beyond – and this is greatly appreciated. While the LRC is proud of what it has been able to achieve for our client base, we are also painfully aware of how much more needs to be done to realise the promise of our democracy and our Constitution to the majority of people in South Africa.

## OVERVIEW 2014

### LAND, ENVIRONMENT & RURAL DEVELOPMENT

#### Tackling air pollution through emissions standards

**T**he plants of South African energy and chemical company, Sasol, are located in hot spots of severely polluted air and are significant contributors to air pollution. More importantly, they are located close to large numbers of vulnerable and disadvantaged communities, whose well-being has been affected by decades of health-damaging emissions. Resulting health issues include higher levels of chest and lung problems as well as asthma. This situation is similar to that of Durban South, where a population of over three hundred thousand people, mostly from low-income communities, live amidst one hundred and twenty industries, including two oil refineries.

Early in 2014, Sasol submitted two applications for its Sasol and Natref plants, asking to delay their compliance with the legislation which regulates the impact they have on air quality. At the same time, they submitted two applications for these plants to be exempted from complying with the emissions standards altogether. These applications for exemption were opposed by the LRC and its partners. The LRC also opposed the initial application for postponement.

Minimum emission standards in South Africa are published in terms of section 21 of the National Environmental Management: Air Quality Act (AQA) of

2004. The LRC wrote to the consultants who drafted the application for exemption, indicating that they would oppose the exemptions and postponements. This was due to the fact that they were not legally compliant with the requirements of AQA and the 2012 National Framework for Air Quality Management and regulations. Importantly, any postponements would allow Sasol to continue to emit compounds that are harmful to human health and wildlife. The LRC also made the Department of Environmental Affairs aware of these concerns.

Both requests for exemption were initially refused



by the Department of Environmental Affairs, after which Sasol converted them to applications for additional postponement. These applications were also opposed by the LRC and its partners for various reasons, including the fact that a postponement would be an unlawful administrative action. The postponement applications also did not show that Sasol's current emissions were compliant with legislation and safe standards. Sasol and Natref's applications also failed to consider the cumulative impacts of their current emissions. The LRC is still waiting to hear from the Department with regard to its decision in relation to the applications for postponing legislative compliance.

The Legal Resources Centre is acting on behalf of the **South Durban Community Environmental Alliance** and the **Tableview Residents Association**, **groundWork**, **Vaal Environmental Justice Alliance**, the **Greater Midleburg Residents Association**, the **Habitat Foundation** and **Captrust** and has been assisted by Professor Eugene Cairncross, a chemical engineer, and Dr Mark Chernaik, Staff Scientist at Environmental Law Alliance Worldwide.

*Without the enforcement of stricter emissions standards in South Africa, industries like this one in Durban will continue to emit high levels of pollution, impacting on the health of communities living in the area. The LRC are fighting to ensure that Sasol complies with these emissions standards.*

## Progress in one of South Africa's largest rural restitution claims

In South Africa, there are currently hundreds of thousands of people whose homes and livelihoods were severely undermined by apartheid spatial planning and forced removals. Many of these people have yet to benefit from the promise of restitution of their land.

A community in the Western Cape is, however, one step closer, although it's taken nearly two decades to make progress in their land claim. In 1925, the Ebenhaeser Community was dispossessed of their land under apartheid legislation. The dispossessed land in question is fertile land that lies alongside the Olifants River Valley on the west coast of South Africa. In 1996, following the introduction of the land reform programme in South Africa, the community made a restitution application in what became the Western Cape's largest rural restitution claim.

The community has been assisted by the Legal Resources Centre over the past decade. The land claim negotiations with the government, as well as with private farmers who own the land, continued during this time but a settlement was only reached in 2014. The government agreed to pay out the land owners an amount of R350 000 000. However, by this time some of the private farmers had withdrawn from the process and the negotiations were only partially successful.

This meant that there were now a number of "unwilling sellers" who no longer want to acknowledge that the community has a claim to the land.

However, there were also a number of willing sellers that had no opposition to the settlement being finalised. The LRC then put forward a proposal to deal with the land claim in two phases: finalising the claim with the willing sellers and then returning to the process of finalising the claim with the unwilling sellers. A "separation" was agreed upon and the settlement between the government and willing sellers was made an order of court, thereby allowing the community to reclaim ownership of part of the land. In this regard, the government now needs to expedite its responsibilities in terms of the agreement without delay.

Over the next six years, the LRC aims to, through continued negotiations, assist the community to reclaim the remaining land currently under the ownership of the unwilling sellers.



*The historic signing of the Ebenhaeser settlement, although partial, represents more than a decade of work by the LRC on behalf of the community.*



## Challenging the Restitution Act

In an application in the Constitutional Court running to 1500 pages, the LRC is representing the **Land Access Movement of South Africa** (LAMOSA), **Nkuzi Development Association** and the **Association for Rural Advancement**, as well as three communal property associations, in challenging the Restitution of Land Rights Amendment Act 15 of 2014. The LRC and its clients are asking the Constitutional Court to declare the Restitution Amendment Act unconstitutional.

The influence of the Amendment Act on the lives of poor and landless communities is significant, triggering further delays in finalising existing claims and potentially leading to conflicts between multiple land claimants, thereby making it imperative to challenge the constitutionality of the Act.

The bases for the challenge are many. Significantly, the steps to meet the requirement of a “reasonable public participation process”, which must be completed before the President can sign any Act into law, should have been more intensive in the case of the Restitution Amendment Act.

Some of the issues included inadequate notice of the Bill, insufficient time given to prepare submissions on the Bill, no translations of the Bill for communities who do not speak English as a first language and there was a failure to allow those affected by the Bill, such as the

LRC’s clients, to present their concerns.

The Bill was also rushed through the National Council of Provinces and the Provincial Legislatures, meaning that any hearings in the provinces were meaningless. There were also other suggested amendments raised by the Provincial Legislatures, for example final dates for lodging claims and how land would be administered, that were not considered in the Bill.

Finally, the Amendment Act is also unconstitutionally vague. It requires the Commission on Restitution of Land Rights to “prioritise” existing claims, but what it means to prioritise in these circumstances is unclear. Unless the vagueness is clarified, it may result in people who have made previous claims being undermined.

The matter will be heard in the Constitutional Court in early 2016.

*Protesting labour tenants outside the Land Claims Court. On their behalf, the LRC received a successful judgment ordering the Department of Land Affairs to process land claims that were made more than a decade ago*



## Labour tenants fight for land

By the 31 March 2001 (the cut-off date for applications) approximately nineteen-thousand labour tenants had filed land claims under the Land Reform (Labour Tenants) Act of 1996. This Act allows labour tenants to apply to the Director-General of Land Reform for the rights to use and own the land that they have continued to occupy, on the farms where they work and reside.

Over fourteen years later, the Department of Rural Development and Land Reform has failed to perform even the basic tasks necessary to process these applications. These delays have meant that labour tenants have not been able to acquire secure rights to the land that they have been living and working on. They cannot access other benefits under the government's land reform programme and also remain vulnerable to illegal evictions.

The LRC have been acting for the **Association for Rural Advancement** (AFRA) and four labour tenants residing on a farm owned by Hilton College who had made land claims under the Act. In 2014, the LRC took the Department to the Land Claims Court in Johannesburg. The LRC asked the Court to compel the Department to

fulfil its obligation to implement the Act effectively. The case will have implications for all labour tenants in South Africa who have waited for over a decade to have their applications processed.

The matter was heard in September 2014, and the land Claims Court ordered the Department to file a report detailing the current status of all the applications they had received in terms of the Act. The report is expected to detail the current status of each individual claim and include details on how the Department will process all outstanding applications. Once the plan is filed in the Court, the LRC intends to ensure close monitoring of the implementation of the plan. In this way, thousands of labour tenants finally stand to receive the secure land rights they were promised under the Act.

## Department tries to avoid paying compensation to labour tenant

**O**n 2 June 1995, Mr Msiza's father lodged a claim for land in terms of the Land Reform (Labour Tenants) Act. He was living and working on a farm while growing his own crops and grazing animals on a small portion of it. Unfortunately, Mr Msiza's father passed away before the claim was finalised and Mr Msiza was appointed as the successor and executor. In order to finalise the claim, Mr Msiza approached the LRC for assistance. The matter went to court in 2004 and the case was successful. Mr Msiza's late father was declared a labour tenant and awarded title to the land in terms of the Land Reform (Labour Tenants) Act.

In 2011, the Department of Rural Development and Land Reform sent an evaluator to the property and he valued the land at R2 980 000. The Department rejected this valuation and offered the owners of the farm an amount of R408 000 to purchase the farm. The offer was rejected by the owners.

The Department and the owners of the land could not agree on the purchase price and the LRC had to return to court. The LRC asked the Court to determine the amount that the Department had to pay to the owners of the land. The Department argued that the 2004 award to Mr Msiza should be varied and that he should

be given alternative land instead. They also argued that Mr Msiza should be ordered to pay occupational rent - however, this was never the intention of the Act. The LRC argued against these assertions by the Department.

The Court agreed with the client's position in that the Department's arguments had no merit and that the Court order should not be varied. The Land Claims Court postponed finalising the matter, but only so that reports could be prepared for the court detailing the parties' positions in an attempt to enable a settlement that is satisfactory to both parties.



*Mr Msiza and LRC attorney, Thabiso Mbhense, in the Land Claims Court. Mr Msiza is attempting to enforce a judgment found in favour of his father, entitling him to the land that he claimed as a labour tenant.*



*Mines like this one in the North West Province of South Africa pose a threat to water quality. If the waste water is not treated properly, it can also lead to acid mine drainage.*



## Umsimbithi mining in contravention of legislation

In late 2013, Umsimbithi Holdings began mining on the Wonderfontein farm in Mpumalanga, an area of South Africa vulnerable to water shortages. The Wonderfontein farm is part of the Nkomati Catchment which includes a protected area under the National Environmental Management Protected Areas Act involving a vital system of wetlands, and there are international obligations to ensure a flow of water from this catchment to Mozambique. Mining in the catchment would result in the wetlands being significantly damaged by acid mine drainage.

The Mine commenced activities in the catchment ignoring the conditions in the water-use licence that stated that mining cannot take place within five-hundred metres of wetlands. The Department of Water Affairs did nothing to stop this illegal mining and refused to intervene, despite the fact that activities were taking place without obtaining the required authorisation.

The LRC acted on behalf of the **Federation for a Sustainable Environment**. Several letters were written at the client's instructions to various provincial and national departments, as well as to the local authority, demanding that they intervene, investigate and take

appropriate action in order to compel the mine to comply with the relevant legislation.

Finally, in the face of threatened litigation, the Department of Water Affairs indicated that it was prepared to monitor the mining activities and report to the LRC offices every week. Umsimbithi Mine indicated that it intended to apply to amend its environmental management plan, which would allow the activities to continue.

On behalf of the client, the LRC has responded with a demand that no amendment be considered until the representations that were lodged against the original approval of the mining license are properly considered.



*Shacks such as this one are often demolished after people are evicted from private land. The law requires that evictions only take place once a court order has been obtained, taking into consideration the circumstances of the people being evicted and the availability of alternative land.*



## HOUSING & EVICTIONS

### Families get alternative land after eviction

Nineteen families living in Durban on private land owned by a company called Mahogany Ridge, had their homes demolished by the land owner and were ordered to leave the land. They approached the LRC's Durban Regional office seeking assistance, as there was no court order giving Mahogany Ridge the legal right to evict them from the property. The LRC discovered that there had been a court order allowing for the eviction of other families, but the order did not apply to the nineteen families that they were assisting.

Homelessness is something that our law seeks to avoid which is why evictions can only be undertaken by an order of court. Various alternative places of shelter must be considered and failing which, proper procedures must be followed.

In June 2014, the LRC approached the Durban High Court on an urgent basis in order to stop further demolitions and the eviction of the nineteen families. The Court decided that the matter should proceed in the normal manner and the case was placed on the court roll. Mahogany Ridge then applied for the eviction of the LRC's clients and included the eThekweni Municipality in the matter as the Municipality was expected to report to the court regarding the possibility of providing alternative accommodation,

which would assist the court to determine whether to allow the eviction to take place or not.

The matter went to court at the end of March 2015. At the hearing, the Court urged the parties to discuss the issue of alternative accommodation. The LRC represented their clients in discussions with the private owner and the municipality, where it was agreed that the eThekweni Municipality would provide alternative land for the nineteen families. The Municipality was given until the end of September 2015 to identify the land. However, they responded quickly and within days, the LRC received details about land that their clients could move to.

The LRC is currently monitoring the implementation of this positive outcome.



*Thokoza Hostel mothers and children celebrate their victory outside the Durban High Court*



## LRC challenges rule not allowing children in hostel

In February 2015, the LRC was approached by twenty-six women who live at the Thokoza Women's Hostel in Durban. The hostel is owned and managed by the eThekweni Municipality where there is a rule that minor children are not allowed to live in the hostel with their mothers or primary care-givers. All of the women had children living with them and the municipality gave the women an ultimatum to remove their children from the hostel.

Municipal officials would prevent the minor children from entering the hostel. The children would return home from school, only to find that they would not be allowed into the hostel. Their mothers' pleas to the municipality to allow their children in were ignored.

One instance in particular occurred on the afternoon of 16 February 2015, when eight children were locked out of the hostel for four hours. The LRC was approached and proceeded to make an urgent after-hours application to have them allowed back in. In a short space of time, the children were allowed to re-enter the hostel.

In an effort to prevent further incidences of this nature, the LRC pursued an intervention on an urgent basis seeking to secure on-going protection for the minor children. On the 11 March 2015, the Durban High Court granted an order allowing twenty-four children (including one unborn child) to continue living at the hostel until the second part of the case is finalised. The second part of the case will challenge the legality of the rule and the LRC will appear in court again in order to argue that children should be allowed to stay with their mothers in these facilities.



## Street trader compensated for seizure of his property



In August 2013, the goods of Mr John Makwicana, an informal street trader in the Warwick Junction in Durban, were confiscated and Mr Makwicana was told to pay a fine to have them returned. This happened despite the fact that he had a trading permit. Being part of the local organisation, Masibambisane Traders Association, and having been informed of his rights, Mr Makwicana approached the LRC for assistance.

The LRC represented Mr Makwicana in challenging the City of eThekweni's bylaws, which granted police officers the power to impound and confiscate goods if they found that a trading permit was not displayed. In this instance, the reason that the permit had not been displayed was because Mr Makwicana and his assistant were temporarily absent from their table.

In a victory for Mr Makwicana and many other traders who are vulnerable to the same practices, the Durban High Court declared the eThekweni Municipality's power to impound and confiscate the goods of informal street traders' under the 2014 Informal Trading Bylaw unconstitutional, invalid and unlawful. The municipality was directed to amend its bylaws. In addition, the court ordered the police to pay compensation to Mr Makwicana to the value of the confiscated goods, plus interest.

*Mr John Makwicana and members of Asiye eTafuleni, an organisation educating informal traders about their rights, stand outside the Durban High Court after a successful judgment ordered the City of eThekweni to compensate Mr Makwicana for goods that they had confiscated*

## Family get house back after it is sold for R10

The failure of some banks to apply the law correctly, as well as loopholes in the law, can result in low income earners losing their homes. Over the past few years, the LRC has been tackling cases where low income earners lose their homes as a result of people fraudulently taking advantage of legal loopholes, or because banks have been irresponsible in advancing loans.

The case of Mr Nxazonke is one of example of this. In 1990, Mr Nxazonke took out a mortgage of R30 000 from Nedbank. He paid monthly instalments up to his retirement in 2001, when he could no longer afford the instalments. Despite the fact that Mr Nxazonke had paid instalments of over R66 000, Nedbank claimed he still owed R27 959.49 and obtained default judgment, allowing Nedbank to sell his house in order to recover the debt. Nedbank then bought the house at the sale of execution for R10. In 2004, Nedbank transferred the property to the Peoples Bank, which immediately sold it, together with seventeen other similar properties.

In 2008, another person took transfer of the property and used it to secure a loan from ABSA Bank. After defaulting on the loan, ABSA obtained a default judgment against him and a judicial sale of execution was scheduled for October 2012. It was at this stage

that the Nxazonke family became aware that they had been dispossessed of the ownership of their house many years back. Having failed to persuade the bank to settle the matter, they approached the LRC who stopped ABSA from proceeding with the sale.

By this time, Mr Nxazonke had passed away but the LRC represented his wife in arguing that the Nxazonke family were the rightful owners of the house, because the original default judgment was made without taking into account all the relevant circumstances — as was established in the Constitutional Court case of *Jaftha*. Following this case, the courts have held that judicial oversight is necessary in every case where a creditor seeks payment of a debt by way of attaching a person's home. The court found in favour of Mrs Nxazonke and placed the property back into her name.

### ***Jaftha v Schoeman and Others (2005)***

In the case that went to the Constitutional Court in 2005, the owners of two separate properties went to court after their homes were sold in execution for debts of R250 and R190 respectively. They applied in the High Court for orders setting aside the sales and executions, arguing that the section of the legislation allowing for this to occur was unconstitutional because it infringed on their right to housing. The Constitutional Court agreed and the legislation was changed so that any action which would result in someone being rendered homeless must have judicial oversight, taking into account the relevant circumstances.



# Court declares alternative accommodation rules unconstitutional

In 2011, a number of people were evicted from a building that they had been occupying and placed in alternative accommodation provided by the City of Johannesburg. The provision of alternative accommodation was a principle developed in *Blue Moonlight*<sup>\*</sup>, a significant housing rights matter which set the precedent of providing alternative accommodation in instances where people are evicted from buildings and are left homeless. However, the court had not yet set down a precedent on what can be expected from alternative accommodation.

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\* *Blue Moonlight Properties 39 (Pty) Ltd v Occupiers of Saratoga Avenue and Another* (2011) [2010] ZAGPJHC 3

For many of the people living in the alternative accommodation provided, the shelter rules were unreasonable and unacceptable. These rules forbade spouses or life partners from sharing the same room. People staying in the shelter were also expected to vacate the shelter during the day, every day of the week, regardless of their health or other individual circumstances.

The rules were challenged by the Socio-Economic Rights Institute, who represented the aggrieved people. The Legal Resources Centre, representing the **Centre for Applied Legal Studies** (CALS), entered as a friend of the court in this matter, known as *Dladla*<sup>\*\*</sup>. It was argued that the rules resulted in an unjustifiable infringement on the rights to dignity, freedom and security of person, privacy and access to adequate

housing, as found in the Constitution.

As a friend of the court on behalf of CALS, the LRC submitted that a woman's right to adequate housing is protected under international law and that a gendered lens should be used to examine the rules that are applied at the shelter. It was further submitted that the gender-neutral rules of the shelter disproportionately impact on a woman's constitutional rights.

The Johannesburg High Court agreed with the arguments given and handed down a judgment which found that the rules unjustifiably infringed on the rights of the people living there. The Court interdicted the City of Johannesburg from enforcing the rules for the duration of their stay and directed the City to allow people to reside in communal rooms together with spouses and permanent life partners.

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\*\* *Dladla and the Further Residents of Ekuthuleni Shelter v City of Johannesburg and MES* [2014] ZAGPJHC 211



*Hundreds of people continue to be evicted from occupied buildings in the Johannesburg city centre each year. Due to interventions from civil society organisations such as the LRC, the City of Johannesburg is expected to supply emergency alternative accommodation, while applying fair rules for accessing the accommodation.*

## Statistic

In 2014 it was estimated by the Inner City Property Scheme (ICPS), a City of Johannesburg initiative, that **400** buildings in the inner city were illegally occupied.



## Victims of a fraudulent scheme get their homes back

The Legal Resources Centre has been assisting a large group of people whose homes were unlawfully transferred to Brusson Finance (Pty) Ltd under a reverse mortgage scheme. Their properties were mortgaged by Brusson Finance “investors” who defaulted on their repayments and many of the Brusson Finance clients found themselves in danger of being evicted from their homes, or having their houses sold from under them.

The LRC has been representing these clients in court in order to have their evictions stopped and the property placed back in their names.

The victims of the scheme had their homes attached as security for loans that they have applied for and received from Brusson Finance. **Brusson Finance deceived the loan applicants into believing that they were entering a loan agreement. In reality, the documents they signed authorised the sale of their family home to a third party.** The applicants continued to reside at the property and pay monthly instalments to Brusson Finance.

However, Brusson Finance had transferred the property to an investor who approached a bank for a mortgage over the property. If the investor defaulted on the mortgage payments, the banks obtained a judgment declaring that the property could be sold in order to pay back the mortgage.

Brusson Finance had been subsequently liquidated, leaving the clients of the scheme in a precarious position as the properties are no longer in their names and the banks are executing against the properties.

It is estimated that there are nine hundred people affected by the scheme. However, each case currently

needs to be dealt with individually.

Two significant judgments delivered in the Johannesburg High Court in 2014 have set a significant precedent in these cases.

In *Radebe v the Sheriff of Vereeniging, Nedbank and others*, delivered on the 25 September 2014, the Court ordered that the Radebe property should be transferred back into the names of the LRC’s clients. The Court also found that the agreement between Brusson Finance and the Radebes is invalid and unlawful and that the mortgage that was granted by Nedbank to Brusson’s “investors” is invalid.

In *Moore v ABSA Bank*, handed down on the 26 September 2014, the court ordered that the property be restored to the Moores and that they be placed in the position they were in before entering the loan agreement with Brusson Finance.

As the Brusson Finance scheme is not the only one of its kind, related cases are ongoing in our courts. The LRC is aiming to use the current Brusson Finance cases to send a clear message to banks that this practice is unlawful. We aim to create a basis for necessary regulations and guidelines to be developed to prevent this practice from happening to others.

# EDUCATION & CHILDREN'S RIGHTS

## Eastern Cape learners get desks and chairs

In 2014, the Grahamstown High Court made a significant ruling which reaffirmed the right to basic education as being immediately realisable, particularly with regards to school furniture. On 20 June 2014, the Court held that it was clear that schools in the Eastern Cape were affected by the Department of Education's failure to provide furniture and that this was a "serious impediment for children attempting to access the right to basic education in the province" and that the government has to take "all reasonable measures" to ensure that learners are able to realise the right to basic education with "immediate effect".

The court order will see up to four hundred thousand learners receive furniture. This comes after the Legal Resources Centre, on behalf of the Centre for Child Law, filed a case against the Eastern Cape Department of Education for their failure to provide essential school furniture to public schools. Judge Glen Goosen stated that "on or before 31 May 2014 [...] all schools identified in an audit as having furniture shortages shall receive adequate age and grade appropriate furniture which shall enable each child at the identified schools to have his or her own reading and writing space". This audit also enabled schools to monitor the delivery of the order and allowed them to report breaches of the court order.

By the beginning of 2015, only a fraction of the furniture needed had been delivered. However, the Department

of Environmental Affairs (DEA) had been granted a large share of the order and is producing furniture using wood that is harvested through the Working for Water Programme. Furthermore, R60 000 000 worth of furniture was being produced by five companies in the Eastern Cape, and R40 000 000 worth of furniture was being produced by companies appointed through a tender run by the National Treasury.

The Department of Education did make an application to the court for a thirteen month extension on the deadline of June 2015, which the LRC and Centre for Child Law has accepted. However, the LRC brought a counter-application requesting monthly reporting on progress and the publication of the delivery schedules.

The case is still ongoing.

*The Ncincinikwe Senior Primary School is just one of an estimated 400 “mud schools” that the Department of Education has set out to eradicate, after the LRC took them to court.*



## Department in process of eradicating Mud Schools

Over four years ago, in February 2011, the LRC represented the **Centre for Child Law** and seven “mud schools” in a successful application against the Department of Education to address the significant problem of mud schools and inappropriate structures in the Eastern Cape. Among other things, the Department undertook to spend more than R6 000 000 000 over a period of three years to replace inappropriate structures at schools. The Accelerated Schools Infrastructure Development Initiative (ASIDI) was created to roll out the infrastructure programme and aimed to replace over four hundred schools in the Eastern Cape.

However, the ASIDI program failed to fulfil its obligations as a large portion of its budget was not spent. By 2014, approximately one hundred and ninety-seven schools in the Eastern Cape were still registered as “unallocated” ASIDI schools, which meant that the Department had no plans in place to ensure that the schools were replaced with appropriate structures. In addition, a number of schools with inappropriate structures were not included in the ASIDI programme at all.

Although the LRC wanted to avoid legal action, a further application was launched in January 2014 on behalf of the Centre for Child Law and five schools with urgent infrastructure needs (“Mud Schools 2”). The aim of the application was to force the Department to develop a plan that would enable it to improve its ability to spend its budget and provide safe and adequate infrastructure for learners. The application

was successful and, amongst other things, the court ordered that within forty-five days, the Department should publish a list of all public schools in the Eastern Cape comprised of inappropriate structures and, within ninety days, publish a comprehensive plan setting out what each school is scheduled to receive in terms of infrastructure improvements, together with timeframes for such improvements.

Between September 2014 and January 2015, the LRC undertook a comprehensive monitoring project and visited or made contact with one hundred and ninety-three of the one hundred and ninety-seven schools on the unallocated ASIDI list. The LRC gathered information that would allow the organisation to assess the appropriateness of the Department’s required plan once it was produced. In addition, further information was gathered regarding educator post establishments, furniture shortages, sanitation,

learning and teaching support materials, the school nutrition programme and scholar transport. The LRC were joined by various groups at different times during the twelve weeks of monitoring, including funders from the **ELMA Foundation** and the clients at the Centre for Child Law.

The monitoring revealed that many schools are still in critical need of improvements or replacement. Some of the issues revealed included poor sanitation, insufficient maintenance budgets, lack of non-educator personnel and the inclusion of schools that were either closed or rebuilt.

Despite the shortfalls, positive outcomes have been achieved from the August 2014 court order. The five schools named as applicants received emergency infrastructure, while other schools in the province have been given the opportunity to make submissions as to why they should be included on the ASIDI list and receive infrastructure improvements. However, there has been no progress regarding the required development of a plan in relation to the one hundred and ninety-seven unallocated schools, which was a key component of the August 2014 court order.

In light of the Department's ongoing failure to comply with court orders, the LRC has prepared a contempt application ("Mud Schools 3"). It proposes the appointment of an administrator to facilitate the development of an appropriate plan and timeframes for school infrastructure improvements at the one hundred and ninety-seven schools.

## What are "mud schools"?

According to Dr Ann Skelton, mud schools are, "old and dilapidated. The roofs, often constructed from corrugated iron, have holes that have rusted through, causing children and classroom equipment to get wet when it rains. Books cannot be left in the classrooms, and when it rains, children simply cannot attend school. Mud schools also lack electricity, running water and sanitation, and most have old and insufficient classroom furniture."

From, "Leveraging funds for school infrastructure: The South African 'mud schools' case study", UKFIET International Conference on Education & Development Post 2014: Reflecting, Reviewing, Revisioning, University of Oxford (September 2013).



*Ncincinikwe Senior Primary School*



## First opt-in class action gets teachers in classrooms

**G**round-breaking results were produced in the LRC class action case against the Department of Basic Education (DBE) in the Grahamstown High Court. The case sought to compel the DBE to permanently appoint teachers to vacant posts in the province and to reimburse schools that have been compelled to pay teacher salaries that should have been paid by the Department.

This court action came on the back of a dysfunctional Eastern Cape department which failed to implement proper human resources management. Thousands of teachers on official lists were not working, too many teachers were in some schools while there were not enough in others and there persisted an incorrect alignment of teachers' posts with subjects. Many temporary teachers existed in a state of professional uncertainty.

The LRC represented the School Governing Body (SGB) of Linkside High School in Port Elizabeth and the SGBs of thirty-one other affected schools in the Eastern Cape. The first part of the case involved a successful financial claim of approximately R28 000 000 on behalf of three schools and the appointment of one hundred and fifty teachers. In addition, and perhaps more significantly, South Africa's first opt-in class action case was certified, which meant that other schools in the Eastern Cape with vacant posts, or which required

reimbursement for teacher salaries, could join the case as claimants. As a result, a further ninety schools joined the class action.

The court order was significant as it was the first successful case of its kind. The order was structured in such a way that the Department had to pay R82 000 000 to Price Waterhouse Coopers (PWC) which was appointed by the Department as the Claims Administrator. PWC had to obtain all the documents from the schools and verify their claims and pay them out.

As of 1 January 2015, the Department had also permanently appointed one hundred and forty-four teachers to those posts identified by the schools. This was an important aspect of the court order as it meant that those teachers that had been temporarily appointed now had job security and, in turn, schools had the correct number of teachers.

## When the registration of a birth can lead to discrimination

In 2013, it was estimated that nearly half of mothers in South Africa are “single”<sup>\*</sup> and over two thirds of the births registered in 2014 did not have details of the father<sup>\*\*</sup>. This is problematic as it impacts on the identity of the child, as well as the enforcement of paternal rights and duties. The LRC is seeking to address this through the following case.

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\* General Household Survey 2013 by Statistics SA

\*\* Recorded Live Births report by Statistics SA

A mother of a young child approached the LRC’s Cape Town regional office with the complaint that, when trying to register the birth of the child, she cannot put the name of the father of the child on the certificate without his consent. The LRC decided to take the matter to court to challenge two sections of the Birth and Death Registrations Act 51 of 1992 (BDRA). The LRC are acting on behalf of the **South African Human Rights Commission** (SAHRC), the mother and her minor child.

The BDRA only permits a man to be registered as the father of a child of unmarried parents at his instance and with his consent (what we refer to as the “Registration Defect”). Furthermore, the BDRA only permits a child of unmarried parents to assume his or her father’s surname or a double-barrelled surname,

with the father’s consent, or possibly on application to the High Court (referred to as the “Surname Defect”).

The LRC argues that these defects unfairly discriminate on grounds of sex, gender, marital status and birth. It also violates the woman and child’s right to dignity because it reflects the father as “unknown”. These defects also violate a child’s right to a name – which includes the child’s right to know who his or her parents are, to have their names registered in the Population Register, and to a surname chosen by the child’s parents or guardians.

The LRC further argues that a father’s name should be included on the birth certificate of a child where there is scientific proof, a court order, or where the applications of the ordinary presumptions indicate fatherhood.

*Photos showing the extent of over-crowding and lack of furniture at Alfonso Arries Primary School. After the LRC's intervention, new classrooms were built and furniture delivered.*



## Overcrowded school gets new classrooms

Access to schooling should not just be about having a place within a school, but also about quality teaching which allows learners to advance through the school curricula and matriculate. However, throughout the South African public school sector, there remains a challenge of overcrowding in classrooms making it difficult to teach, thereby hindering the advancement of learners through the school system. This requires that issues such as overcrowding, lack of furniture and unsafe school environments be dealt with effectively.

Alfonso Arries Primary School was established in January 2012 in the Chatty community of Port Elizabeth. The school was built to accommodate eight hundred and eighty students but numbers increased dramatically until there were over one thousand and seven hundred learners at the beginning of 2015. With more than one hundred learners in some classrooms, teachers were finding it difficult to teach and the school needed to expand — and fast.

Concerned parents and teachers at the school wrote letters and met with various members of the Department of Education. Despite promises that more classrooms and teachers would be provided, no help came. Represented by the Legal Resources Centre, a committee of concerned parents and teachers filed

an urgent application in the Grahamstown High Court in February 2015 asking the Department to fulfil its promises.

Within days of the court papers being filed, the Department of Education showed a willingness to act. Construction began on sixteen prefabricated classrooms and a new block of toilets. The Department confirmed that they would also equip the classrooms with the necessary furniture.

A happy teacher noted that, “The morale amongst the teachers at the school has bounced back. Even though our workload is still extremely heavy and the overcrowding is still unbearable, we can see that the situation is going to improve soon.”

## EQUALITY & NON-DISCRIMINATION

### The LRC welcomes the findings of the Khayelitsha Commission

In 24 August 2012, the Khayelitsha Commission of Inquiry was established to investigate complaints lodged with the Premier of the Western Cape Province regarding police inefficiency and a breakdown in relations between the police and the community of Khayelitsha. The LRC made submissions to the Commission on behalf of five complainant clients: **Social Justice Coalition, Equal Education, Treatment Action Campaign, Ndifuna Ukhwazi and Triangle Project.**

The organisations told the Commission that members of the Khayelitsha community routinely experience violations of their constitutional and other rights when they use the services of the police. Not only were the actual police services problematic, but girls and women were also frequently beaten and raped whilst walking to and from communal toilets, or when fetching water from communal taps close to their homes. Domestic abuse posed a threat to the safety of many women within their own homes.

The LRC showed that the Family Violence, Child Protection and Sexual Offences Unit (FCS Unit) performed poorly and operated inefficiently. The LRC also submitted that the FCS Unit did not have the

capacity and expertise to develop and implement an effective strategy for responding to sexual violence in Khayelitsha.

The report released on the 25 August 2014 agreed with many of the LRC's submissions, and the report as a whole was welcomed by many organisations that were part of the Commission. Broadly, the report acknowledged that the police operating in Khayelitsha were inefficient and that there had been a breakdown in relations between police and the community.

The Commission also concluded that the FCS Unit in Khayelitsha was performing very poorly. It noted that, "there are inefficiencies in the manner in which it investigates cases, in the way in which it liaises



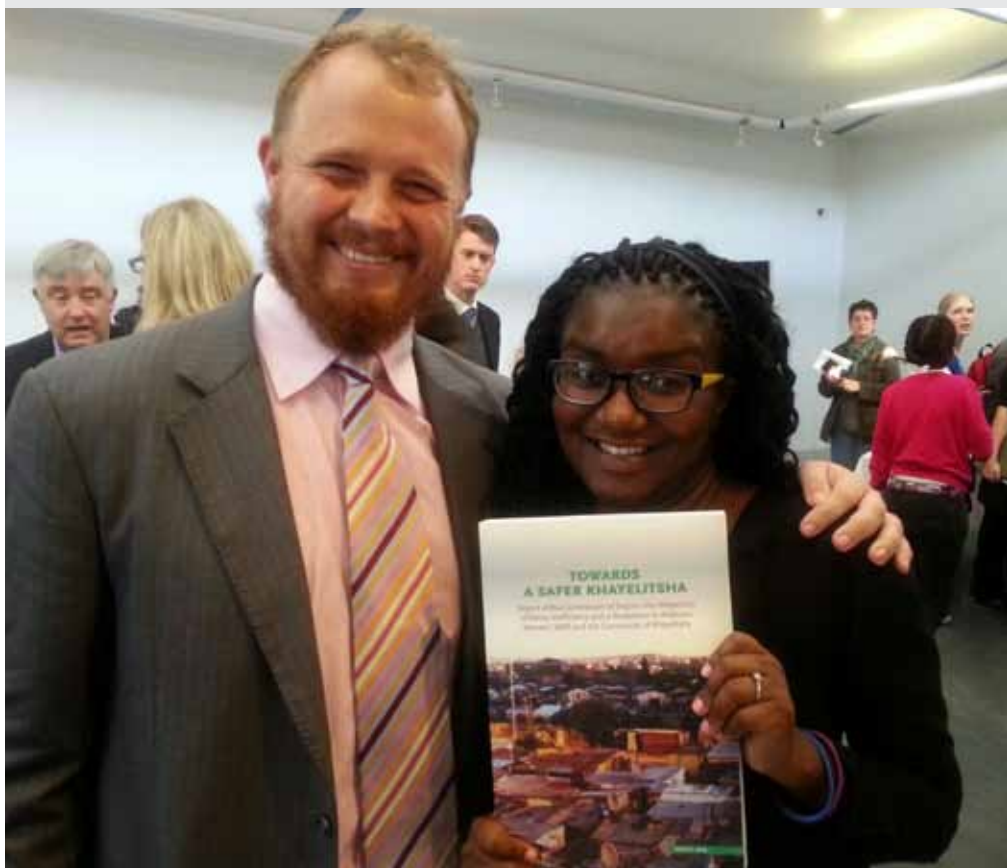
with other stakeholders such as the Thuthuzela Centre [for survivors of sexual violence], and the prosecutors at the Khayelitsha Magistrates' Court." The Commission noted that there are many reasons for the poor performance of the FCS Unit and that these issues need to be addressed as a matter of urgency.

With the high levels of violence against women and girls in South Africa, the Commission's findings and recommendations can serve as a guide for better policing to prevent and reduce such violence.


**Read more about  
the Khayelitsha  
Commission:**

[http://www.  
khayelitshacommission.org.  
za/](http://www.khayelitshacommission.org.za/)

*The LRC's Michael Bishop and Mandi Mudarikwa with the Khayelitsha Commission report*



## Court rules that children's rights trump custom

 On 7 November 2013, in the Wynberg Regional Court, Mr Jezile was convicted of raping and trafficking a 14-year-old girl. He appealed his conviction in the Cape Town High Court on the grounds that he had been married to the girl through the Xhosa custom of 'ukuthwala', a form of customary marriage.

The LRC represented a number of organisations who were admitted as friends of the court and who gave evidence on the practice. The organisations included the **Rural Women's Movement, Commission for Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, Masimanyane Women's Support Centre** and the **Commission for Gender Equality**.

The LRC assisted the Court with expert evidence and legal argument on living customary law. The LRC aims to advance gender equality and the protection of women living in terms of custom and the evidence looked at the practice of *ukuthwala* in relation to the Constitution. In terms of the laws of South Africa, the age of consent for marriage is 18 years. Furthermore, the girl had not given her consent, indicating resistance to the marriage and running away.

The judgment of the Cape High Court on 23 March 2015 firmly rejected Mr Jezile's defence and demonstrates that custom cannot excuse rights abuses against children. By rejecting his defence, the court has refused to allow customary practices such as *ukuthwala* to be used as a criminal defence for the abuse of women and children.

The Court also noted the elements of *ukuthwala*; for example, the need for consent of both the man and woman who wish to marry. The judgment stated that *ukuthwala* is an irregular method to conclude a marriage and that the traditional form of *ukuthwala* does not include the rape of children, nor does it involve forcing a girl child into a marriage with an older man.

# MIGRATION

## LRC fights to keep refugee office open

In May 2012, the Department of Home Affairs (DHA) announced that it intended to close the Cape Town Refugee Reception Office (CTRRO) to new asylum seekers. New asylum seekers would have to apply for permits, as well as have them processed, in Musina, Pretoria or Durban, many thousands of miles away. This would make it more difficult for asylum seekers to apply for and be granted asylum, leading to uncertainty about their status in South Africa, render them illegal and stifle their ability to integrate into communities.

On behalf of the **Scalabrini Centre of Cape Town**, the LRC and **UCT Refugee Clinic** launched an application in the Western Cape High Court for urgent relief and for a judicial review of the decision. On 25 July 2012, the Western Cape High Court directed the DHA to reopen the office, pending the outcome of the review of the closure. The DHA was also refused leave to appeal. Despite the court order, the DHA refused to open the CTRRO and sought leave to appeal to the Supreme Court of Appeal (SCA). On 19 March 2013, the Western Cape High Court upheld the review application and ordered the DHA to reopen the CTRRO. Again the DHA sought leave to appeal to the Supreme Court of Appeal (SCA).

The judgment on the 27 September 2013 was not satisfactory. The SCA dismissed the DHA's appeal but on the narrow basis that the DHA had failed to properly consult with civil society before making its decision to close the CTRRO. At a consultation in Cape Town on 5 December 2013, many interested parties made

representations against the closure. Every organisation and every individual who addressed the meeting was against the closure. Despite these representations, on 31 January 2014, the Director General of the DHA issued a decision to confirm the closure.

The LRC's clients gave instructions to issue a fresh challenge to the decision, which was launched on 8 May 2014. It was argued that the permanent closure of the CTRRO deprived thousands of asylum seekers of their statutory rights under the Refugee Act and the Constitution, and that the DHA's decision was unconstitutional and unlawful.

The LRC are confident that the second challenge will be more fruitful in light of the recent judgment in the SCA in which Lawyers for Human Rights successfully challenged the closure of the Port Elizabeth Refugee Reception Office (PERRO). The DHA have also appealed the PERRO judgment and will be taking it to the Constitutional Court.

## Lindela judgment a victory for migrants in South Africa

In the course of consultations at the Lindela Repatriation Centre, where all migrants that are deemed illegal in South Africa are detained pending deportation to their home countries, the LRC became aware of the fact that officials at the facility were detaining people in an unlawful manner. This included detaining people for longer than one hundred and twenty days and detaining people without a court order. Furthermore, although Lindela is legislatively required to report to the South African Human Rights Commission (SAHRC) on activities at the facility, and despite repeated requests for it to do so, no reports have been forthcoming.

Believing there to be systemic and pervasive noncompliance with detainees' constitutional rights, the LRC represented the **South African Human Rights Commission (SAHRC), People against Suffering, Suppression, Oppression and Poverty (PASSOP)**, and thirty-nine individuals who were detained in Lindela, in a court case to challenge unlawful activities in detaining migrants. The basis for the challenge was the Immigration Act 13 of 2002, which sets out the criteria for detention.

In what is a victory for all migrants detained at Lindela unlawfully, the Court ruled in favour of the LRC's clients. The Johannesburg High Court declared the following: that no person can be detained without a warrant for more than thirty days as per the regulations and no person can be detained for longer than one hundred and twenty days in total. Lastly, that people in detention should be given fair process including being

issued a prescribed notice of extension of detention, as well as the opportunity to make submissions in relation to any proposed extensions of their detention.

The Court also found that the Department of Home Affairs had been miscalculating the "thirty-day period", i.e.: the period of time that someone can be detained before a court order must be obtained. It noted that the correct calculation for the thirty-day period is when the person is first arrested and detained at the police station, before arriving at Lindela.

The Court also ordered the Department of Home Affairs and officials at Lindela to provide the SAHRC with regular reports on detentions and to allow the SAHRC regular access to the facility. This oversight responsibility of the SAHRC is important for two reasons; to monitor the implementation of the court order and stop further illegal practices from occurring in Lindela.

*The LRC's staff, Carien van der Linde, Naseema Fakir and Alexandra Robertson, with the SAHRC's Pandelis Gregoriou, outside the High Court following a successful judgment affirming that practices undertaken by Lindela Repatriation Centre officials were unlawful.*



## Disabled refugee gets his status back

When Mr Salimu arrived in South Africa from Burundi in 1993, he was severely disfigured by a bomb attack at his home. In 1998, after living in South Africa for six years, he received Refugee Status. Refugee status expires after two years, after which it must be renewed. Unfortunately, when applying for a renewal, many refugees experience long waiting times and uncooperative officials, and the fine issued for expired documents is unaffordable for many. Mr Salimu was unable to renew his application.



*Mr Salimu, a disabled refugee, displays his newly acquired SASSA card*

In 2014 he heard about the LRC and decided to approach their offices for help. He visited the LRC's Johannesburg office where he was assisted with his various applications by paralegal, Busisiwe Motshana. Busisiwe was able to assist him with two applications, to renew his refugee status and to apply to the South African Social Security Agency (SASSA) for a disability grant. In South Africa, those with refugee status are entitled to apply for certain social grants.

Both of the applications have been successful. This will have a big impact on Mr Salimu's life, as he now can afford to support himself. With his refugee status, he is able to access services such as healthcare. He will be free from harassment from the authorities and is legally allowed to continue living in South Africa.

Mr Salimu told the LRC that he doesn't want to go back to Burundi. Since issued with Refugee Status, he believes his life has already changed. He can walk wherever he wants to without fearing anyone. He believes people will be more willing to assist him because he now has documents.



## Court orders Home Affairs to re-interview lesbian asylum seeker

In thirty-eight African countries, being homosexual is illegal. South Africa is the only African country where sexual minority rights are protected by the Constitution, making it a destination for members of sexual minority groups fleeing persecution and seeking asylum. Ms Makumba is a Malawian woman who is also lesbian. While living in her home country, she was assaulted and abused by her employer, family and members of the community after they found out about her sexual orientation. As a result of this persecution, she decided to leave Malawi and seek asylum in South Africa.

After reaching South Africa, Ms Makumba applied for asylum. However, her application for asylum was rejected as “manifestly unfounded” by the Refugee Status Determination Officer (RRSO) and subsequently confirmed by the Standing Committee for Refugee Affairs (SCRA). She was then given thirty days to leave South Africa. She approached the LRC for assistance, who then went to court on her behalf.

The LRC argued that the mere fact that she could not live openly as a lesbian in Malawi was in itself persecution, as noted by the United Nations High Commissioner for Refugees (UNHCR) Guideline on Sexual Orientation Asylum Claims. Additionally, Ms Makumba had a well-founded fear of persecution based on her past experiences of abuse and assault. Thus, she could not be repatriated to Malawi without violating the obligations entrenched in the Refugees Act, 1951 Refugee Convention and the African

Refugee Convention. Sending her back would threaten her physical safety as well as her right to life.

The LRC’s arguments were successful. On 3 December 2014, the Western Cape High Court ordered the Department of Home Affairs to re-interview and reconsider Ms Makumba’s claim for asylum within two months of the judgment. The judgment affirms that the Department of Home Affairs cannot repatriate Ms Makumba to a country where she would suffer persecution as this would be a violation of the principle of *non-refoulement*.

Notably, the court emphasised the need to consider asylum cases that are based on persecution suffered as a result of sexual orientation within a sensitive context, taking into account all the relevant factors as set out in the UNHCR Guidance Note on Asylum Claims based on Homosexuality.

## OPENNESS & ACCOUNTABILITY

### Affirming public's right to access court documents

In February 2015, eleven civil society, academic and media groups, represented by the Legal Resources Centre, joined forces to challenge a judgment that was handed down in the Cape Town High Court in August the previous year. The judgment posed a serious threat to accessing information, in particular court documents, threatened the freedom of the media, and threatened to curtail the work of public interest organisations and undermine the independence of the judiciary.

The Judge in this case had applied a concept known as the “implied undertaking rule” to administrative reviews – essentially prohibiting the parties in a court case from providing the record of the administrative action to other people and denying members of the general public access to the information. The Judge also reversed the longstanding practice that any person could gain access to court records from the Registrar of the High Court.

The LRC acted for the eleven groups in appealing the High Court judgment. In a ringing endorsement of the right of access to information, on 23 March 2015 the Supreme Court of Appeal held that the High Court’s judgment infringed the rights and principles in the Constitution guaranteeing freedom of expression, access to information and access to courts, and undermined the legitimacy and effectiveness of the judiciary.

## Freedom of speech upheld in billboard matter

In 2014, a dispute arose between the activist organisation, Boycott. Divestment. Sanctions. South Africa (BDS South Africa) and Continental Outdoor Media, a media company controlling many billboards across Johannesburg. Continental removed a BDS South Africa billboard advertisement prior to the expiration of the agreed flighting period, without notice or consultation with BDS SA. The billboard depicted a map showing the decline of the geographical boundaries of Palestine over time due to the expansion of Israel. Continental argued that the billboard was contentious and controversial and not compliant with the rental agreement, the Outdoor Advertising Bylaws of the City of Johannesburg and/or the Advertising Standards Authority Code of Conduct.

BDS South Africa approached the LRC for assistance. The matter was argued in the Johannesburg High Court. The LRC argued that the removal of the billboard was unconstitutional and unlawful and in breach of Section 16 of the Constitution which provides for freedom of expression. It was also argued that the relevant section of the by-law of the City of Johannesburg, which does not allow advertising that is “insensitive to the public, or any portion thereof, or to any religious or cultural group”, was unconstitutional in that it goes beyond the constitutional limitations of free speech by setting a lower bar than the Constitution allows.

In a judgment reinforcing the right to freedom of expression, the Court found that the removal of the billboards was unconstitutional. The Court ordered Continental Outdoor Media to reinstate the billboards. The Judge further found that the relevant advertising by-laws of the City of Johannesburg are

unconstitutional and gave the City a year in which to amend them.



*Members of BDS and the LRC outside the High Court following a successful judgment to have a billboard reinstated after it was unlawfully taken down.*

*BDS protestors outside the High Court*




*Following successful court action, the BDS billboard is reinstated*





## ACCESS TO JUSTICE & NPOs

### Activists challenge the Gatherings Act

 On 11 September 2013, twenty-one members of the Social Justice Coalition, an activist organisation based in the Western Cape, chained themselves outside the Mayor's office in Cape Town in an act of peaceful and organised civil disobedience. They were protesting the crisis of sanitation facing Cape Town's informal settlements. They decided to chain themselves outside the Mayor's office after many unsuccessful attempts to engage with her and the City Manager over these issues.

The activists were subsequently arrested and charged with breaching the Regulation of Gatherings Act. The Legal Resources Centre represented them in the Magistrate's Court. On behalf of the twenty-one activists, the LRC challenged the constitutionality of the relevant provisions of the Act which they believed to be unconstitutional on the basis of the distinction between the gathering of fifteen or more members, and less than fifteen members.

The trial experienced some challenges. On more than one occasion, the court lost its recordings but finally

acquitted the twenty-one of *attending* the gathering. However, the Court also found that ten were guilty of *convening* the gathering. This was expected as, at all times, the clients had admitted to having convened the gathering of more than fifteen people. However, this section was challenged for being unconstitutional.

The Magistrate's Court does not have jurisdiction to determine the constitutionality of sections of legislation and the clients have applied for leave to appeal the conviction. The matter is likely to be heard in the High Court in the latter part of 2015.

*Members of the Social Justice Coalition 21, who were charged with contravening the Gatherings Act. The matter continues in court. Here they are seen with Lara Wallis and Michael Bishop of the LRC.*



## Class action prepared on behalf of sick ex-miners

In a decade-long legal action beginning in 2004, the Legal Resources Centre is representing a group of ex-gold miners who contracted an incurable but preventable disease called silicosis (that makes people more vulnerable to tuberculosis (TB) infection) against Anglo American SA, who own the mines where they contracted the disease.

Initially, the cases were part of a larger group of 'test cases'. The LRC hoped that the test cases would establish the legal principles for the liability of mining companies towards individuals who contracted silicosis as a result of their employment at gold mines. Various experts gave evidence for the LRC regarding the medical and mining aspects of silicosis and gold mining. The LRC partnered with Leigh Day, a United Kingdom-based law firm specialising in human rights litigation against multi-national corporations.

Due to the prolonged nature of the court proceedings, which were running into ten years, an agreement was reached with Anglo American SA to have the matter arbitrated before three arbitrators. The award would be final, with no option of an appeal. All parties viewed this as the quickest and best way to finalise the matter. In September 2013, Anglo American SA offered compensation to our clients. The LRC advised the clients to accept the offer and an agreement was signed on 19 September 2013, settling the matter. However, as per the terms of the agreement, there was no admission of liability by Anglo American SA.

The settlement also only benefitted the clients

that were part of the arbitration and the LRC felt it necessary to seek relief for the many thousands of silicotic miners who were not party to the test case. Two other law firms, Richard Spoor and Charles Abraham Attorneys, joined the LRC in seeking to certify a class action case against the various mines. A consolidated application process then began and papers were filed on 22 August 2013 in the Johannesburg High Court.

The application was argued in October 2015.



*LRC Attorney, Sayi Nindi, enters the Johannesburg High Court on the first day of the silicosis class action certification hearing.*

## Judicial oversight required for creditors collecting debt

South Africans are increasingly falling into debt, with a high percentage of South African's acquiring loans from informal institutions and more and more people requiring small personal loans to pay for essentials. Combined with poor oversight of micro-lenders, who are able to implement excessive interest rates, South Africa is facing a debt crisis.

The University of Stellenbosch Legal Aid Clinic was approached by many poor clients who were finding that a large percentage of their salary went to paying off debts, leaving them without money to pay for essentials. The Legal Aid Clinic did some investigations into the practice of attaching Emolument Attachment Orders (EAOs) to salaries to pay off debt, and discovered that some of the actions of the law firms that undertake debt collection are exploitative. For example, the EAOs were issued by a clerk of the Magistrate's Court, in a court far away from the person on which it was being issued, without taking into consideration the situation of the person and whether they have other expenses or debts. The person could not challenge the EAO at the court due to the expense of travelling there and may not be able to afford the payments. Those most affected by these practices were the poor.

The Legal Aid Clinic decided to challenge the constitutionality of those sections of the Magistrate's Act that allow for these practices to take place. The LRC represented the **South African Human Rights Commission** as a friend of the court and made

submissions to the court based on the LRC's research on EAOs.

The LRC's submissions related to what the courts in South Africa have said about the issue of "judicial oversight" – in other words, having a magistrate consider the EAO and the circumstances of the person before issuing it. Secondly, the submissions also looked at how other countries around the world allow for the issuing of EAOs or similar orders.

The Legal Aid Clinic challenge was successful and parts of the Magistrate's Act were declared inconsistent with the Constitution. The Act is being amended to align with the judgment, which is good news for people who have these orders issued against their salaries. They should now be issued in the Magistrate's Court closest to them, where they can challenge them. Furthermore, they will be required to indicate their personal circumstances and levels of debt, which will determine how much of their salary can be attached through an EAO, thereby protecting themselves and their families from over-indebtedness.

## Mother of two gets her child grants back

For many years, Mrs Boniswa Mdlothi had child support grants for her two minor children. When she decided to move from the Eastern Cape to Kwa-Zulu Natal, she requested that the South African Social Security Agency (SASSA) transfer the files. The Eastern Cape SASSA office sent the files to the Chesterville office, and from there the files had to be sent to the SASSA Regional Office in Pietermaritzburg. At some point in this process, the files were misplaced. For a year, Mrs Mdlothi did not receive the much-needed grants.



*Ms Mdlothi with her children at the Durban office of the LRC. With her are LRC staff members, Ektaa Deochand and Cathy Mote, who assisted her in her battle with the South African Social Security Agency.*

After making enquiries at various SASSA offices over the non-payment of her child grants, Mrs Mdlothi approached the LRC's Durban Regional office. Through the front desk services provided, the LRC were able to assist her. The paralegals at the LRC made several enquiries by letter and telephone in the effort to trace the documents and to have SASSA restore the child support grants. This continued over many months but finally in March 2015, SASSA reinstated the child support grants. SASSA also agreed to give Ms Mdlothi R18 000 which was owed to her in back-pay.

## Still seeking justice for Marikana victims

During the course of August 2012 at the Lonmin Mine in Marikana, Rustenburg, forty-four people lost their lives; forty-one of them mine workers. Thirty-four people were shot by police on the 16 August while they were gathering to protest following the breakdown in negotiations between representatives of mine workers and Lonmin. The mine workers were seeking a pay raise, which Lonmin refused.

Following these events, the Marikana Commission of Inquiry was established to investigate the tragedy. The LRC participated in the Commission from its inception, representing the family of the late Mr John Ledingoane, a mineworker killed at what became known as “Scene 1”. The LRC further represented the **BenchMarks Foundation**, an organisation working in the area during the events of the 16 August.

During the week following the tragedy, the LRC obtained the services of two forensic pathologists to oversee and report on the post-mortem procedures. Flowing from the post-mortem reports, the LRC filed a medico-legal report in relation to the injured protesters, a forensic ballistic report and seven witness statements. The LRC also filed supplementary statements and two expert statements, including a statement from **Eddie Hendrickx**, an expert in public order policing.

The LRC presented argument during Phase 1 and Phase 2 of the Commission’s work. Phase 1 focused on the conduct of the police and Lonmin in relation to the events leading up to, and on the day of 16 August, and

Phase 2 focused on the conduct of the mine in relation to its employees. During phase 2, the LRC focused particularly on the housing obligations of Lonmin as the mine was obliged to provide housing for its employees as part its Social and Labour Plan; but this was never provided.

The LRC made a number of recommendations to the Commission during both of these phases. It was recommended that the South African Government acknowledge civil liability for the loss suffered by those affected by Marikana and compensate them for the loss. It was also recommended that there be a full investigation into the conduct of the police and that the senior executives of Lonmin be investigated and charged for their role in the tragedy.

During phase 2, the LRC argued that Lonmin had failed to comply with the terms of its social and labour plans when it failed to provide houses for its employees. This was a breach of its statutory obligations imposed by the Mineral and Petroleum Resources Development Act. It was also argued that the Directors of Lonmin had failed to carry out their duties in terms of the



Companies Act 2008. The LRC recommended that the Commission refer the matter to the appropriate bodies, i.e. The Department of Mineral Resources and the Companies and Intellectual Property Commission, for appropriate action to be taken against Lonmin and to investigate whether any steps should be taken against the individual directors of Lonmin.

On the 25 June 2015, President Jacob Zuma released the Report of the Marikana Commission of Inquiry. It made a number of significant findings and recommendations, primarily in relation to policing. The Commission ruled out any possibility that Mr Ledingoane's killing could be justified by the police, who claimed that they were acting in self-defence. Instead, it found that the shootings at Scene 1 may have exceeded the bounds of self-defence and recommended that the shootings by police at both Scene 1 and Scene 2 be referred for investigation.

The report also found that Lonmin had failed to comply with its housing obligations in terms of its Social and Labour Plan and that this, "created an environment conducive to the creation of tension, labour unrest, disunity among its employees and other harmful conduct", confirming the causal link between the

failure to provide houses by Lonmin and the strike. It recommended that this failure be investigated by the Department of Mineral Resources.

Significantly, the report also made the recommendation that a range of reforms be introduced in relation to the conduct of public order policing. The report recommended that the use of firearms, command and control and other key issues must be addressed to ensure that such shootings do not happen again during protest situations. This recommendation was based, in part, on the expert evidence of Mr Eddie Hendrickx.

While the report vindicates Mr Ledingoane and confirms to his family, the people of South Africa, and the world, that he was the innocent victim of an unlawful police shooting, it did not recommend that the state create a compensation scheme to provide immediate compensation to the Ledingoane family and the other victims and their families.

The failure to recommend a compensation scheme was a disappointment to the LRC as it could have ensured that the process be pursued in a speedy manner. Nonetheless, the LRC is suing for damages for the unlawful killing of Mr Ledingoane on behalf of his family.

## Ensuring the payment of social grants without disruption and delay

In one of the biggest tenders awarded by a government body in South Africa, the South African Social Security Agency (SASSA) awarded a social grants tender to a bidder known as Cash Paymaster Services (CPS). The unsuccessful bidder, Allpay Consolidated Investment Holdings (Allpay), contested the award claiming that the tender process was procedurally unfair.

In this instance, the court was concerned with the need to have a proper process in place for awarding tenders and attempted through its order to clarify this. Because the payment of social grants involves the flow of money from government to sub-contractors, a strict and well-managed tender process must be in place. According to Statistics SA and the 2013 General Household Survey, there were fifteen million eight hundred thousand social grant beneficiaries in South Africa in 2014, with over forty-five percent of households receiving at least one grant. Considering the large number of South Africans relying on grants as a financial safety net, it is vital that good governance practices exist that protect this important source of household income.

The LRC and its client, **Centre for Child Law** (CCL), were concerned about the implications of the court action brought by Allpay; in particular the potential the

court action had to disrupt the distribution of social grants in South Africa and the effect this would have on the millions of beneficiaries of the grants, including the children whose parents or caregivers receive child grants.

In what became known as “*Allpay 1*”, Allpay went all the way to the Constitutional Court on appeal after the High Court and Supreme Court of Appeal did not find that the tender was procedurally unfair. However, in disagreement with the lower courts, on the 29 November 2013 the Constitutional Court found in favour of Allpay and set aside the award of the tender.

Despite setting it aside, the Constitutional Court took into account the submissions made by the LRC on behalf of CCL. The submission was that if the Court found that the tender was invalid, it should make an order that does not result in the disruption to the payment of social grants. The Constitutional Court invited the

parties and friends of the court to make submissions on how to minimise disruptions. Submissions were filed on 30 January 2014. The Constitutional Court requested a new tender process begin, starting with a Request for Proposals (RFP).

In “*Allpay 2*”, CPS approached the Constitutional Court after the RFP was released by SASSA. They submitted to the Court that the RFP did not comply with the previous judgments and order of the Constitutional Court and that a revised RFP should be published before the tender process should resume.

This caused delays to the implementation of *Allpay 1*. The Legal Resources Centre represented the **Black Sash Trust** in an intervention as a friend of the court. Black Sash indicated to the Court their concerns regarding the deduction of payments from social grants; which, due to the terms of the RFP, will be illegal once the new tender is awarded. Black Sash were concerned that any continuing court action would prolong the existence of these deductions; some of which Black Sash argue

are unlawful. Therefore, swift action to finalise the court processes would be beneficial to social grant beneficiaries who are currently experiencing unlawful deductions on their grant money.

On the 19 March 2015, at a hearing at the Constitutional Court, all parties met to discuss the terms of an agreement to be made an order of court. All parties, including Black Sash, indicated to the Court their desire for swift action and the resolution of the matter. The parties presented a draft agreement which, after some argument, was finally agreed to. Importantly, the final order contains a paragraph which affirms the Constitutional Court’s supervisory role in the tender, which will ensure a swift resolution of the court action.

The Court set out the dates for the finalisation of the tender process, which include the date for the amendment of the (RFP), to be completed by the 2 April 2015. Thereafter, the submission of bids must be completed by the 17 April 2015 and the award of the new tender by 15 October 2015.

*Members of the Black Sash at the Constitutional Court hearing on the payment of social grants.*



## LRC challenges Pension Fund rules

**M**s Mthembu, a widow, is the mother of a young woman who registered to study at the University of South Africa (UNISA). Ms Mthembu's husband had a pension fund with the South African Local Authorities Pension Fund, which was supporting their daughter. In terms of the Fund rules, the pension would be paid to the daughter as a beneficiary until such time as she turned eighteen-years-old, with the option of extending the pension pay-out to when she was twenty-three-years-old, provided the daughter was registered as a "full-time student".

However, the Trustees of the Fund had decided that the definition of a full-time student is someone who devotes all or substantially all of her time to studies which is, according to the Fund, only possible at the "traditional" residential universities. Despite taking a full course-load at UNISA and not being employed, the Trustees decided that because UNISA is a distance-learning institute, the daughter was not a full-time student. They stopped paying the pension pay-out.

Ms Mthembu filed a complaint with the adjudicator in terms of the Pension Funds Act. The adjudicator ruled in favour of Ms Mthembu. The Fund then applied to the High Court to have this decision reversed. The LRC represented Ms Mthembu in the Durban High Court where she was successful a second time. On 6 June 2014, when considering the definition of "full-time student", the High Court ruled that the Pension Fund's

rule is, "cast widely and the interpretation of a full-time student...does not imply...only those students in traditional contact institutions." The Court also emphasised the importance of the right to education.

UNISA is a popular choice of university for young South Africans due to the restrictions of access and financing in other universities. Many of these students may benefit from changes to the interpretation of "full-time" and the recognition the judgment places on UNISA as an institution for higher learning equal to other traditional institutions. The Court also demonstrated that there must be oversight of pension funds when they decide on who qualifies for payments. However, the Fund has subsequently lodged a successful application for leave to appeal to the Supreme Court of Appeal.

The LRC will continue to assist Ms Mthembu.

## LRC represents experts in Zimbabwe torture case

In March 1998, a dossier was submitted to the Priority Crimes Litigation Unit by the **Southern Africa Litigation Centre** (SALC) which detailed allegations of torture of members of the opposition party in Zimbabwe, the Movement for Democratic Change. It was alleged that this torture was committed by Zimbabwean officials in Zimbabwe. SALC believed that the South African government should investigate these allegations. In June 2009, South Africa's Acting National Director of Public Prosecutions informed SALC that the South African Police Service (SAPS) did not intend to investigate the allegations. SALC went to court seeking an order that the SAPS had a duty to do so and the matter was eventually heard by the Constitutional Court.

The LRC represented Professor John Dugard and three other academics, all of whom are experts in international criminal law, who were admitted as friends of the court. The experts argued that, although there may be no obligation under international law to investigate allegations of torture committed extra-territorially, in this particular case investigation by the SAPS would serve the greater goals of the international criminal justice system.

Furthermore, in order to promote the fundamental rights enshrined in the Bill of Rights, South African

domestic law requires that the appropriate authorities (the SAPS in this instance) investigate these alleged crimes. The Constitutional Court agreed with the experts' arguments.

On 30 October 2014, the Constitutional Court handed down judgment. Unanimously, the Court concluded that the SAPS must investigate the allegations of torture because the SAPS had a constitutional and legal duty to investigate the crimes against humanity allegedly committed in Zimbabwe.



## From Stateless to Citizen

Part of the practice of the Legal Resources Centre is to assist individuals who have fallen through the cracks of the legal system. Despite processes and procedures being in place, when for some reason, the implementation of a process is ineffective, the results can be disastrous. For one of the LRC's clients, because his parents were unable to register his birth, it meant that he would never be protected by any government, have no rights and no identity.

Colt's parents faced a number of challenges in registering his birth. The Department of Home Affairs initially lost the paperwork and claimed that their marriage was not legal. Through resubmission of the necessary paperwork, his parents were able to show that this was not the case. However, even with all the proper documents in place, Colt's future remained in a state of limbo because his birth was still not registered, meaning that he would be rendered "stateless". In other words, Colt would not be a citizen of any country and would not enjoy the benefits that citizens enjoy.

Even though Colt's parents followed the correct procedure in order to obtain the birth registration and the birth certificate of their son, his mother had to return many times to the Department of Home Affairs, without obtaining positive results. In desperation, when Colt was four years old, she decided to seek legal assistance and approached the LRC.

The LRC assisted with the completion of the application as provided by the Home Affairs website, prepared an

affidavit on her behalf, and wrote a letter of demand to the Department of Home Affairs. The very next day, Colt's birth was registered and a birth certificate was issued.

Colt is now registered as a citizen of South Africa and no longer living in a state of uncertainty and vulnerability.



*Four-year-old Colt was registered as a South African citizen after the LRC intervened with his birth registration.*

# Financial reports 2014

## Legal Resources Centre Executive Committee's responsibilities and approval

### **ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2015**

The organisation is required by its Constitution, to maintain adequate accounting records and its Executive is responsible for the content and integrity of the annual financial statements and related financial information included in this report. It is their responsibility to ensure that the annual financial statements fairly present the state of affairs of the organisation as at the end of the financial year and the results of its operations and cash flows for the year then ended, in conformity with its accounting policies. The external auditors are engaged to express an independent opinion on the annual financial statements.

The annual financial statements are prepared in accordance with our accounting policies and are based upon appropriate accounting policies consistently applied and supported by reasonable and prudent judgements and estimates.

The executive committee acknowledges that it is ultimately responsible for the system of internal financial controls established by the organisation and place considerable importance on maintaining a strong control environment. To enable the committee to meet these responsibilities, the executive committee sets out standards for internal control aimed at reducing the risk of error or loss in a cost- effective manner. The standards include the proper delegation of responsibilities within a clearly defined framework, effective accounting procedures and adequate segregation of duties to ensure that an acceptable level of risk. These controls are monitored throughout the organisation and employees are required to maintain the highest ethical standards in ensuring that the organisation's business is conducted in a manner that is above reproach.

The focus of risk management in the organisation is on identifying, assessing, managing and monitoring all known

forms of risk across the organisation. While operating risk cannot be fully eliminated, the organisation endeavours to minimise it by ensuring that appropriate infrastructure, controls, systems and ethical behaviour are applied and managed within predetermined procedures and constraints.

The executive committee is of the opinion, based on the information and explanations given by management, that the system of internal controls provides reasonable assurance that the financial records may be relied on for the presentation of the annual financial statements. However, any system of internal financial control can provide only reasonable, and not absolute, assurance against material misstatement or loss.

The executive committee has reviewed the organisation's cash flow forecast for the year to 31<sup>st</sup> March 2016 and, in the light of this review and the current financial position, they are satisfied that the organisation has a reasonable expectation of or has access to adequate resources to continue in operational existence for the foreseeable future.

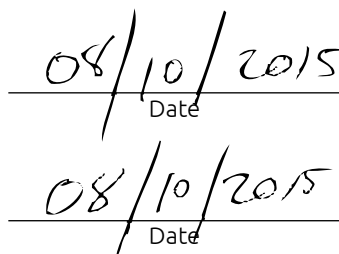
Although the executive committee is primarily responsible for the financial affairs of the organisation, it is supported by the organisation's external auditors.

The external auditors are responsible for independently reviewing and reporting on the organisation's annual financial statements. The annual financial statements have been examined by the organisation's external auditors and their report is presented on pages 2 and 3.

The annual financial statements set out on pages 66 and 67, were approved by the executive committee on the 8<sup>th</sup> October 2015 and were signed on its behalf by:



A handwritten signature in black ink, appearing to read 'J. Love', is written over two horizontal lines.



Two handwritten dates, '08/10/2015', are written over two horizontal lines. The word 'Date' is printed below each line.

# Legal Resources Centre

## STATEMENT OF FINANCIAL POSITION AT 31 MARCH 2015

	2015 R	2014 R	2013 R
<b>ASSETS</b>			
<b>Non current assets</b>	<b>1 077 511</b>	<b>641 338</b>	<b>918 753</b>
Equipment	1 077 511	641 338	918 753
<b>Current assets</b>	<b>3 938 849</b>	<b>3 062 408</b>	<b>1 925 138</b>
Trade and other receivables	864 953	1 145 905	975 757
Cash and cash equivalents	2 397 619	1 497 532	535 399
Client trust bank accounts	676 277	418 971	413 982
<b>Total assets</b>	<b>5 016 360</b>	<b>3 703 746</b>	<b>2 843 891</b>
<b>RESERVES AND LIABILITIES</b>			
<b>Reserves</b>	<b>1 104 928</b>	<b>(2 157 617)</b>	<b>(2 146 199)</b>
Accumulated funds	1 104 928	(2 157 617)	(2 146 199)
<b>Current liabilities</b>	<b>3 911 432</b>	<b>5 861 363</b>	<b>4 990 090</b>
Trade and other payables	2 220 460	2 384 733	3 515 457
Provisions for leave pay	1 014 695	1 057 659	1 060 651
Distribution received in advance	-	2 000 000	-
Client trust funds	676 277	418 971	413 982
<b>Total reserves and liabilities</b>	<b>5 016 360</b>	<b>3 703 746</b>	<b>2 843 891</b>

**LEGAL RESOURCES CENTRE**
**STATEMENT OF COMPREHENSIVE INCOME FOR THE YEAR ENDED 31 MARCH 2015**

	2015 R	2014 R	2013 R
<b>INCOME</b>	<b>47 486 626</b>	<b>44 509 105</b>	<b>35 326 312</b>
Cost recovery	1 498 879	1 534 496	2 649 306
Distribution from Legal Resources Trust	43 579 522	42 216 592	31 464 631
Fundraising events	2 058 034	-	-
Sundry income	310 136	712 073	1 134 684
Interest received	40 055	45 944	77 691
<b>OPERATING EXPENDITURE</b>	<b>44 224 081</b>	<b>44 520 523</b>	<b>38 778 645</b>
<b>Salaries and contributions</b>	<b>10 319 672</b>	<b>9 885 411</b>	<b>8 720 616</b>
<b>Office expenses</b>	<b>7 101 992</b>	<b>7 044 481</b>	<b>7 007 185</b>
Administrative costs	790 944	792 330	848 852
Books and periodicals	557 710	374 766	272 687
Computer expenses	450 846	629 955	485 110
Consulting and professional fees	179 431	247 624	694 960
Depreciation	403 901	282 833	243 579
Lease rentals on operating lease	3 571 317	3 645 909	3 177 296
Printing and stationery	365 576	252 319	236 355
Telephone and fax	473 158	519 924	537 338
Travel - local	309 109	298 821	511 008
<b>Project expenses</b>	<b>26 802 417</b>	<b>27 590 631</b>	<b>23 050 844</b>
<b>SURPLUS/(DEFICIT) FOR THE YEAR</b>	<b>3 262 545</b>	<b>(11 418)</b>	<b>(3 452 333)</b>
<b>BALANCE AT BEGINNING OF YEAR</b>	<b>(2 157 617)</b>	<b>(2 146 199)</b>	<b>1 306 134</b>
<b>BALANCE AT END OF YEAR</b>	<b>1 104 928</b>	<b>(2 157 617)</b>	<b>(2 146 199)</b>

## Legal Resources Trust (Trust Number IT.8263) Trustees' responsibilities and approval

### **ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2015**

The trustees are required by the Trust Property Control Act, 1988, and the trust deed, to maintain adequate accounting records and are responsible for the content and integrity of the annual financial statements and related financial information included in this report it is their responsibility to ensure that the annual financial statements fairly present the state of affairs of the trust as at the end of the financial year and the results of its operations and cash flows for the year then ended, in conformity with its own accounting policies.

The external auditors are engaged to express an independent opinion on the annual financial statements.

The annual financial statements are prepared in accordance with the trust's own accounting policies and are based upon appropriate accounting policies consistently applied and supported by reasonable and prudent judgements and estimates

The trustees acknowledge that they are ultimately responsible for the system of internal financial controls established by the trust and place considerable importance on maintaining a strong control environment. To enable the trustees to meet these responsibilities, the board of trustees sets out standards for internal control aimed at reducing the risk of error or loss in a cost - effective manner. The standards include the proper delegation of responsibilities within a clearly defined framework, effective accounting procedures and adequate segregation of duties to ensure an acceptable level of risk. These controls are monitored throughout the trust and employees are required to maintain the highest ethical standards in ensuring the trust's business is conducted in a manner that in all reasonable circumstances is above reproach. The focus of risk management in the trust is on identifying, assessing, managing and monitoring all known forms of risk across the trust. While operating risk cannot be fully eliminated, the trust endeavours to minimise it by ensuring that appropriate infrastructure, controls, system and ethical behaviour are applied and managed within predetermined procedures and constraint


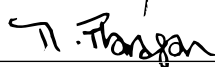




The trustees are of the opinion, based on the information and explanations given by management, that the system of internal controls provides reasonable assurance that the financial records may be relied on for the presentation of the annual financial statements. However, any system of internal financial control can provide only reasonable, and not absolute, assurance against material misstatement or loss.

The trustees have reviewed the trust's cash flow forecast for the year to 31st March 2016 and, in the light of this review and the current financial position, they are satisfied that the trust has or has access to adequate resources to continue in operational existence for the foreseeable future.

Although the board of trustees is primarily responsible for the financial affairs of the trust, it is supported by the trust's external auditors.

The external auditors are responsible for independently reviewing and reporting on the trust's annual financial statements. The financial statements set out on pages 69 to 71, were approved by the board of trustees on the 13<sup>th</sup> September 2015 and were signed on its behalf by:

  
\_\_\_\_\_  
  
\_\_\_\_\_  
\_\_\_\_\_  
Date  
  
\_\_\_\_\_  
Date

## LEGAL RESOURCES TRUST

### STATEMENT OF FINANCIAL POSITION AT 31 MARCH 2015

	2015 R	2014 R	2013 R
<b>ASSETS</b>	<b>36 330 498</b>	<b>32 533 888</b>	<b>32 515 086</b>
<b>Non - Current assets</b>	<b>35 913 896</b>	<b>29 445 360</b>	<b>32 224 960</b>
Tangible assets	2 100 842	2 180 233	1 175 246
Investments	33 813 054	27 265 127	31 049 714
<b>Current assets</b>	<b>416 602</b>	<b>3 088 528</b>	<b>290 126</b>
Distribution in advance	-	2 000 000	-
Cash and cash equivalents	416 602	1 088 528	290 126
<b>TOTAL ASSETS</b>	<b>36 330 498</b>	<b>32 533 888</b>	<b>32 515 086</b>
<b>RESERVES AND LIABILITIES</b>	<b>36 330 498</b>	<b>32 533 888</b>	<b>32 515 086</b>
<b>Equity and reserves</b>	<b>22 367 547</b>	<b>22 295 161</b>	<b>21 096 690</b>
Initial trust capital	250	250	250
Revaluation reserve	2 272 206	2 272 206	1 175 246
Scholarship reserve	589 717	589 717	589 717
General reserve	19 505 374	19 432 988	19 331 477
<b>Current liabilities</b>	<b>13 962 951</b>	<b>10 238 727</b>	<b>11 418 396</b>
Deferred grant income	13 962 951	10 238 727	11 418 396
<b>TOTAL RESERVES AND LIABILITIES</b>	<b>36 330 498</b>	<b>32 533 888</b>	<b>32 515 086</b>

## LEGAL RESOURCES TRUST

### STATEMENT OF COMPREHENSIVE INCOME FOR THE YEAR ENDED 31 MARCH 2015

	2015 R	2014 R	2013 R
<b>Income</b>	<b>44 197 771</b>	<b>42 960 704</b>	<b>34 054 401</b>
Grants and donations	40 880 732	40 049 219	32 848 845
Dividend revenue	479 960	311 960	119 252
Fair value adjustment on investments	200 135	(1 108 224)	(5 034 269)
Gain on disposal of investments	1 592 360	3 074 854	5 600 472
Interest received	1 044 584	632 895	520 101
<b>Expenditure</b>	<b>545 863</b>	<b>642 601</b>	<b>391 996</b>
Investment managing fees	122 060	71 023	33 245
Audit fees	74 987	67 383	72 701
Bank charges	10 365	8 439	9 710
BEE rating	-	36 245	34 097
Depreciation	79 391	91 973	68 980
Printing, postage and stationery	5 715	11 662	7 616
Repairs and maintenance	-	11 869	-
Secretarial services	96 064	-	-
Travelling and accommodation - trustees	157 281	344 007	165 647
<b>Surplus for the year</b>	<b>43 651 908</b>	<b>42 318 103</b>	<b>33 662 405</b>
<b>Distribution to Legal Resources Centre</b>	<b>(43 579 522)</b>	<b>(42 216 592)</b>	<b>(31 464 632)</b>
<b>Surplus for the year</b>	<b>72 386</b>	<b>101 511</b>	<b>2 197 773</b>
<b>Net transfer from reserves</b>	<b>-</b>	<b>-</b>	<b>151 434</b>
<b>Balance at beginning of the year</b>	<b>19 432 988</b>	<b>19 331 477</b>	<b>16 982 270</b>
	<b>19 505 374</b>	<b>19 432 988</b>	<b>19 331 477</b>

## LEGAL RESOURCES TRUST

### DETAILED SCHEDULE OF GRANT AND DONATION INCOME FOR THE YEAR ENDED 31 MARCH 2015

	2015 R	2014 R	2013 R
<b>Foreign funders</b>	<b>32 641 494</b>	<b>35 042 299</b>	<b>23 648 568</b>
Anonymous	-	355 594	823 288
C S Mott Foundation	264 250	493 845	407 680
Canon Collins Trust	250 000	630 000	115 000
Comic Relief	2 574 423	6 750 611	4 463 019
EIDHR	-	375 461	-
Embassy of Belgium	-	-	402 360
Embassy of Finland	-	21 978	657 384
Evangelische Entwicklungsdienst (EED)	3 151 548	3 114 020	2 209 699
Freedom House	871 804	857 340	373 078
SALS - S A Legal Services	736 985	-	-
Stifstel Sen Svenska AM	-	-	166 959
Surplus People's Project - T.Amakhaya (EED)	737 908	162 053	380 921
Swedish Society for Nature Conservation	451 759	-	-
The Atlantic Philanthropies	4 000 000	5 000 000	3 375 000
The ELMA Foundation	4 016 399	5 693 681	5 474 849
The Ford Foundation	15 586 418	11 587 716	3 654 491
The Sigrid Rausing Trust	-	-	1 072 805
US - ( Julia Taft Fund for refugees)	-	-	72 035
<b>Local funders</b>	<b>8 239 238</b>	<b>5 006 920</b>	<b>9 200 277</b>
AULAI - DOJ	-	-	306 128
Bertha Foundation	1 580 798	-	1 268 175
Claude Leon Foundation	1 500 000	1 000 000	500 000
Cliffe Dekker Hofmeyr Inc	-	20 000	45 000
EU - Foundation for Human Rights	17 500	469 775	99 516
Former Chief Justice A Chaskalson	-	-	1 000
Legal Aid South Africa	-	173 875	985 292
National Lottery Distribution Trust Fund	-	340 775	1 703 878
ND Orleyn	27 500	40 000	20 000
Open Society Foundation for Southern Africa	1 204 167	544 183	1 116 650
Other donors	460 065	200 973	260 404
RAITH Foundation	3 339 208	2 107 339	2 229 234
Sidney Kentridge	-	-	180 000
South Deep Education Trust	-	-	375 000
The Frank Robb Charitable Trust	110 000	110 000	110 000
	<b>40 880 732</b>	<b>40 049 219</b>	<b>32 848 845</b>

# Individual givers 2014

## Individuals and Small Foundations

Adam Sadinsky	Gill Robinson	Koop Reinecke
Advocate Nelson	Graham Memorial Fund	Kurt and Joey Strauss Foundation
Aga Wlodarski	Greta Engelbrecht	Lavery Modise
AL Williams	Henry Gilfillan	LJ Morison SC
Alec J Freund SC	Henry P Viljoen SC	Mariette Liefferink
Alex Robertson	I Chitapi	Marjorie Ngwenya
Alistair Franklin SC	Isabel Goodman	Menzi Kunene
Andre Gautschi SC	Janet Love	Michael Roy Jobson
Anthony Stein	Jason Burns	Michelle Le Roux
B P Rabinowitz	Jenny Cane SC	Moray Hathorn
Black Sash Trust	Johannesburg Society of Advocates	Nolututhuzelo Matshaya
Cliffe Dekker Hofmeyr Inc	John Gibbs	P C Pauw SC
David Unterhalter SC	Judge JC Kriegler	Penny Bosman
Delysia Weah	Judge Lex Mpati	Prof HM Corder
Dr Felix Schneier	Judge Mahomed Navsa	Prof Michael Katz
Faizel Ismael	Judge MS Stegmann	Reynaud Daniels
Frank Robb Charitable Trust	Judge Y S Meer	Richard Moultrie SC
General Council of the Bar SA	Karel Tip SC	Robin Pearse
GI Hulley SC	Kathryn Serafino-Dooley	Sir Sydney Kentridge QC

Sisa Makabeni  
Stimela Mokoena  
Strat Align  
Sushila Dhever

Tania Prinsloo  
Thandi Orleyn  
WHG van der Linde SC  
Yves Laurin

## Schools that gave in 2014–15

Alexandra Road High School  
Cambridge High School  
Cambridge Primary School  
Cillie High School  
Clarendon Park Primary School  
Collegiate Junior School for Girls  
Erica Girls Primary School  
George Dickenson Primary School  
Grey Junior High School  
Hudson Park High School  
Hudson Park Primary School  
Komga Junior School  
Linkside High School  
Mount Pleasant Primary

Newton Park Primary School  
Otto du Plessis High School  
Pearson High School  
Rowallan Primary School  
Selborne College  
Selborne Primary School  
Southernwood Primary School  
Stirling High School  
Stulting Primary School  
Summerwood Primary School  
Voorpos Primary School  
Walmer West Primary School  
Westering High School  
Westering Primary School



## Testimonies from individual givers

*"My support for the LRC reflects my longstanding belief that basic rights should apply to all regardless of income, power or position in society. It's therefore important (everywhere, but particularly in SA) that even the poorest & most marginalised should have access to justice and the protection of the law."*

- John Gibbs, longstanding supporter of the LRC

*"Lack of funds is a major obstacle to ordinary and indigent people accessing justice. It is therefore important for ordinary working people to support the LRC financially, even in small amounts, to continue ensuring access to justice."*

- Sisa Makabeni – former Candidate Attorney at the Legal Resources Centre

*"The central achievement of our transition in 1994 was the establishment of a constitution that enshrined a bill of rights protecting all people living within South Africa's borders. I believe that this achievement defines who we are as South Africans and is the one document that should transcend all the inevitable divisions of socio-economic circumstance, ethnicity, race and religion in our society. An important yardstick of our success as South Africans is the extent to which this constitution serves to protect, not the interests of the powerful (for important though that is it is the easy part), but the interests of the most marginalised and vulnerable in our society. To my mind the LRC is the one organisation working to ensure that our society and its constitution does, in fact, meet that demanding yardstick. In contributing to the LRC, small as that contribution is, I hope that I am playing a role in fulfilling the promise of the generation who came of age alongside the constitution in the mid-1990s."*

- Henry Gilfillan

# Candidate Attorney experience

## Ektaa Deochand

### DURBAN OFFICE

On my first day of articles at the Legal Resources Centre, I knew that I was walking into one of the most important institutions developing our constitutional jurisprudence, but I could never have foreseen that I was about to embark on a journey that would transform my intellectual capabilities and emotional strength, and foster a sense of purpose in my daily life.

*Ektaa (second from the left) with street traders in Durban, Kwa-Zulu Natal*



During my articles I have had the unique opportunity of working within various focus areas. I have particularly enjoyed working in the areas of gender, children, housing and street-trader's rights. From assisting walk-in clients in accessing their pension grants, to being involved in formulating complex legal arguments, my experience has covered a wide spectrum of the public interest litigation field.

Although the nature of our work meant that some days were challenging, it was in these moments that the value of support offered by each member of staff was most felt. The Durban team would work tirelessly and cohesively to achieve a common goal. I have learnt that intellectual aptitude and technical skills are inextricably linked with patience and awareness at the LRC.

Mahendra Chetty, Faathima Mahomed, Anneline Turpin and Thabiso Mbhense have taught me immeasurable skills, each within their own area of expertise. Mahendra has instilled in me a sense of humility and respect for clients, by teaching me that we owe quality services to our clients who allow us the opportunity to challenge and mould the law into one that serves the greater good. It has been a privilege to be part of a firm that gives life to the values of our Constitution and which provides a voice to marginalised communities in a world in which access to legal services is so often linked to monetary wealth.

Working at the LRC has not only shaped me into a public interest lawyer, but has given me the chance to develop as a social worker, fearless activist, leader, listener, critical thinker and friend.

## Candidate Attorney experience

### Alexandra Robertson

#### JOHANNESBURG OFFICE

There can be no doubt that being selected to serve articles at the Legal Resources Centre is a privilege many dream of. I am fortunate to say that I am one of those for which the dream came true.

The LRC has a long history of bringing about change in South Africa and bringing justice to its people. Thinking back on my time at university, I can now see how the LRC's seminal and precedent-setting cases have moulded the legal landscape of this country and influenced jurisprudence throughout the world. Walking the halls, walked by the many great people that have crossed its threshold, can be both daunting and inspiring to a young lawyer, but it ultimately proved to be the best start to a legal career I could have hoped for.

During my first weeks at the LRC I was told, "Your articles will be what you make them". This stuck with me. I was given the chance to work in environmental law, land reform, housing and local government, gender rights, refugee rights, protest, NGO registrations and collaboration, international networking, contract law and freedom of expression. I was



*Alexandra with client in Leandra, Mpumalanga*

given the chance to engage and learn skills at each level of the litigation process and I am so grateful for this exposure. Through it, I learnt to adapt quickly and learn new areas of law in a short space of time; a skill I'm sure I will always be thankful for.

While I had never seen myself as an activist, the LRC taught me the importance of wearing multiple hats. Some days I was an activist at a rally, some a litigator in a court room, some an advisor in a government office, and others a confidante in a consultation room. The challenges faced by South Africans are complex and a human rights lawyer in South Africa needs to be able to adapt to those complexities and to be aware of the multiple facets and perspectives in any given challenge.

The ghost of apartheid, while dead and buried to those on the right side of the poverty line, still lurks in so many communities in our society. Ultimately, our

celebrated Constitution has no power if people cannot realise the rights enshrined in it. The role of the post-apartheid activist, lawyer or ordinary South African is so significant, because without people to carry the torch, the work of the legends that went before will become nothing more than legend. I had the privilege of working alongside the people who carry this torch. Their dedication is inspiring and heartening.

In the end, what stuck with me the most, were the people and communities I met through the work. South Africans have remarkable courage and strength of spirit when faced with hardship. It was a privilege to be part of helping those people realise their rights.

I started at the LRC with a passion for environmental law and aspirations of getting involved in international policy, and I left with a passion for so much more and a certainty that aspirations can become reality.

*Candidate attorneys 2014*



Back: Velemseni Zulu; Nhlamulo Mvelase; Shean Rippenaar; Alexandra Robertson.  
Middle: Jade Amman; Dumisani Faku; Chriscentia Blouws; Mabatho Molokomme; Mandira Subramony.  
Front: Winnie Ngubane; Zama Khumalo; Ektaa Deochand. Absent: Margaret Stride



## Intern story

### Arushi Garg

#### CONSTITUTIONAL LITIGATION UNIT

Having been exposed to the South African Bill of Rights during the course of my Bachelor of Civil Law year, I was curious to see the operation of one of the most progressive Constitutions in the world. The LRC was a natural choice, given the pivotal role the organisation has played in moulding the South African human rights regime into what it is today.

My internship was with the Constitutional Litigation Unit (CLU) based in Johannesburg, for a period of six weeks. What was really interesting for me was the way in which everyone tried to bring the cases to life. One of the main areas in which the CLU works is the extractives industry in South Africa. In this context, they were in the middle of a massive class action suit against multiple defendants for causing silicosis in mineworkers. I got the opportunity to visit clients—all of whom are mineworkers suing mining companies for compensation—in Welkom (Free State) and was glad to see the attorneys going out of their way to ensure that they understood and gave their consent to every step of the litigation.

Similarly, I was also part of the team (led by George Bizos, no less!) at the Farlam Commission of Inquiry, set up to investigate the Marikana massacre. After working on documentation for a few days, I had the chance to accompany the team to the Commission,

and watch the cross examination of two key witnesses.

My six weeks with the LRC allowed me to work on a very broad range of issues, and in many capacities. They gave me a very clear idea of how litigation can be used as a vehicle for justice and empowerment, while relaying, at the same time, the limitations and challenges one has to deal with as a civil society activist cum lawyer. The actual work I did was supplemented at all times by discussions with the fascinating people I had the privilege of sharing my working space with. These conversations gave me a sense of the history of the organisation, as well as the country, and provided an interesting background to the work that I was doing.

I am very grateful for having had this opportunity and extend my heartfelt thanks to the OPBP for giving me funding without which none of this would have been possible.

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Arushi Garg



## Would you like to volunteer at the LRC?

Interns are an invaluable resource for any non-profit organisation. The LRC invites applications from both legal and non-legal volunteers (interns) from all over the world. We do not pay a stipend or remunerate interns in any way.

Legal interns will be exposed to legal research and litigation and will be expected to assist with drafting legal memoranda, providing legal opinions, interviewing clients and assisting the LRC to prepare applications and actions.

The LRC also accepts internship applications from students with an interest in fundraising, communications, marketing, management, accounting, social science research or similar fields.

If you have completed at least one year (preferably two years) of your legal or other studies, you are welcome to apply for an internship. All of our offices accept applications (Durban, Johannesburg, National, Grahamstown, Constitutional Litigation Unit or Cape Town). Simply email [interninfo@lrc.org.za](mailto:interninfo@lrc.org.za) with the relevant documents (CV, motivational letter, referees).

Nica Siegel



## Intern story

### Nica Siegel

#### CAPE TOWN OFFICE

I became aware of the LRC as a student of legal theory at Amherst College in Massachusetts. I am interested in the intersections of theory and practice within legal systems and communities. My academic advisor suggested South Africa as a particularly rich site to work in the overlap between the two, given its history of intellectual activism.

I was granted an internship in land reform and customary law under the supervision of Wilmien Wicomb and Henk Smith in the Cape Town office in 2013. In this capacity I worked on cases in South African development policy (writing submissions to Parliament on the National Development Plan), small-sector fishing, mining rights, land reform, customary law, and African and international jurisprudence. I also worked on refugee appeals and Marikana Commission research.

I was fortunate to work with Wilmien Wicomb, in particular, because of her theoretical background. She was generous enough to make her scholarship on customary law available for engagement. I ultimately returned to the LRC for a second internship in 2014, during which time I continued case work and wrote an article about theoretical perspectives on customary law and economic rights, which will be published in the South African Journal on Human Rights.

*Intern, Phil Mincher, helping with mud schools research in the Eastern Cape*



## Profile

### Teresa Yates

#### DEPUTY NATIONAL DIRECTOR

**T**eresa Yates joins the Legal Resource Centre as Deputy National Director, bringing with her 20 years of experience promoting human rights and development in South Africa, East Africa and the United States.

After obtaining a bachelor's degree in political science from Vassar College in New York and a law degree from the University of Cincinnati, Ms Yates began her career in the New York Office of the American Civil Liberties Union. She has also served as an adjunct Professor of Law at Fordham Law School in New York.

Previously, Ms Yates served as senior manager for the South African government's Department of Land Affairs and was the Executive Director of Nkuzi Development Association, a South African land rights organization. More recently, she was OXFAM's Gender Justice Advisor in Tanzania.

During her time working in South Africa for other organizations, Ms Yates interacted with Arthur

Chaskalson and LRC staff members, who impressed her with their openness and passion for social justice. She appreciates the dynamic role the Legal Resources Centre plays in South African civil society. The organisation has evolved over the years to address social issues, while maintaining its core values.

South Africa's progressive constitution and vibrant civil discourse create an environment ripe for social innovation. She is excited to work with the LRC's senior management team to continue the organisation's reputation for tirelessly working to achieve justice.

In her free time, Ms Yates enjoys reading fiction, swimming and spending time with her family.

The LRC warmly welcomes her to the organisation.



*Teresa at the Bertha Fellows convening*





# Letter to the Legal Resources Centre

## Sandy Balfour – former CEO of the Canon Collins Trust

Jill Williamson OBE, a long time trustee of the Legal Assistance Trust and now of Canon Collins and the Legal Assistance Trust (CCELAT), put it best. “You want to be careful now,” she warned me. “After a while the LRC gets under your skin.” She meant it as a promise but it is all too easy to imagine one of the many people or organisations who have faced the LRC in court – the unaccountable corporations, the failing government departments, the rapacious landlords – reading it as a threat.

But I heard only the promise. When I came into Canon Collins Trust several things were clear to me. The first was that the Trust was rightly proud of its long history of scholarship support for southern Africa’s leaders. The second was that a scholarship without action is both hard to justify and really hard to fund. And the third was that the core of the old solidarity movement – that generation of people in Britain who understood South Africa’s history, who felt an allegiance to its people, and who celebrated its transition to democracy – was alive and well. Here was a movement whose politics was rooted in people, was both formal and informal, and was open to the shifting needs and imaginations of the emerging, cacophonous nation. It continued to find its best expression in organisations like Canon Collins and the Legal Assistance Trust. The opportunity came to merge the two, and I was delighted we were able to create CCELAT, which has, as one of its three principle aims, support for the LRC and for research into the law.

In the few years since the merger, that support has

included funding for work with migrants, action to protect the rights of people living with HIV and AIDS, litigation to prevent unlawful evictions, support for a candidate attorney position, research into artisanal fishing rights and work on the extractive industries... and anyone reading the LRC Annual Review will know this barely scratches the surface of the extraordinary range of work undertaken by LRC.

At CCELAT we believe in an open and just society free from discrimination and we share the LRC’s commitment to a fully democratic society based on the principle of substantive equality and to the fulfilment of the principles, rights, and responsibilities enshrined in South Africa’s constitution

Our theory of change describes the ways in which we work to achieve our desired impact of an open and just society. At its heart is a diverse community of scholars, activists and organisations driven by a shared commitment to social justice, who collaborate to create and use knowledge to build an open and just society.



We promote this through our three core activities:

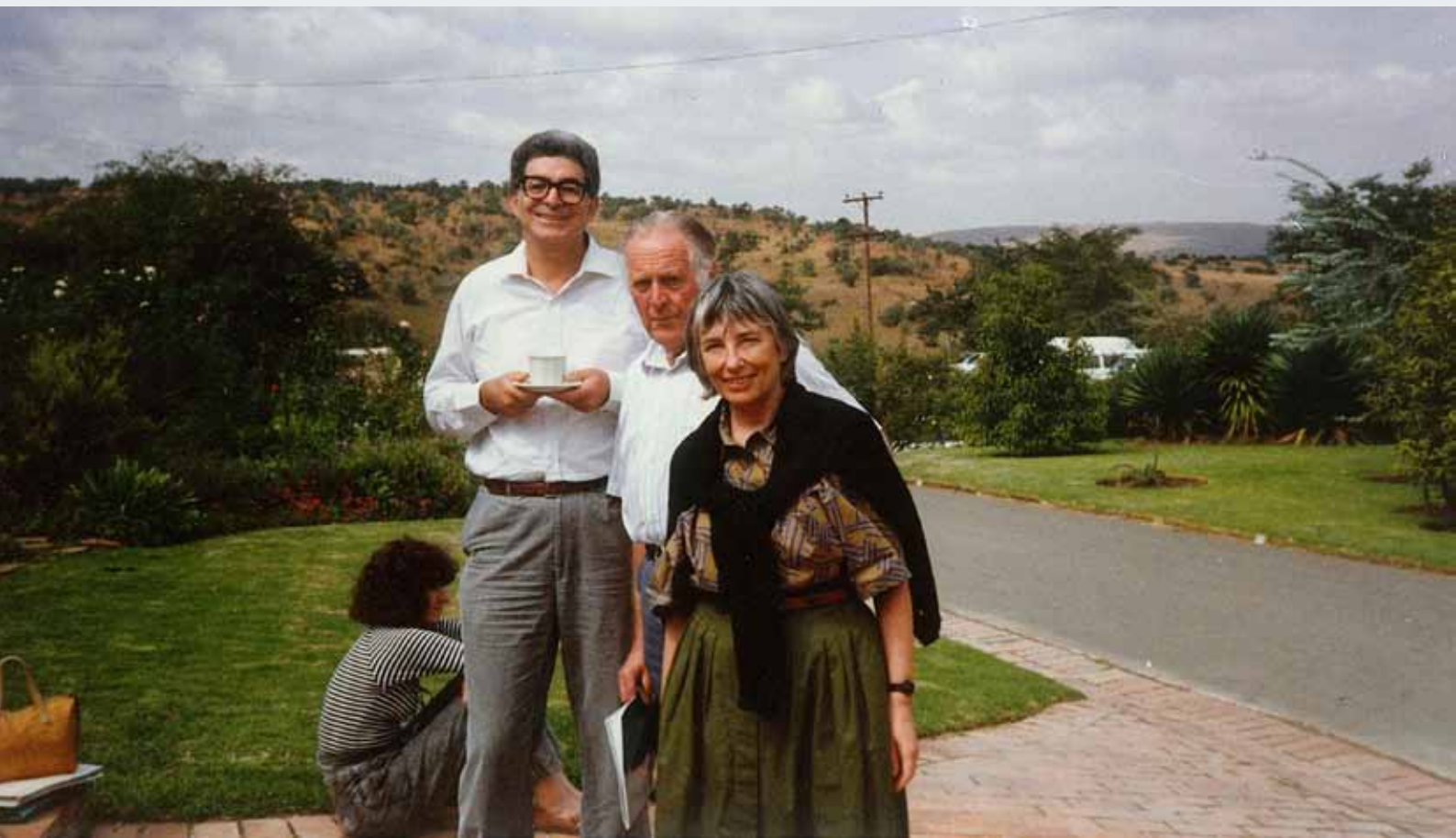
1. Scholarships and research grants;
2. Support for civil society partners, especially the LRC; and
3. Alliances between scholars and researchers.

The CCELAT community is an open and collaborative network. And this gets to the heart of why working with the LRC has been such a pleasure and a privilege. The LRC, rooted in the traditions of solidarity of the liberation movement, driven by compassion and empathy, rigorous in law and dedicated to the notion that all people are created equal, understands that solidarity is a strategy of mutual support. It is easy

to see what CCELAT does for the LRC. The reverse is less often remarked. By participating in our events, by interviewing our scholarship candidates, by employing our researchers and by contributing to our debates the LRC has made us stronger, has taught us to think more clearly and has made us more effective. We are grateful for it.

I was asked to write this because I am leaving CCELAT soon. I do so knowing that I leave both the LRC and CCELAT in good shape. It is a partnership forged in the best traditions of solidarity and I am sure it will prosper. But I also know I am not leaving it entirely. The LRC is a very welcome, and I suspect permanent, presence under my skin.

*Felicia Kentridge (front) with Arthur Chaskalson (back)*



## Remembered

### Lady Felicia Kentridge 7 August 1930 – 7 June 2015

Lady Felicia Kentridge (nee Geffen) was the co-founder of the Legal Resources Centre, which she established in 1979 with the late Arthur Chaskalson, former President and Chief Justice of Constitutional Court, and Geoff Budlender.

Felicia Kentridge was born in 1930 and brought up in Johannesburg. She came from a family of lawyers; her mother being the first female advocate in South Africa. She studied at the University of Cape Town and later at the University of the Witwatersrand (Wits), obtaining her LLB in 1953. She was admitted to the Johannesburg Bar in August 1956 and had a private law practice during the 1960s.

During her studies at Wits University, she married Sir Sydney Kentridge. He was already admitted to the Bar and would become known for his role as counsel for the defence in major South Africa political trials.

In the 1970s, Felicia persuaded the Wits Law Faculty to set up a legal clinic, which has since offered free services to thousands of disenfranchised and poor black South Africans during and after apartheid.

A few years later Felicia initiated a number of discussions with activists and progressive members of the legal profession, which led to the establishment of the Legal Resources Trust and the Legal Resources Centre, which opened its doors in 1979.

At the LRC, Felicia multi-tasked with a level of energy and flair that saw her providing legal assistance to clients who came into the office, appearing in court on their behalf, raising funds, running training programmes and dealing with a range of organisational challenges.

In 1981, her husband, who practised at the English Bar between 1977 and 2013, moved to London and Felicia commuted between South Africa and their London home. She later moved to London permanently.

Felicia took up a position on the Legal Resources Trust and became its Chairperson for a number of years. In

*Felicia Kentridge with colleagues*



addition, she worked with Lloyd Cutler, who was senior partner in Wilmer, Cutler and Pickering, to set up the Southern Africa Legal Services and Legal Education Project (SALSLEP - which later became SALS) in the United States, to aid South African lawyers who were fighting to implement the rule of law during apartheid. She was the driving force behind the establishment of the Legal Assistance Trust (LAT - now part of Canon Collins Education and Legal Assistance Trust - CCELAT) in Britain.

In 1999, after Sydney Kentridge's recognition as a Knight Commander of the British Order of St Michael and St George, Felicia became Lady Kentridge.

Recognising their contribution to law and justice in South Africa, the South African General Council of the Bar annually awards the Sydney and Felicia Kentridge Award for service to the law in Southern Africa.

Felicia was a wonderful and remarkable person. She leaves behind her husband, four children, nine grandchildren, a great-grandchild and a number of other family members, friends and admirers. Her life was an inspiration. She truly was a force of nature. As the late former-president Nelson Mandela remarked, she gave "a voice to the voiceless" in helping to set up the Legal Resources Centre.

## Partners

### Canon Collins Education and Legal Assistance Trust

Canon Collins Educational and Legal Assistance Trust (CCELAT) works to build a community of change agents across southern Africa who create and use research for social impact. Through its project grants, research funding and international events programme, it aims to cultivate a space where activism and research meet. The Trust has been supporting the work of the LRC for 24 years. In the past year, CCELAT has built on its long relationship with the LRC, particularly through grant funding from Comic Relief, support for candidate attorney positions in Grahamstown, and targeted research grants to underpin the LRC's advocacy and litigation. Visit <http://www.canoncollins.org.uk>

### SALS Foundation

The Southern Africa Legal Services Foundation, Inc. (SALS) – a U.S. § 501(c)(3) charitable organisation based in Washington, D.C. – was created in 1979 by concerned American lawyers to support and raise funds for public-interest legal services and for the development of legal education in southern Africa. SALS has long supported the LRC with its critical work in the areas of constitutional law, land and housing rights, environmental justice, constitutional obligations regarding the HIV and AIDS epidemic, and women's and children's rights. Visit <http://www.sals.org>

## LRC Patrons and Trustees

### Patrons

Sir Sidney Kentridge QC, SC  
Most Honourable Reverend Desmond Tutu  
Baron Joel Joffe, CBE

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## GET INVOLVED

Be part of our ongoing battle for justice and human rights.

### Donate

You can donate once-off, monthly, quarterly or annually using a stop order or direct deposit.

**You can make a secure payment via GivenGain:**

[lrc.givengain.org](http://lrc.givengain.org)

**Alternatively, you can deposit your donation into the following bank account:**

**Account Name** Legal Resources Trust

**Account Number** 2957333716

**Bank Name** Nedbank

**Account Type** Savings

**Branch Code** 198765

**SWIFT Code** NEDSZAJJ

**Reference** Your Name and Contact Number

**For Standard Bank clients, please use Branch Code: 19876500**

The LRC is a registered Public Benefit Organisation under section 18 A of the South African Income Tax Act and all donations are tax deductible.

For more information, email [donation@lrc.org.za](mailto:donation@lrc.org.za)

### Make a bequest

In addition to providing for those nearest and dearest to you, seek other ways to give your children a better future! Plan your legacy. Make a bequest to secure freedom, development and equality.

A bequest is a sum of money, items or property left in your will to another person, group, organisation or charity. Leaving a bequest to a non-profit organisation means that the deceased's estate is able to claim the bequest as a deduction to the estate.

If you already have a will it is easy to add a section called a codicil which names the Legal Resources Trust as a beneficiary. A codicil is prepared and signed just like a will.

To learn more about the process or to inform us of a bequest, contact us:

Send a letter to the Development Unit, Legal Resources Centre, PO Box 9495, Johannesburg 2000

Or email us on [donation@lrc.org.za](mailto:donation@lrc.org.za)

## Join the conversation

- 🏠 Visit us online at [www.lrc.org.za](http://www.lrc.org.za)
- 📘 Like our Facebook Page – search for Legal Resources Centre
- 🐦 Follow us on Twitter @LRC\_SouthAfrica
- 📡 Read our blog at Realising Rights
- 📺 Watch videos on our YouTube channel: TheLRCSouthAfrica

## Come to an event

Members of the public are welcome to attend any of the LRC's events, including our biennial Bram Fischer Lecture, which was first delivered by Nelson Mandela in 1995. We also host regular fundraising events, seminars about topical issues, workshops and training sessions.

You can keep informed about all of these events through following us on social media, visiting our website or joining our mailing list. If you would like to be added to our mailing list, email Moleshiwe at [moleshiwe@lrc.org.za](mailto:moleshiwe@lrc.org.za)

## LRC Staff & interns

The LRC's staff of over 80, working in four regional offices around the country, is committed to fulfilling the LRC's mission and vision. In addition, the LRC has welcomed and benefited from the work of interns from all over the world. Our list of staff and trustees is available on our website at <http://lrc.org.za/about-us/lrc-trustees-staff>



## Ride for Justice

### Join our Campaign

In November 2013, a team of seven cyclists taking part in the Momentum 94.7 Cycle Challenge in Johannesburg joined the LRC Ride for Justice Campaign. Although a small team initially, their commitment has been the impetus to start a dedicated campaign in support of the LRC. In 2014, it grew to over 40 taking part in the new 94.7 route.

*2013 Ride for Justice team*



**Become part of a group of spirited and engaged social justice campaigners who are committed to protecting and promoting the rights and responsibilities outlined in the South African Constitution.**

We plan to Ride for Justice every year and hope that you will join!

You will need to enter the 94.7 Cycle Challenge, commit to ride under the Ride for Justice Campaign wearing our cycling shirt. Build up to the race involves a number of training rides which you are invited to attend with other team members.

To join the Ride for Justice Campaign please email Ms Moleshiwe Magana at [moleshiwe@lrc.org.za](mailto:moleshiwe@lrc.org.za) or phone 011 838 6601.

*Members of the 2014 Ride for Justice team*



## Documents and publications

The LRC periodically releases papers, publications and booklets on various topics related to our work. These documents are available at <http://lrc.org.za/publications> and <http://lrc.org.za/resources>

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**Visit us online at [www.lrc.org.za](http://www.lrc.org.za)**



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