



LEGAL
RESOURCES
CENTRE

ANNUAL REPORT 2023/2024



The story of one claimant has the
power to change millions of lives



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Unwavering Dedication to the Cause of Social Justice

In challenging times, the Legal Resources Centre has continued to grow from strength to strength

This past year was one marked by a confluence of global challenges. The world continued to grapple with the lingering effects of the COVID-19 pandemic, while new threats emerged, such as the ongoing war in Ukraine and escalating tensions between major powers, including, towards the end of 2023, the eruption of war in the Middle East. These acts of outright violence and terror continue unabated with no foreseeable end in sight. When these unspeakable acts of war and horror occur, it is always the most vulnerable in society that suffer. They continue to do so, not only far abroad, but closer to home too. The people of Sudan face wanton violence and summary executions, while the levels of malnutrition and the threat of famine grow at an alarming rate.

These geopolitical tensions do not only continue to dominate news headlines. They also impact greatly on the psychology and political choices people make. This is especially critical, as 2024 is widely touted as a “make or break” year for democracy, with national elections being held in 65 countries. This is being seen as a huge test for the democratic ideals as many countries have favoured leaders with devoutly antidemocratic leanings. The cumulative effect of all these events could have far-reaching consequences for global security, energy markets, and food supplies. We have also borne witness this past year to a series of extreme weather events, including heatwaves, floods, droughts, and wildfires, highlighting the devastating impacts of climate change. Global temperatures reached record highs, and the scientific consensus on the urgent need for climate action has hopefully strengthened. Despite the challenges, there were also significant technological advancements, particularly in the fields of artificial intelligence, renewable energy, and biotechnology. These developments hold promise for addressing global challenges but also raise ethical and societal concerns. Overall, 2023 was a year of both crisis and opportunity. The world faced a complex set of challenges, but there was also a growing recognition of the need for international cooperation and innovative solutions to address these issues.

The LRC has always positioned itself at the coalface of many of these global issues and several of the pressing issues that ordinary South Africans grapple with daily. As you will read in this edition of the Annual Report, the LRC is well-placed to understand and address these issues with alacrity and requisite skill. The LRC has also continued to provide legal services to the marginalised and develop the country's laws and jurisprudence in important ways. This Annual Report will highlight some of the most important work that has been done this year, including some of the LRC's litigation which has set legal precedents that are particularly noteworthy. This past year has seen the LRC continue to focus on accomplishing its objectives set out in its five-year strategy, while also pivoting, where necessary, to respond to the challenges of the day.

Strides continue to be made in the work that the LRC undertakes in its Land Programme. In November 2023, judgment was obtained in the Limpopo High Court declaring compulsory tribal levies unconstitutional and ordering the Department of Cooperative Governance to publicise the order widely. This judgment affects around 16 million South Africans, who are now protected from traditional leaders who charge levies or taxes in the former homeland areas. The LRC also launched litigation to ensure enhanced administration of land redistribution in South Africa. In the Bezuidenhout case, an order is being sought that any applicant who applies for the redistribution of land in terms of any legislation, policy, or programme of the government, has a right to administrative action that is lawful, reasonable, and procedurally fair. This is the first step towards creating a legal framework for land redistribution in South Africa.

So too, does the important work continue in the LRC's Education Programme. Litigation was launched on behalf of transgender learners in the Western Cape, to compel the Western Cape Education Department to enact a policy to guide schools in creating an inclusive schooling environment for transgender and gender diverse learners. In the Eastern Cape, litigation on scholar transport is also aimed at addressing some of the systemic challenges that results in learners not being transported to schools, while ongoing litigation on overcrowding of classrooms saw 65 classrooms being built for learners in three schools in Mthatha, with further classrooms to be built during 2024. The LRC, together with other partner organisations, also launched the Right to Read Campaign, that is aimed at addressing the reading crisis in the country. With 81% of grade 4 learners unable to read for meaning (according to the 2021 Progression in International Reading Literacy Study), the R2R campaign advocates for the adoption of reading regulations that will allow for more time to be spent on reading in schools, better teacher training and testing of learners, and an improvement in the number and quality of available texts in classrooms.

At an operational level, the Legal Resources Trust was wound down and the organisation started functioning as a non-profit company (NPC) on 1 April 2023. It saw the establishment of a new Board of Directors as well as an Advisory Board, mainly consisting of the judges that used to serve on the LRC Trust. Much of the year was spent on transferring all the assets, liabilities and contractual obligations from the trust to the NPC and meeting all the legislative and fiscal obligations to ensure the NPC can function as a public benefit organisation. In this respect, the administrative staff of the LRC should be commended for all their efforts in ensuring minimal disruptions to the operations of the LRC. I believe that as we move forward under the new NPC, we will see the benefits reflected in our donor relationships as well as in the efficiency of our operations. I pause here to extend a word of thanks to the LRC's funders, without whose support none of the work that we do would have been possible. The LRC values these relationships and our shared commitment to justice, and trust that they will endure in the years to come.

I cannot reflect on the year that has passed without mentioning the sheer euphoria we felt as South Africans, when the Springbok rugby team lifted the spirits of the nation by becoming the first country to win four Rugby World Cups. It was a historic moment when Siya Kolisi, the Springbok Captain, lifted the World Cup in France. Their victory ignited a sense of solidarity amongst South Africans and a realisation that it is indeed not over until it is over. It was a timely reminder that as a country, there is always hope and time to claw back from the brink of disaster. While there is strength in togetherness, I am also reminded of the uncertainty that 2024/2025 may bring. With general elections set for May 2024, we may be facing an exciting, albeit uncertain, political future. The LRC will again be agile in response to whatever challenges may arise from the elections, firmly rooted on the side of ordinary South Africans who want to have their constitutional rights vindicated. I take courage from the fact that the staff of the LRC will respond to these challenges with the same robust energy that has marked the last 45 years of the LRC.



Noluthando (Thandi) Orleyn
Chairman of the Board, Legal Resources Centre



Despite Turbulent Times, This Year has been One of Growth for the Legal Resources Centre



Nersan Govender

Executive Director of the Legal Resources Centre

The year under review marks the penultimate year of our current strategy, and our dedicated team continues to push forward, leveraging the law to challenge injustice. Thanks to the unwavering support of our funders and the relentless efforts of our staff, the Legal Resources Centre has achieved remarkable success across all areas of our work.

As concerns land, the Legal Resources Centre team has been steadfast in ensuring equitable and accountable redistribution and working towards ensuring that people living under traditional leadership structures are not deprived of their constitutional rights. This dedication has resulted in two noteworthy victories: the positive judgment in the case concerning land reform beneficiaries in Beaufort West, and the tribal levies case where the Limpopo High Court declared compulsory tribal levies unconstitutional. Both these cases marked a significant victories in advancing land justice and ensuring that all South Africans enjoy their constitutionally protected rights. Both of these cases are discussed in greater detail later in the report.

In education, our efforts have been focused on ensuring that South African learners fully enjoy their right to basic education. This commitment has resulted in two significant victories in this area of work: the launch of the Right to Read Campaign and the institution of the WM on behalf of OM and Another vs the School Governing Body of Beaumont Primary case to protect the rights of a transgender learner.

The Right to Read Campaign is a broad-based alliance comprising human rights organisations: the South African Human Rights Commission, the Legal Resources Centre, Equal Education, and SECTION27. The campaign is a response to the alarming results released by the International Reading Literacy Study in 2021, which revealed that 81% of Grade 4 learners cannot read for meaning in any language. This campaign aims mobilise civil society and the education sector, as well as society at large, to make early grade literacy a national priority.

In the Beaumont case, we represented the parents of a nine-year old transgender boy, OM, who attended Beaumont Primary School in Somerset West, Cape Town. OM faced discrimination based on his gender identity. This case is a pivotal step towards addressing gender-based discrimination and advocating for the rights of marginalised groups. More importantly it is a step towards eliminating exclusionary practices, conduct, and laws that prevent access to equitable education. This case is dealt with in further detail in the report.

Lastly, in our legacy focus area, we have been dedicated to seeing through to finality cases that fall outside the current strategy. It is a great pleasure to report that the legacy work is nearing completion, with the team seamlessly concluding these cases. This work is vital as it not only helps the organisation maintain strong relationships with our clients but also preserves our legacy of commitment to justice and accountability. A case that has been both a success and an ongoing challenge is the Brusson Finance Scheme, which involved thousands of South Africans losing ownership of their homes. This fraudulent operation misled homeowners into signing over their property titles under the guise of securing credit agreements. While significant progress has been made in recovering homes for many of our clients, the scale of the deception has posed ongoing legal and logistical challenges. However, we remain undeterred. We will continue to fight for justice until every one of our clients regains ownership of their homes. Our commitment to this cause is unwavering, and we will persist until the rightful resolution is achieved for our clients.

The achievements shared above underscore our dedication to advancing equality and safeguarding the rights of vulnerable individuals in South Africa. Looking then more broadly at both South Africa and the world, we have witnessed moments of triumph as well as tragic instances of injustice. One such heartbreaking event was the devastating fire in the central district of Johannesburg that claimed the lives of more than 70 people. This incident stands as a stark reminder of the ongoing challenges faced by vulnerable communities, the urgent need for stronger safety measures to prevent similar tragedies, and, more importantly, the need for adequate housing in this country.

A significant triumph, both nationally and internationally, occurred when South Africa filed a case against Israel for violating the Genocide Convention. The International Court of Justice found it plausible that Israel's actions in the Gaza Strip could amount to genocide and issued provisional measures. This moment highlights the tireless efforts of South Africans in pursuing justice on the global stage and marks a key victory for international law and human rights advocacy. It stands as a proud testament to South Africa's commitment to upholding the values of justice and accountability. These contrasting events serve as reminders of the progress we have made as a people, while also highlighting the challenges that persist.

The Legal Resources Centre will continue its work in the areas of land and education in the last year of the current strategy, as these remain marked by significant inequalities, despite the Constitution's protection and guarantee of these rights. In addition to these ongoing efforts, we have launched a new project aimed at democratising big tech. Broadly, our goal is to ensure that the same safeguards employed by social media companies in the Global North are extended to the Global South, promoting fairness and accountability across big adtech platforms. More on this work follows in the report. Furthermore, as part of the Legal Resources Centre remaining agile and relevant, we are intensifying our focus on two critical and urgent issues of gender-based violence: addressing the legal injustices faced by women who kill their abusers and confronting the growing crisis of sextortion. These efforts reflect our commitment to responding dynamically to the evolving needs of the country while advancing justice in key areas.

We look ahead to the upcoming year with optimism and anticipation as the country navigates its way into the future following its seventh democratic elections. Given the challenges of previous governments, particularly those tainted by state capture, we can only hope that the future brings more accountable and transparent leadership, leadership that prioritises the well-being of the South African people and steers the nation toward positive change.



Our Vision & Mission



Vision

A democratic, accountable, and transparent society in which equitable and inclusive access to justice, dignity, and human rights are lived realities for all.



Mission

To undertake evidence-informed action focused on advancing the transformation of South Africa as a democratic society, using the law as an instrument to remove persistent and pervasive structural obstacles to human rights, with a strategic focus on land and education rights.

A COMMITMENT TO SCHOLAR TRANSPORT: DEVOTED TO ENSURING ACCESS TO EDUCATION FOR ALL

'At the LRC, we believe that scholar transport is a fundamental right essential to every young person's access to education. This conviction has driven us to dedicate over a decade to advocating for young people's right to safe and reliable transport.'

Cameron McConnachie



The LRC in Numbers

78

The number of cases we have worked on in 2023 and 2024.

53

Staff members, working in four national offices and dozens of communities all over South Africa.

149

Reports to funders and other stakeholders submitted in the past 12 months.

12

The number of applicants the LRC successfully represented in challenging the constitutionality of tribal levies that are being enforced in rural communities across the Limpopo Province in South Africa.

135

The number of clients that the LRC is assisting to apply for citizenship as part of the ongoing case regarding the constitutionality of the South African Citizenship Act, 1995 (Act No. 88 of 1995).

92

The number of overcrowded classrooms, identified through Attwell litigation, which have five or more classrooms with over 60 learners, and at least one classroom with more than 100 learners.

1,097

The number of learners assisted with scholar transport in the Eastern Cape over the past year.

32

The number of homeowners the LRC has assisted in fighting the Brusson Finance Scheme, which exploited vulnerable individuals by promising financial assistance while ultimately stripping them of their property rights.



WHO WE ARE

A Journey Through Time

1979

The LRC is created by a group of activist anti-apartheid lawyers to challenge apartheid laws: Felicia Kentridge, Arthur Chaskalson & Geoff Budlender.



1980s

One of the first cases that the LRC takes on – and wins – is the Komani case, which helps to destroy the hated apartheid pass system that made black South Africans foreigners in their own country.



1994

As South Africa transitioned into democracy, the LRC dedicates itself to enforcing the rights established by the new Constitution and Bill of Rights.



1995

The LRC is part of the successful campaign to abolish the death penalty in South Africa.



1996

Members of the LRC play an important role in developing the new Constitution of South Africa.



2001

The LRC wins its first class action case on behalf of people living with disabilities.



2002

The government is ordered to supply antiretrovirals to combat mother-to-child HIV transmissions.



2004

Jaftha v Schoeman was a landmark Con Court case that ruled that the sale of homes to settle debts without judicial oversight is unconstitutional.



2006

After years of advocacy, the Legal Resources Centre secures a landmark victory for the Richtersveld community, granting over 4,000 individuals access to their ancestral land and resources.



2010

An important legal victory is won when the Constitutional Court rules that the controversial Communal Land Rights Act passed in 2004 is invalid.





2011

The LRC secures a settlement for seven Eastern Cape schools in mud structures, prompting the government to commit R8.2 billion for school construction and essential services.

2013

In a landmark workers' rights victory, R320 million is paid to 3,598 claimants in a silicosis class action. The LRC represented mineworkers suffering from silicosis, a debilitating lung disease caused by silica dust.



2015

In the Cala and Amahlathi cases, the LRC represented rural communities for land access and resource rights. It was able to help community members access land and resources per the constitutional commitment to equitable land reform.



2020

The LRC renews its dedication to advancing human rights in South Africa by focusing on the twin issues of land and education.



2022

A milestone environmental victory is won when Wild Coast communities and civil society organisations, including the LRC, join forces to successfully prevent Shell from conducting seismic tests off the east coast of South Africa.



A Journey Through Time



Where We Work



4 National Offices:

- Johannesburg
- Cape Town
- Makhanda
- Durban



Courts:

- Constitutional
- Gauteng
- Polokwane
- Makhanda



Communities we have served:

- **Eastern Cape:** Prudhoe, Gwatyu, Port St Johns, Dwesa-Cwebe, Xolobeni, Knysna fishers, Amahlathi, Makhanda community
- **Gauteng:** Silvertown, Alexandra, Johannesburg, Pomona, Kempton Park, Precast community, Yeoville Ratepayers Association
- **KwaZulu-Natal:** Nibela, Kosi Bay, Endumeni Civic Association (Endumeni Municipality), Zamani Transit Camp community (Isipingo), Umlazi U Section, Austerville, Clairwood, Ukhukho, Coastal Fishers, Old Durban Airport farmers
- **Limpopo:** Phaphazela, Moletjie, Tzaneen, Marble Arch
- **Mpumalanga:** Rooifontein, De Putten, Carolina
- **Namibia:** Hai//om people
- **Northern Cape:** Port Nolloth Concordia, Hondeklipbaai
- **North West:** Thekwana, Wildebeestkuil
- **Western Cape:** Simondium, Beaufort West, Langebaan, Ebenhaeser, Mamre, Papendorp, Manenberg, Philippi



WHO WE ARE

Our Team



NERSAN GOVENDER
Executive Director of the
Legal Resources Centre



AMANDA MOLI
Office Assistant



AMANDA MPOTULO-MATAMA
Administration Assistant



ANNELINE TURPIN
Attorney



ANSHAL BODASING
Manager in the Office
of the Director



CAMERON MCCONNACHIE
Lead: Education Program



CECILE VAN SCHALKWYK
Attorney



CHARLENE KREUSER
Attorney



CLAIRE RANKIN
Candidate Attorney

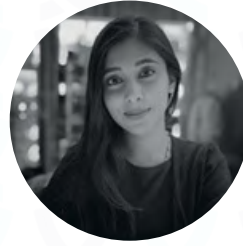




DELYSIA WEAH
Company Secretary



DEVON TURNER
Attorney



EKTAA DEOCHAND
Attorney



ESME WARDLE
Office Administrator



FEEYAZ MOHAMED
Project Accountant



ILENE ABRAMS
Development Manager



KIARA GOVENDER
Candidate Attorney



KIMAL HARVEY
Candidate Attorney



KIREN RUTSCH
Candidate Attorney



KRISTEN ABRAHAMS
Candidate Attorney



LERATO LEBOTSE
Receptionist



MLAMLI TYHULU
Candidate Attorney



MADILE MASHININI
Human Resources Officer



MORAY HATHORN
Attorney



MUYENGA MUGERWA-SEKAWABE
Attorney



NELISWA MBUYAZI
Candidate Attorney



NICHOLAS CHETWIN
Financial Manager



NUHAA HENDRICKS
Candidate Attorney



ONA XOLO
Attorney



PULENG MOSIA
Communications Intern





RASHAAD DADOO
Legal Assistant



SAADIYAH KADWA
Attorney



SANDILE ZWANE
Grants Management Officer



SANDRA GOVENDER
Office Administrator



**SHAATIRAH
BABOO HASSIM**
Attorney



SHAISTA BHABHA
Finance Officer



SHENIECE LINDERBOOM
Attorney



SHERYLLE DASS
Lead: Big Tech
Project



SINDISIWE SHOZI
Attorney



SIPESIHLE MGUGA
Programme Co-Lead:
Legacy Programme



TONEY LEONG
IT Systems Developer



TOPSY MACKENZIE
Payroll Officer



TUMELO MACHABA
Candidate Attorney



WILMIËN WICOMB
Co-lead: Land
Programme



YOEMNA SAINT
Grants Management
Officer and Programme
Coordinator



YANELA FRANS
Candidate Attorney



ZAHRAA MOTANI
Candidate Attorney



ZI CHANNING
IT Systems



ZULFA MOHAMMED
Office Administrator



WHO WE ARE

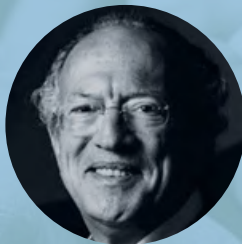
Our Board of Directors



THANDI ORLEYN
Chairman of the Board,
Legal Resources Centre



ASHLEY FRANCIS
Executive Finance
Director of the University
of Cape Town



CHRISTOPHER STONE
Professor of Practice of Public
Integrity at Oxford University's
Blavatnik School of Government



JOY-MARIE LAWRENCE
Chartered Director,
CEO of Boardvisory Pty
Ltd



JUSTICE LEX MPATI
Chancellor of Rhodes
University



LUMKA MLAMBO
Fund Principal at the
SA SME Fund



MARJORIE DA SILVA
External Member, PRC,
Bank of England



MICHAEL KATZ
Practising Attorney and
Chairman at Edward Nathan
Sonnenberg (ENS) Africa



MZIWANDILE EZRA DAVIDS
Chairman of Corporate/
M&A at Bowmans



NERSAN GOVENDER
Executive Director of
the Legal Resources Centre



We Use the Law as an Instrument to Realise Human Rights

The LRC brings a breadth of experience and a deep knowledge to the work we do



Over the past five decades, we have gained valuable experience in using strategic litigation, legal reform, research, and advocacy to create positive and long-lasting change in the lives of our beneficiaries.

1

By providing free, expert, and compassionate legal services to individuals, we have provided many ordinary South Africans with the resources to stand up to injustice.

2

By working with our extensive network of civil society partners and allies, in the service of vulnerable individuals and communities in South Africa and other African nations, we have successfully created legal precedents and won judgments that have had a tangible impact on the lives of millions of people living in South Africa and beyond.

3

Our focus areas have included access to land, education, and health care, in addition to advancing gender and racial equality and the rights of the disabled. We have also worked with partners and communities in other parts of Africa and the Global South to support activists facing similar challenges.

4

In addition to this legacy work, we have identified land and education rights as key drivers of change in contemporary South Africa. Members of our experienced and diverse team, working across South Africa, have committed themselves to assisting landless people to gain access to land and to ensure that our children have access to quality basic education.



LRC Fights for Safe Scholar Transport in the Eastern Cape

LRC takes scholar transport crisis to court: Seeking systemic relief for learners left without safe and reliable transport in the Eastern Cape

To date, over 34,000 young learners in the Eastern Cape are still deprived of safe, reliable scholar transport and are forced to walk long distances to and from school.



Over the past year, the LRC has worked with 10 schools to address their scholar transport needs.



Find out more about our Scholar Transport cases



The LRC is no stranger to the ongoing scholar transport crisis that sees hundreds of thousands of learners across the country left to walk long distances along dangerous routes to and from school every day, relocate from their families to be closer to school, or pay for private transport which their families can ill afford. At the start of the 2024 academic year, however, the crisis reached a boiling point in the Eastern Cape. Schools across the province were yet to receive any decision on applications they had made on behalf of learners who qualified for scholar transport under the provincial scholar transport policy. At other schools, service providers would either neglect to transport all learners from a particular area or route, or indicated that they could transport only a handful of learners from a particular area, leaving behind many more.

Representing Khula Community Development Project and three schools in the Eastern Cape – Toyise Senior Secondary School, Mneketshe Junior Secondary School, and SeaView Senior Secondary School – the LRC approached the Eastern Cape High Court in Makhanda for an order compelling the Eastern Cape Department of

Education (EDTE) and the Department of Transport (ECDT) to decide on all outstanding scholar transport applications, communicate their decisions thereon, and provide transport to learners whose applications had been approved. Broader systemic relief relating to the adoption of a catch-up plan for learners who had fallen behind on their schoolwork because of a lack of transport was also sought, along with a request for a supervisory order that would see the departments continuing to report on the progress they had made and their future plans over the following seven months.

After the application was launched, the ECDE and ECDT agreed to an interim order that saw them decide on the outstanding applications from the named applicant schools. As a result of this interim order by agreement, learners from SeaView SSS and Mneketshe JSS received scholar transport for the first time, and scholar transport was restored to Toyise SSS.

The ECDT and ECDE, however, continue to oppose the broader relief sought. The crux of their opposition was that systemic relief was not necessary in light of ongoing attempts to review the Eastern Cape Provincial Scholar Transport Policy. They also contend that it would be impossible to provide scholar transport for all qualifying learners in the face of the budgetary constraints under which both departments must operate.

On behalf of the applicants, the LRC rightly highlighted that the purported policy revision does nothing to resolve what was fundamentally an issue of implementation. They also argued that budgetary constraints are no defence to most of the relief still sought, and never a defence to violations of the right to a basic education. In the face of the severity of the issues at hand, which have caused and continued to cause untold suffering for learners across the province, the Legal Resources Centre contended that a clear case for supervisory relief was made based on the facts. (The matter was heard on 12 September and judgment was reserved.)

This case falls under broader work on scholar transport undertaken by the Education Team. Aside from the urgent application brought in respect of the Eastern Cape, the Scholar Transport Team continues to advocate for the adoption of binding regulations at a national level to provide a lasting solution to the scholar transport nation-wide.



LRC Secures Court Action against Overcrowding in Eastern Cape schools

LRC fights for adequate classrooms: Addressing overcrowding and the right to quality education in Eastern Cape schools

On 13 August 2024, judgment was handed down by the Mthatha High Court. The court felt that there was no need to grant the systemic and supervisory relief requested by the applicants on the basis that immediate relief had already been provided at the applicant schools in the form of updated infrastructure, together with a list of overcrowded schools. While the applicants' legal team disagreed with the judge's position, it was decided not to appeal the decision. The information provided by the ECDOE may prove an effective tool in re-strategising and assembling new applicants to advocate for systemic change in future.

On 20 August 2018, the LRC, representing concerned parents at the four applicant schools, filed an application in the Mthatha High Court against the MEC of the Department of Basic Education in the Eastern Cape and other government actors. The application sought an order requiring the provision of classrooms at each school — Attwell Madala Senior Secondary School in Mthatha, Enduku Junior Secondary School in eNgcobobeni, Dudumayo Senior Secondary School in Mqanduli, and Mnceba Senior Secondary School in Ntabankulu. Class numbers at these schools routinely exceeded 80 learners per class (double the number of learners that South African infrastructure norms set out as the limit per classroom), and sometimes reached over 100 learners in a single classroom.

The extreme overcrowding at these schools was not only a safety hazard but also deeply compromised learners' access to a quality basic education enshrined in section 29 of the Constitution. Regulation 9(2) of the Regulations Relating to Minimum Uniform Norms and Standards for Public School Infrastructure ("the Infrastructure Norms") state that "acceptable" classrooms contain a maximum

of 40 learners. The Infrastructure Norms, published in 2013, were meant to be phased in over seven years and required the MEC to provide plans for implementing the Norms and to continually report to the Minister of Basic Education on the progress of these plans.

Crammed into small classrooms, learners were often crowded three to a desk, with no space to write, and often reported not being able to hear what a teacher said. Such large class sizes made it impossible for teachers to maintain discipline or even discern when a learner did not attend a class. Often learners were expected to mark their own work.

In February 2020, the LRC appeared in the Mthatha High Court and secured substantive relief, in terms of which the respondents were directed to provide 65 temporary classrooms to the four applicant schools within 90 days. The order was obtained by agreement between the ECDOE and the applicants.

Providing adequate infrastructure to alleviate overcrowding at the applicant schools presented many delays in the ensuing years, with construction still being incomplete by 2023. This necessitated the systemic relief requested beginning with a list of public schools in the OR Tambo Inland, Chris Hani East and Alfred Nzo districts with an average of 60 learners or more per classroom, together with a plan to eradicate the overcrowding there. The applicants also sought a supervisory order requiring the respondents to report to court at regular intervals on their progress in dealing with the overcrowding problem.

With regard to the systemic relief, after additional lengthy delays, the ECDOE finally sent a list of overcrowded public schools — but no plan of action — to the LRC in June 2023. It consisted of a 94-page list of schools with at least one severely overcrowded classroom, showing that out of a total of between 1357 and 1996 schools, a staggering 424 had at least one classroom of 60 learners or more. This meant that between 21 and 31 per cent of schools in the four education districts had at least one severely overcrowded classroom. Furthermore, 92 schools had five or more severely overcrowded classrooms; and at least one classroom with 100 or more learners.

Despite numerous requests, the ECDOE failed to explain what concrete steps it would take to remedy the situation. The LRC returned to court on 9 November 2023 for an order for the court to retain supervisory jurisdiction over the matter until satisfied that overcrowding at the schools on the ECDOE's list had been remedied — and is currently awaiting this judgment.

At present — although extremely delayed — the 65 temporary classrooms that the ECDOE was directed to provide have been built at three of the schools, with construction beginning at the fourth.



LRC Challenges Discrimination Against Transgender Learners in Schools

LRC advocates for inclusive policies:
Addressing discrimination against transgender and gender-diverse learners in South African schools

During 2023–2024, the LRC has remained committed to advocating for inclusive school policies and regulations. In particular, together with other organisations, we have built on several years of engagement with the National Department of Basic Education and provincial education departments regarding the adoption of policies and regulations aimed at addressing discrimination against transgender and gender-diverse learners.

As it stands, the Western Cape Education Department and the Department of Basic Education have not developed binding policies or regulations accommodating and protecting learners with diverse sexual orientations and gender identities in schools. In the absence of binding policies, schools' codes of conduct often violate transgender and gender-diverse learners' rights to human dignity (section 10), equality and non-discrimination (section 9), privacy (section 14), education (section 29), and to have their best interests paramount in all matters concerning them (section 28(2)) under the South African Constitution and international law.

At the end of 2023, the LRC launched the *WM obo OM and Another v the School Governing Body of Beaumont Primary ("Beaumont")* matter in the Equality Court. Our work on this case has continued into 2024. The applicants in this matter are the parents (WM and AM) of a nine-year-old transgender boy (OM) who attended Beaumont Primary School in Somerset West, Cape Town. OM was enrolled in Grade 1 in Beaumont in 2022. Since OM had begun his transition prior to his enrolment, his parents had engaged with the principal in relation to accommodating OM's use of the boys' bathroom and his wearing of the boys' swimming uniform. The principal accommodated OM, and there were no issues at the school. With the arrival of the new principal, however, OM has faced multiple forms of discrimination based on his gender identity. He was no longer permitted to use his preferred bathroom and preferred swimming uniform. Instead, OM was forced to wear a "unisex" swimming uniform that is different from the uniform for cisgender students and had to use a "unisex" bathroom that was used only by him and one other transgender student. The school environment was no longer safe for OM, and he has since left the school. Nonetheless, his parents have decided to continue pursuing the case so that no other learner experiences the same exclusion, discrimination, and harassment.

Beyond the relief sought for the applicants, the broader relief is aimed at directing the Western Cape Education Department and the Department of Basic Education to promulgate regulations to ensure that transgender and gender-diverse learners are able to use the bathrooms and wear the hairstyles and school and sports uniforms that correspond with their gender identity. The LRC believes that this case has the potential to be groundbreaking in establishing the foundation for an inclusive schooling environment for transgender and gender-diverse learners. The case is still to be heard, but the parties remain engaged in resolving preliminary issues and finding the best way forward.

'The urgency and importance of this work has been highlighted to the broader South African society over the past two years, with three high profile reports of LGBTQI+ learners dying by suicide due to alleged incidents of homophobia in schools', explains MUYENGA MUGERWA-SEKAWABE, ATTORNEY.





LAND

Land Beneficiaries Secure 30 Year Lease

Successful Beaufort West land reform beneficiaries approach court to secure 30-year lease

On 4 April 2023, three land reform beneficiaries filed an application in the Western Cape High Court to review and set aside a decision by the Department of Rural Development and Land Reform to not award a 30-year lease to them for five farms in the Beaufort West District, collectively known as Plateau Farms. In 2009, the Department allocated five farms in the district, collectively known as Plateau Farms, to more than 80 beneficiaries as part of its land reform project. The applicants were amongst these beneficiaries. All three of the applicants are children of previous farm workers in the Beaufort West area, and they regarded access to this land as being a means to eradicate the discriminatory land ownership patterns that prevailed under apartheid.

By 2017, the other beneficiaries had left the farms as their leases over the farms had expired. The applicants established Nuvelde (Pty) Ltd, an entity through which they farmed Plateau Farm, subject to a concession by the department. Their sheep farming operations became highly successful and, in 2020 and 2023, their wool obtained the highest average price for the Beaufort West region at the national wool auction in Gqeberha.

In December 2019, the department placed an advertisement in the newspaper calling for applicants for a 30-year lease over Plateau Farm. Through Nuvelde, the applicants applied for the lease, underwent an interview process, and were recommended by the National Land Acquisition and Allocation Control Committee as the preferred candidates for the lease. Despite this recommendation, the Acting Chief Director: Western Cape Provincial Shared Services, Mr Lubabalo Mbekeni, took a decision on 27 September 2020 not to award the lease to Nuvelde.

While section 25(5) of the Constitution makes provision for the redistribution of land, there is currently no empowering legislation to give effect to this section. Instead, successive land redistribution policies have been published by the department to guide the programme. However, these policies lack clear beneficiary-selection criteria and application and allocation procedures, and do not provide the applicants with any recourse should their applications be unsuccessful or should they be unhappy with the reasons for the decisions. In addition, the policies are not always publicly available, making it difficult for potential beneficiaries to know how to apply and what will be considered when they do apply for redistribution programmes.

To address this lack of a legal framework, the applicants are also asking the court for declaratory relief to address the department's failure to create a transparent and consistent legal and policy framework for land redistribution in South Africa. The declaratory relief is supported by the East Cape Agricultural Research Project, a non-profit organisation located in Makhanda in the Eastern Cape that supports communities and individuals that have benefitted from land reform programmes. They are asking the court to order that any applicant that applies for the redistribution of land, in terms of any legislation, policy, or programme of the government, has a right to administrative action that is lawful, reasonable, and procedurally fair.

This includes a lawful, reasonable, and procedurally fair application process and consideration of the application. It also requires the department to provide applicants with a written statement regarding the procedure that will be used to access the application, including the criteria that will be applied. It also compels the department to make decisions on applications within a reasonable time after the application has been lodged and for the applicants to be provided with a written statement of the decision and the reasons for the decision.



Khulamandla Community Organisation v ZAC Mine

Khulamandla Community Organisation v ZAC Mine: Accountability and transparency for mining-affected communities

'When we conduct oversights, we come back depressed. Because before you enter into a mine, you walk through a sea of poverty In our own experience these social and labour plans are indeed not implemented Mining communities lament that here, within our area, we extract the wealth of the country, but there is no drop that comes back to us as the mining community.'

— Chairperson of the Parliamentary Portfolio Committee on Mineral Resources
at the public hearings for the Mining Charter, 2011

The LRC has launched an application in the Pietermaritzburg High Court seeking to increase accountability and transparency for mining-affected communities.

Mining companies reported record levels of profit across 2021 and 2022 with shareholders receiving almost R200 billion in dividend distributions across the sector.[1] The global political climate has brought South African minerals to even higher levels of demand with mineral exports making up 58% of all our exports to other countries.[2] These are markers of an extremely productive and profitable domestic mineral market, however, mining-affected communities remain in abject poverty and often do not receive any benefit from mining occurring on their land.

This is the case with a community situated in Ulundi, in northern KwaZulu-Natal, located near the Zululand Anthracite Colliery Mine (ZAC Mine). Despite the mine being in operation in the area for several decades, the community have not seen any improvement in their socio-economic situation. In fact, their conditions have deteriorated as a result of mining activities.

The Constitution attempts to strike a balance between inclusive economic development and conservation of the environment. It affords everyone 'the right to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development'.[3] The principle of inclusive development is reflected in the objects of the Mineral and Petroleum Resources Development Act ("MPRDA") [4] and the Mining Charter [5] - the legal framework that regulates mining.

Communities in close proximity to mines, which face the brunt of the geographical and environmental impacts, are intended by the legislative framework to benefit broadly from mining in their areas. This has a transformative purpose to ensure that the fruits of development are shared beyond just those in control of the mines.[1] [KR2] One such transformative mechanism is the Social and Labour Plan ("SLP"). The MPRDA requires a mining company to submit an SLP every five years setting out various socio-economic benefits that will accrue to the surrounding communities.[6] This is a pre-requisite for a company to obtain and keep their mining rights.

Unfortunately, while there may be formal compliance in preparing and submitting SLPs, it is common across the country to find low levels of substantive compliance when it comes to actually implementing SLP commitments. Substantive non-compliance is exacerbated by a lack of information as communities are often kept in the dark about their entitlements under an SLP.

Research conducted by the Centre for Applied Legal Studies found that, in five case studies of mines, all five mining communities had never seen their SLP.[7] The South African Human Rights Commission shared the same observation when considering the socio-economic challenges of mining-affected communities; that lack of information disempowers communities from being able to monitor compliance despite said communities' fundamental right to information.[8]

While the MPRDA regulations require mines to submit an annual report on SLP compliance to the Department of Mineral Resources,[9] there is no legal mechanism for mining communities to access this report and therefore know or contest the mine's level of compliance with the SLP.

The LRC represents Khulamandla Community Organisation which is made up of representatives from the five mining communities surrounding the ZAC Mine. The LRC attempted to access the mine SLP compliance reports on behalf of the community organisation directly from the mine and from the Department of Mineral Resources through a request made in terms of the Promotion of Access to Information Act (PAIA) [10]. The Mine refused to provide the reports and no response from the Department was received; under PAIA no response is equivalent to refusing access.

The LRC has now launched a High Court application which seeks to set aside the Department's decision to refuse the PAIA request and for the ZAC mine SLPs to be made publicly available together with the annual compliance reports.[3] [KR4] We have also demanded systemic relief for mining-affected communities in similar situations by request that the Court declare that interested and affected parties are entitled, upon request, to access the annual SLP compliance reports. This declaration is aimed at addressing the lack of accountability and transparency mechanisms in the legal framework; clarifying that mining communities have a claim to know their SLP entitlements and the steps taken by mines to deliver them. This would strengthen communities' rights to hold mining companies accountable for their obligations.

The application has been opposed by the ZAC Mine. In response to receiving the founding papers, the mine filed its annual SLP compliance report for 2023 alone. This despite the application seeking access to all SLPs and annual compliance reports for communities to understand what exactly they should have received over the lifetime of the mine. The importance of this is emphasized as the ZAC Mine admits to falling behind on its SLP obligations previously. The Mine is also opposing the systemic relief sought.





LAND

High Court Declares Tribal Levies Unconstitutional

Limpopo High Court rules against compulsory tribal levies, affirming constitutional rights for communities under traditional leadership

From 2008 to 2010, the LRC and its partners held workshops in the former homeland areas to understand the most pressing issues facing communities living there. A complaint that was heard repeatedly, across the provinces, was that traditional leaders were charging tribal levies or taxes – and that if one were not up to date with these payments, one would be refused a letter confirming one's address in the village. Without such confirmation-of-address letters, people are unable to obtain identity documents, social grants, or pensions, or to open bank accounts.

Some of the levies, people knew, were used to pay for the chief's car, or his children's education, but, as regards the majority of it, they simply did not know where the money went.

The LRC established that, while the practice was occurring increasingly across the country, the only province that sanctioned such taxation in law was Limpopo. Convinced that the practice was unconstitutional and was targeting the poorest South Africans, the LRC engaged with many community members in Limpopo province over an extended period to understand how the tax was implemented. It became clear that the levies were imposed everywhere – but that none of these levies complied with the Limpopo Traditional Leadership and Governance Act. The charge appeared to be entirely arbitrary, ranging from small amounts such as R10 for an annual levy in one community to R2,000 for a levy in another. It was completely unregulated, and people were suffering.

Patrick Mashego from Lebejane in Sekhukhune explained that their chief charged them levies for many things, with new levies announced at community meetings. They pay for reporting a death to the chief, for finishing school, for a new car for the chief; they pay an 'ancestor' levy (for when the chief performs a cultural ritual), a levy to pay for a traditional healer consulted by the chief, and steep levies for the allocation of sites. One village had to pay a levy when witchcraft was suspected there, in order to protect the village. Not paying meant one could not bury a family member or get the important proof-of-address letter.

Martin Boima lived with his father in Mopye village when his father passed away in 2017. Martin was still in high school when he was suddenly orphaned. He went to the tribal office to report his father's death but was told that he could not be assisted as his father was in arrears with his levies. He was told that he should pay back all the arrears within three months; however, if he paid R500 immediately as a fine, he could bury his father. There was yet more devastating news: if he did not pay a further R800 in outstanding levies, he would be evicted from the family home.

In 2017, the LRC launched an application in the Limpopo High Court on behalf of 11 community members from seven communities, and was joined by Nkuzi Development Trust, to declare section 25 of the Limpopo Traditional Leadership and Institutions Act, which allows for levies, inconsistent with the Constitution.





Given the complete non-compliance of all the tribal authorities in the province with the Act, it was anticipated that they might argue that they were charging the levies in terms of customary law and not statute law. This was not sustainable, however: Historian, Prof. Peter Delius, provided the court with an expert report describing customary levies as they existed in pre-colonial times.

The levies were paid in return for services and material support and could be withdrawn by withdrawing allegiance to the chief. It was the advent of white settlement, and later colonial and apartheid rule that altered the levy or tribute system's underlying relationships of reciprocity and consent. The imposition of levies became more formalised, cash-based, and uniform, although they were still raised for a specific purpose for the good of the community, and required at least majority support. It was only in the 1970s and 80s that levies began to resemble those that are imposed on residents of Limpopo today. Those levies were not accepted as an expression of custom, but were instead viewed to be creations of the apartheid regime, which contributed to wide-scale oppression.

Our clients thus also asked the court to declare that customary law only permits traditional leadership structures to impose voluntary levies, and only after meaningful consultation with the community about the need for, the amount, and purpose of the levy. They asked the court to order the government to publicise its order to ensure that traditional authorities and communities are made aware of it. Allowing traditional authorities to impose taxes on members of their communities is unconstitutional, they argued, because the Constitution only empowers democratically elected bodies to do so.

On 1 November 2023, the Limpopo High Court found in favour of our clients, declaring compulsory tribal levies unconstitutional and ordering the Department of Cooperative Governance and Traditional Affairs to widely publicise the order. This was a considerable victory, not only for the brave community members who stood up to their leaders in the face of great intimidation, but more broadly for the LRC's aim of ensuring that the more than 16 million South Africans living under the authority of traditional leaders have the same constitutional rights as all other South Africans.

The order of constitutional invalidity must now be confirmed by the Constitutional Court. That was to be heard, unopposed, by the Constitutional Court on 17 September 2024.



Courts Uphold Rights to Prevent Homeless Evictions

Living in a constitutional order – courts ensuring that no eviction order renders people homeless

Homelessness is a pervasive issue in South Africa. It is commonly associated with street-based individuals. However, homelessness is a looming reality for many, particularly for those residing in informal settlements on privately owned land. Due to increasing unemployment rates, a lack of affordable housing, and social disintegration, people have taken up any vacant land and put up informal structures for shelter without verifying the ownership of the land. This poses the risk of eviction when the vacant land is privately owned and the owner seeks to enforce the applicable rights. This is the case with the occupiers of Pomona, which the LRC represents, in *Ultra Trading 005 (Pty) Limited v The Unlawful Occupiers of Holding 168, Pomona Estates Agricultural Holdings, and Ekurhuleni Metropolitan Municipality*.

In this case, the LRC represents 30 households ('the occupiers') occupying Plot 168 of Pomona, which is privately owned land. Before the commencement of the litigation, there were several private individuals who approached the occupiers claiming to be the owners of the property, but when asked by the occupiers to furnish proof, they could not do so. The occupiers were then approached by the sole director of Ultra Trading Investment CC who informed them that he was the owner of the property. He informed them that he purchased the property in June 2014 and as such he wanted the occupiers to vacate the property. The occupiers then approached a private attorney to assist them in defending the eviction proceedings that were instituted against them in the South Gauteng High Court.

The attorney filed the notice of intention to oppose and later filed an answering affidavit, and the matter was set down for hearing on the 26th of January 2015. The attorney subsequently withdrew from the matter because the occupiers were unable to pay his fees. The occupiers then approached the LRC for assistance in defending them from eviction. Following the change in legal representation, the LRC formally placed themselves on record for the matter, and the hearing was set down for 16 March 2015.

After reviewing the case and the filed pleadings, the LRC attorneys identified two crucial errors: the personal circumstances of the occupiers had not been addressed and the applicants had used the wrong legislation to institute the eviction proceedings. The LRC then filed a supplementary affidavit setting out the personal circumstances of the occupiers. In addition, it pleaded that the occupiers had been evicted in terms of an incorrect legislation, the Prevention of Illegal Eviction Act, instead of the Extension of Security of Tenure Act, because the property was agricultural land. In light of this, the cause of action was defective. We further filed a joinder application seeking joinder of Ekurhuleni Municipality. The application was granted. On 14 March 2019, the court gave an order directing the municipality to engage in a process of meaningful engagement with the landowner of Plot 168 of Pomona and the occupiers. It ordered the municipality to explore suitable housing options to be provided to the occupiers in line with their needs and personal circumstances. The municipality was to file a report detailing available alternative accommodation.

This is in line with the National Housing Code regulated by the Housing Act. The code makes provision for the provision of an emergency housing programme to address the needs of households who for reasons beyond their control find themselves in an emergency housing situation, such as facing the threat of imminent eviction. The code ensures that households which are to be evicted are resettled to emergency housing accommodation. Clause 2.6 of the code sets out the institutional arrangements, which outline the role of municipalities in emergency/temporary settlement areas. This includes the norms and standards of municipal engineering services in temporary settlement areas. These set out the standard for municipal services such as water, sanitation, access roads, and storm water and temporary structures built. The LRC is seeking to ensure that the municipality fulfills its obligation in this regard.

The LRC has heard that the required process and arrangements for relocation will happen shortly. We will ensure that the occupiers are resettled in emergency housing that is in line with the Code and most of all that their constitutional right to dignity is fulfilled by ensuring the provision of their most basic needs!



LRC Secures a Win for Hard-Done Homeowners

Restoring justice: The Rathebes' victory against the Brusson Finance Scheme and property reclamation efforts

'The LRC is committed to ensuring that many more victims of the Brusson Finance Scheme have title deeds validly restored.'

Property in South Africa is protected in terms of Section 25 of the Constitution. For Black persons living in South Africa, the road to owning property has not been a straightforward one. It is marked by historical displacement, previous disadvantage, the Bantu education system and apartheid spatial planning. A title deed is thus more than just a document – it is a symbol of a lifetime of resistance, resilience, and the reclamation of power. For Mr and Mrs Rathebe, this power was taken away by what has commonly become known as the Brusson Finance Scheme.

The Brusson Finance Scheme was operated by Brusson Finance (Pty) Ltd, a company now liquidated, which purported to be a financing agent that would provide credit facilities to people who otherwise could not access them through financial institutions. The scheme, as described in the Moore judgment, operated in the following way:

Brusson offered short-term loans to people who had either been blacklisted or who did not qualify to procure loans from banks. As offered in its brochure, the client's home would be tendered as security for the repayment of the loan. Crucially, Brusson promised that the client would retain ownership of his/her home, but the home would be purchased by an 'investor' and immediately sold back to the home-owner. This never happened, and the client immediately lost ownership of his or her home.

The Rathebe family, to their great dismay, fell victim to this and was dispossessed of registered title to their property through the Brusson Finance Scheme in 2007. Mr and Mrs Rathebe required financing to effect renovations at their home and approached Brusson for a loan of R30,000 for this purpose, offering their title deed as security. By 2010, the Rathebe family had paid what they thought were instalments on a loan in full, and then tried to contact Brusson for the return of their title deed. Shortly thereafter, the Rathebes were served with a writ of execution of their property. It was this unexpected turn of events that prompted the Rathebes to seek assistance from the LRC in 2011.

Due to the volume of cases involving the Brusson Finance Scheme, the nuances thereof, and our own capacity constraints, the LRC had not been able to focus on the Brusson cases as swiftly as it would have wished. The judgment in favour of the Rathebes was thus a highlight of the year in 2023.

The judgment handed down provided for, inter alia:

1. The rescission of the judgment declaring the Rathebes' property executable;
2. A declaration of the invalidity of the documents signed by Mr and Mrs Rathebe, which includes the memorandum of agreement, purchase agreement, and the deed of sale;
3. The setting aside of the agreements outlined above;
4. A declaration of invalidity and unlawfulness in relation to the transfer of the Rathebes' property; and
5. An order directing the Registrar of Deeds to cancel the title deed reflecting the transfer and to revive the Rathebe's title deed over their property.

The Rathebe family was delighted to have received the favourable judgment. When we called Mr Rathebe to deliver the news, he responded with an emphatic and relieved, 'Thank God!'

The LRC is currently focused on consolidating the remaining Brusson cases by jurisdiction. Given the volume of cases, it has been thought prudent to explore the option of consolidation instead of continuing litigating the cases individually. The LRC is committed to ensuring that many more victims of the Brusson Finance Scheme have their title deeds validly restored.



Justice and Closure for the Madlala family, 10 years later

After nearly a decade of relentless pursuit of justice, the Madlala family was finally set to have their day in the Makhanda High Court on 19 June 2024. The family seeks to hold the Department of Basic Education accountable for the wrongful, unlawful, unconstitutional, and negligent conduct that led to the tragic death of their son.

Mulando was a pupil at Ekuphumleni Junior Secondary School in Flagstaff who was left unsupervised on the school premises. At the time, new classrooms were being constructed on the premises, and trucks were driving in and out of the school carrying water tanks to the building site. Tragically, Mulando was run over by one of these construction trucks and killed. His body was later discovered on the school playing field by his minor sister. Mulando was just shy of four years old when he tragically passed away.

The Department of Basic Education owed a duty of care to all the Ekuphumleni JSS learners. It was required to ensure the safety of learners at the school and that learners were not exposed to dangerous conditions. In failing to ensure that learners were protected from the ongoing construction on the school premises and that they were adequately supervised, the department acted negligently and unlawfully.

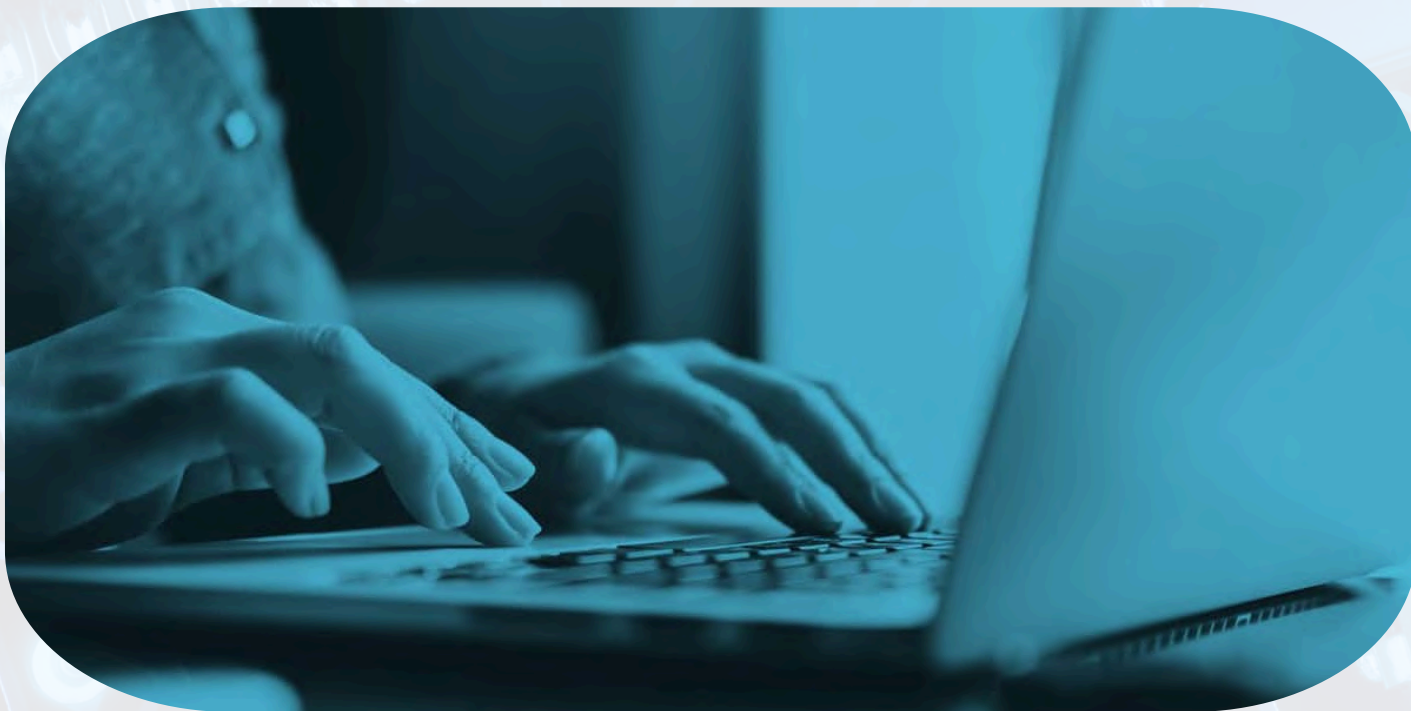
The Madlala family seeks to hold the department accountable for their negligent conduct and claim compensation for the emotional shock and trauma they experienced as a result of Mulando's death. Following the withdrawal of their previous legal representatives, the Legal Resources Centre has been assisting the family since 2017. After years of tireless effort, the family will finally have their day in court, allowing them to seek justice, find closure, and begin the healing process.

The hearing will focus on whether the department is liable for unlawfully and negligently causing the death of Mulando.

'The Legal Resources Centre has been assisting the family since 2017. After years of tireless effort, the family will finally have their day in court, allowing them to seek justice, find closure, and begin the healing process.'

Big Tech Project

LRC's investigation into content moderation in South Africa, conducted in collaboration with Global Witness



Introduction

Technology has permeated almost every aspect of our current society, we often underestimate the adverse impacts it has on us. For example, Big Tech giants have large control over the news and content we consume on a daily basis. In 2023 the LRC has established a new focus area within the organization, called the 'Big Tech' programme. The programme strives to advocate domestically, regionally, and internationally for protection and safeguards against disinformation, hate speech, and incitement of violence for users of Big Ad Tech Platforms in South Africa and the Global South at large. Additionally, one of its key goals is to empower the South African electorate to actively participate in democracy, ensuring the right to vote and the ability make informed decisions without being negatively influenced or manipulated through disinformation campaigns and political micro-targeting on Ad Tech platforms. The ultimate goal is to push for a robust legislative and policy framework that regulates Big Ad Tech platforms in South Africa and the African region, promoting transparency and accountability in their business operations while prioritizing democracy and human rights over profits. The LRC has collaborated with local and international partners, actively participated in and supported local civic education programs, and engaged with and endorsed global campaigns that align with our initiatives.

Collaboration

One of these key partners, Global Witness, aims to promote awareness of environmental and human rights among corporations, advocate for governments to protect and prioritize the well-being of their citizens, and work towards fostering an online space free from misinformation and hate. Over the course of April 2023 up until August 2023, LRC and the Global Witness conducted two investigations on social media platforms including Facebook, TikTok, X (formerly Twitter) and YouTube. The third investigation was conducted by the LRC in May 2024, this was done independently using the Global Witness methodology. All three investigations intended to challenge the effectiveness of advertisement monitoring on these platforms in detecting hate speech and harmful content.

Conclusion

The investigations underscore the alarming inadequacies of Big Tech's content moderation, particularly in the Global South. These platforms, Facebook, YouTube, X and TikTok revealed a consistent failure to detect hate speech and disinformation when situated outside a Western framework. This highlights that Big Tech companies lack a proper understanding of the unique languages and contexts in countries like South Africa, allowing harmful content in these areas to slip through the cracks. These findings emphasize the urgent need for tech companies to invest in more sophisticated, culturally attuned content moderation systems. Current tools fall short in addressing harmful content across a diverse array of languages and regional contexts, leaving vulnerable groups such as refugees and female journalists exposed to significant risks. The inability to moderate content in languages other than English reveals a deep disconnect in the platforms' understanding of local dynamics, further intensifying challenges like online harassment in countries such as South Africa. Notably, online hate and incitement to violence can lead to real life harm.

As these platforms continue to struggle with content moderation, especially in the Global South, it raises great concern about its impact on elections. Disinformation during elections has the potential to erode public trust, influence voter behaviour, and compromise the integrity of elections. It is therefore critical for Big Tech to implement stronger, more consistent content moderation policies to ensure that disinformation does not undermine the fairness of elections or the strength of democratic institutions. Despite having extensive content moderation policies, Big Tech companies fail to effectively enforce them. There is a clear need for a complete overhaul of these systems to better protect the public, not only in South Africa but across the Global South.



Investigation 1: Xenophobic hate speech in the South African context

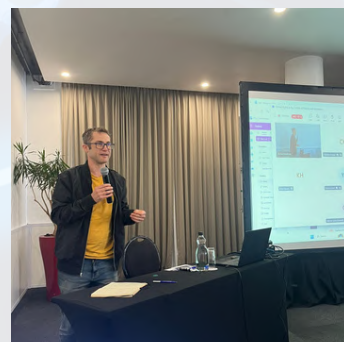
The first investigation took place in June 2023. The adverts were created by the LRC and GW team, these adverts were highly offensive and xenophobic in nature. The team based these adverts on real-life xenophobic posts found on social media platforms. These adverts were never meant to be published on the platform but just to test the efficacy of these platform's ability to moderate xenophobic rhetoric in a South African context. The publication dates were set two weeks in the future so that they could be deleted before going live on the platforms. The adverts were initially written in English and then they were translated into Afrikaans, isiXhosa and isiZulu which are the four prominent languages spoken in South Africa. Furthermore, they contained colloquial language that could only be understood within a South African context. The adverts contained words/phrases that are highly offensive to foreign nationals in South Africa.

These adverts were then posted to Facebook, Youtube, X and TikTok to assess whether they would pass through all four platforms' content moderation processes. There were 10 adverts posted in English and Afrikaans and of those 10, 9 of them were translated into Xhosa and Zulu and also posted. All the adverts were approved for publication apart from one advert that Facebook rejected in English and Afrikaans, although, alarmingly, it was still approved for publication in Xhosa and Zulu. After the various platforms stated whether the adverts were approved or rejected for publication, Global Witness and LRC deleted them all before they were officially published. This outcome has raised concerns about Big Tech companies' lack of understanding of South African hate speech and potentially harmful language, resulting in the approval of blatant hate speech and misinformation for publication.

Investigation 2: Online slander faced by South African Journalists that identify as female

A second investigation took place in August 2023, this time focusing on adverts targeting female journalists with harmful language that could only be fully understood within a South African context. This investigation was prompted by the severe backlash and online hate that many South African journalists, particularly women, were experiencing. Once more, the adverts were based on real-life examples of harassment and threats that these journalists had encountered. They were posted in multiple languages, including English, Afrikaans, Xhosa, and Zulu, to capture the cultural and linguistic diversity of South Africa.

Shockingly, all of these adverts in all 4 South African languages were approved by the platforms without any flagging or moderation, regardless of the language used. The findings revealed alarming gaps in the platforms' content moderation systems, particularly when it comes to recognizing harmful language that is culturally nuanced. While the adverts posted in English were blatantly derogatory, none of the social media platforms flagged the content as harmful or in violation of their guidelines. This highlights the platforms' failure to account for the complexities of local contexts, allowing dangerous rhetoric to slip through unchecked.



Investigation 3: Election disinformation in the South African context

The third and final investigation was conducted independently by the LRC, using the Global Witness methodology, to assess whether Big Tech companies were adequately equipped to ensure free and fair elections in the lead-up to South Africa's 29 May 2024 election. The primary focus of this investigation was to evaluate the disinformation content moderation policies and technology of two major platforms: Google (YouTube) and TikTok.

The LRC created 16 posts containing election-related disinformation, which included false claims about specific political parties and misleading information about the election process as a whole. The aim was to see how effectively these platforms could detect and block harmful content that could undermine the integrity of the election.

On YouTube, 15 out of the 16 disinformation-filled adverts were approved, with only one being rejected for the vague reason that it was "not allowed in South Africa." Ironically, all of the adverts contained disinformation, meaning none of them should have been allowed to pass through the moderation process. TikTok fared slightly better but still failed the test, rejecting only one of the 16 adverts without providing a clear reason, simply citing a violation of TikTok's policies. However, the fact remains that all 16 adverts should have been blocked due to their disinformation content.

This oversight on both platforms represents a glaring failure in their moderation systems, particularly given the crucial role that accurate information plays in the election process. TikTok's failure to reject 15 of the adverts demonstrates a significant lapse in its review process, suggesting that disinformation can easily slip through their filters. YouTube's performance, where nearly all the disinformation adverts were approved, raises even more concerns about the effectiveness of Big Tech's policies and technologies to combat election-related falsehoods.



Media Highlights

The LRC received more than 90 editorial placements on top-tier online publications such as, News24, Daily Maverick, IOL, the Mail and Guardian, GroundUp and TimesLive, as well as featuring on one of the radio stations with the broadest reach, SAfm, and key broadcast media outlets, such as Cape Talk, 702, Newzroom Afrika, eTV, and SABC. Together this involved 44 online articles, 8 radio, and 8 television appearances



44

Online articles published



41

Advocacy Published Pieces



8

Radio Interviews



8

Newspaper Articles



35

Articles written by LRC Staff



8

Television Appearances



26,343

Followers

3.7% growth



1,997

Followers

22.9% growth



35,719

Followers

1.8% growth



17,594

Followers

17.4% growth



FUNDING

Our Funders

We would like to express our profound gratitude for the individuals and families who make donations to the LRC

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für die Welt



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Financial Statements

Legal Resources Centre

NPO Number: 290-199

PBO Number: 930003292

Financial statements for the year ended 31 March 2024



Balance Sheet

Assets:

	2024	2023
Non-Current Assets		
Property, plant and equipment	3 256 644	3 213 659
Current Assets		
Trade and other receivables	1 128 136	2 619 561
Cash and cash equivalents	49 347 326	27 220 319
	50 475 462	29 839 880
Total Assets	53 732 107	33 053 538

Equity and Liabilities:

	2024	2023
Equity		
Accumulated surplus	30 184 666	16 901 057
Reserves	3 766 432	3 766 432
	33 951 098	20 667 489
Liabilities		
Current Liabilities		
Trade and other payables	1 043 958	868 684
Provisions	1 610 072	852 625
Deferred income	17 126 979	10 664 741
	19 781 009	12 386 050
Total Equity and Liabilities	53 732 107	33 053 539

Note: 2023 figures are a pro-forma amalgamation of the LRC PBO and Legal Resources Trust which were merged in the 2024 financial year



Income Statement

	2024	2023
Income	35 367 512	34 303 433
Bequest	12 991 618	
Other income	78 480	5 354
Total Income	48 437 610	34 308 787
Operating expenses		
Salaries	25 307 991	23 732 527
Support costs	7 232 074	6 044 421
Programme costs	5 356 757	5 395 612
Total expenses	5 356 757	5 395 612
Operating surplus/(deficit)	43 080 853	(863 773)
Investment revenue	2 649 630	780 160
Surplus/(deficit) for the year	13 190 418	(83 614)

Note: 2023 figures are a pro-forma amalgamation of the LRC PBO and Legal Resources Trust which were merged in the 2024 financial year

Our Funders

We would like to express our profound gratitude for the individuals and families who make donations to the LRC

	2024	2023
ABA Fund for Justice	231 134	
ABSA	500 000	500 000
Brot vir de Weld	6 264 625	3 415 756
Canadian Government	16 984	436 666
Claude Leon Foundation	2 500 000	2 500 000
Constitutionalism Fund	2 000 000	2 000 000
The ELMA South Africa Foundation	4 000 000	4 000 000
European Centre for Non-Profit-Law		88 900
Ford Foundation	10 283 565	9 575 744
Friends of the LRC	162 857	2 249 774
Global Witness	23 580	
INCLO	1 925 541	1 310 800
INVESTEC	750 000	750 000
LARC		424 701
Michael Mones Foundation	100 000	100 000
Millenium Trust	1 500 000	1 000 000
Netherlands Embassy	946 550	
Omega Research Foundation		77 008
One Ocean Hub	363 600	363 600
Open Society Foundation	3 780 000	
Raith Foundation	3 013 818	2 870 303
Southern African Trust		379 855
Total funds received	38 362 253	32 043 107

We Asked our Executive Director an Important Question: *'What are your hopes for the future?'*



“ I remain committed to the idea that, by holding individuals and institutions accountable, we can build an empowered society in which the constitutional rights of all who live in South Africa are upheld and the promise of the 1994 democratic transition can be realised. ”

Nersan Govender

Executive Director of the Legal Resources Centre

Acknowledgements

Contributors: Anneline Turpin, Anshal Bodasing, Cameron McConnachie, Cecile van Schalkwyk, Delysia Brown, Ektaa Deochand, Jean-Andre' Deenik, Kimal Harvey, Muyenga Mugerwa-Sekawabe, Nersan Govender, Nicholas Chetwin, Nuhaa Hendricks, Puleng Mosia, Saadiyah Kadwa, Shaatirah Hassim, Sheniece Linderboom, Sipesihle Mguga, Wilmien Wicomb and Yanela Frans.





LEGAL
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Celebration 45 Years of Advocacy



WE LOOK FORWARD TO CONNECTING WITH YOU.



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Legal Resources Centre

The story of one claimant has the power to change millions of lives