LAWYERS FOR HUMAN RIGHTS 2015 ANNUAL

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Message from the National Director

The year 2015 was particularly interesting for South Africa as a whole, it has been dubbed as the year where "things fell in South Africa" from the apartheid statues to "Fees must fall". What was particularly important was seeing young South Africans coming together to advocate for social change, this reminded us as a country that in a democratic state such as ours, there is no room for inequality, discrimination and social exclusion of the poor.

Lawyers for Human Rights continued to do a lot of work in its various programmes:

Refugee and Migrants Rights

In 2015 Xenophobia continued to be the most serious threat to the safety and security of non-nationals. This year, not only politicians were responsible for fuelling attacks against non-nationals, we also had King Zwelithini call non-nationals bed-bugs and blaming them for the rot in city centres such as Durban

The Department of Home Affairs also circulated for public comment the **proposed amendments to the Refugees Act**. LHR is highly concerned about the threats to refugee protection which the proposed amendments pose, especially around the right to freedom of movement and independent livelihood and the right to work.

LHR has reacted by making extensive submissions to DHA, requesting Parliament to open up a second round of public comments and putting in place measures for an advocacy campaign in response to the threats posed by the proposed legislative amendments. Litigation will not be ruled out if the Bill is passed in its current (and in our view unconstitutional) form.

Land and Housing

The land and housing programme continued to work on matters concerning women's property rights, communal land rights as well as mining issues.

This year, it also assisted students from the Tshwane University of Technology that were evicted from their residences. The university evicted these students without obtaining a court order.

Section 26(3) of the constitution states that no one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.

Environmental Rights

The clear link between the environment and human health drives work done by LHR on environmental justice. Our programme through advocacy and litigation holds to account government and industry where insufficient environmental oversight and management or damaging operational practices have compromised the health of exposed communities.

In 2015 the programme targeted work on the prevention, mitigation, and remediation of water and air pollution to address their associated health impacts.

Strategic Litigation

Much of our strategic litigation programme in 2015 focused on assisting Maxwell Dlamini and Mario Masuku, the two activists in Swaziland who were arrested for supporting the opposition party rally in may 2014.

In addition to this work, the programme focused on the unlawful closure of the Port Elizabeth Refugee Reception Office (PE RRO).Despite LHR's judgement in the Supreme Court of Appeals (confirmed by the Constitutional Court) regarding the **unlawful closure of the PE RRO**, DHA remains in contempt of Court and has failed to re-open the PE RRO.

LHR also a landmark judgement has been obtained by LHR from the Pretoria High Court which deals with the manner in which immigration detainees are treated. **Section 34 of the Immigration Act** has been declared unconstitutional to the extent that it does not provide for mandatory judicial oversite of immigration detention after 48 hours and then again in person after 30 days.

Penal Reform

In keeping with LHR's general concern with all forms of detention and its prison-related work of the 1990s and 80s, the Penal Reform Programme (PRP) aims to further the protection of the rights of prisoners and ensure constitutional compliance regarding the imposition of punishment, sentencing, independent oversight and conditions of detention.

The profile of South African correctional centres has changed dramatically over the last 20 years. There are more inmates serving sentences of life imprisonment and sentences longer than 15 years than ever before. The mandatory minimum sentencing legislation of 1997, intended to be a temporary measure, has caused the shift in sentencing patterns. Having researched extensively these shifts, the PRP hopes to enter into a process of engagement with the South African Law Reform Commission and the Minister of Justice and Correctional Services in an effort to revisit past efforts to revise the 1997 legislation

REFUGEE AND MIGRANT RIGHTS PROGRAMME

"Established in 1996, Lawyers for Human Rights' Refugee and Migrant Rights Programme is a specialist programme that advocates, strengthens and enforces the rights of asylum seekers, refugees and other marginalised categories of migrants in South Africa. Since its founding, the Refugee and Migrant Rights Programme has become the largest legal service provider to the refugee and migrant community in South Africa."

The Refugee and Migrant Rights Programme conducts its activities from four sites – Pretoria, Johannesburg, Musina and Durban. Although the programme is committed to a cohesive approach across all its sites, the operational contexts of each site dictate that the manner in which activities are carried out and the impacts of each site will differ to some extent.

The year 2015 was an eventful year for the Programme. The operational response from the team was largely defined by the resurgence of a spate of xenophobic violence and attacks as well as the so called "Operation Fiela".

Total Number of people assisted by LHR law clinics: **5*562***

Total number of detained people assisted:***666***

Total number of people assisted at the Musina office: ***1635***

Total number of statelessness people assisted: ***384***

Total number of people assisted by the Mental Health project: ***375***

Xenophobic attacks

LHR responded to the 2015 xenophobic violence flare-ups in a number of ways. We focused on addressing accountability and impunity for xenophobic crimes committed by acting as watching brief in numerous criminal prosecution cases. We also assisted clients in the reporting of crimes to the SAPS as part of this goal.

We maintained a widespread media presence, calling on government to take both immediate emergency response measures (in the form of social assistance, effective policing etc.) and also longer term measures such as implementation of social cohesion dialogues and projects. We condemned the government's apparent failure to learn adequate lessons from the 2008 flare up and called for a re-evaluation by the various branches of government of the 2010 SAHRC report and recommendations.

Recommendations made by the SAHRC report on Xenophobia:

Recommendations to Department of Home Affairs (DHA)

1) Conduct a thorough and transparent evaluation of the challenges faced during the 2008 crisis and formulate an action plan for future improvements.

2) Provide to the SAHRC an evaluation of the action taken with regard to the Glenanda /R28 group along with a lessons learned document to prevent future administrative injustices.

3) Provide to the SAHRC an annual assessment of cases brought against DHA and/or its contractors with respect to status determination, arrest, detention and deportation.

4) Ensure that detainees at Lindela Repatriation Centre have access to legal counsel prior to deportation and eliminate undue administrative delays to such consultation.

5) Take immediate steps to counter the administrative injustices flowing from inconsistency in information systems across refugee reception offices and Lindela Repatriation Centre.

6) Ensure that all relevant officials and contractors adhere to the Immigration Act 2002 and Refugees Act 1998.

7) Ensure that all officials and contractors work with constitutional principles foremost in their minds and work cooperatively and in good faith with legal service providers to ensure that the right to individual liberty is protected.

8) Conduct and provide to the SAHRC an annual assessment of DHA progress in actioning its recommendations relating to abuses of process.

9) Implement disciplinary procedures against officials who were responsible for departures from legislated administrative procedures or possible refoulement.

10) Adopt a consistent approach to voluntary repatriation during a displacement of non-nationals.

11) In line with section 41 of the Constitution, develop cooperative relations with key structures of national and provincial government to facilitate a speedy response to displacement and a quest for durable solutions for displaced persons before terminating government shelter and assistance.

12) Develop specific guidelines on the DHA's legislated xenophobia prevention and deterrence mandate.

13) Be party to the programme of targeted conflict resolution initiatives to be implemented by a department nominated by government's social cluster.

14) Partner with the South African Police Service (SAPS) and Disaster Management in responding to early warning information or patterns of crimes against non-nationals.

15) Maintain a management approach to immigration, including undocumented immigration into informal settlements. Assist the Department of Human Settlements (DHS) in formulating a policy on the partial formalisation of informal settlements.

16) Work with the Department of Social Development (DSD) on immigration-related aspects of the Population Policy.

17) Through the Counter-Xenophobia Unit (CXU), assist in municipal local integrated development planning for social cohesion.

18) Through the CXU, work with the Department of Education (DoE) and SAHRC to incorporate issues of migration and xenophobia into the national syllabus.

19) Extend the CXU's counter-xenophobic performances to all schools in and around areas affected by violence against non-nationals.

20) Demystify the link between DHA and SAPS databases in the awareness-raising messages of the CXU.

LHR was also an active member of the anti-xenophobia coalition campaign and also other various forums (especially in Durban) which sought to facilitate discussion, sharing of resources and idea sharing. The

Durban forum was established between local government, civil society and religious organisations as well as refugee community members and was instrumental in the negotiations which took place once the temporary camps were closed and people needed to relocate/reintegrate. LHR provided ongoing advice and advocacy on the issue of the best interests of children living in the temporary camps and liaised extensively with DSD about the treatment of children in any planned eviction proceedings. Thankfully the situation was peacefully diffused and forced evictions were avoided.

Detention Monitoring Unit

In 2015 the Detention Monitoring Unit provided assistance to 666 detained persons who sought assistance. These included asylum seekers, refugees and other migrants. Of these 73 were women, and 593 were men. Of these 27 urgent applications were launched in the High Court for the release of the detainees. Of the cases that proceeded for hearing in court, 18 were settled at court or clients got released a few days before the applications could be argued in court.

Like in the previous year, the Department of Home Affairs persisted, in most of the matters, with its practice of not filing notices or affidavits to oppose litigation and only showed up at court to settle. Department of Home Affairs main basis of appearing in court was to negotiate settlements against specific prayers in the applications. These were primarily prayers relating to the unlawfulness of the detention and the costs of the applications. The concern of DHA in both counts is to negate financial burden of their consistently unlawful practises without actually changing their policies relating to the manner in which they detain immigrants.

LHR has begun pursuing civil damages suits for clients it represents in detention matters. We launched two civil damages suits in 2015 for clients we assisted in release matters. Our experience on the issue of possible civil suits, however, is that most of our clients would only be concerned about their release and less interested on suing the Department for compensation. Later in the year there was a greater willingness from clients affected by unlawful detentions to seek legal compensation. We hope that the consistent institute of such civil suits will eventually provide enough financial pressure on the Department to reform its patently unlawful practices and can be used as an advocacy point towards pushing for more consistent compliance with the rule of law in the area of immigration detention.

LHR continues to engage DHA for the release of detainees being detained unlawfully. These detentions are usually unlawful on either substantive or procedural grounds. The main substantive grounds are the detention and deportation of asylum seekers and refugees, denial of opportunities for newly arrived asylum seekers to apply for asylum at Refugee Reception Offices under the Refugees Act 130 of 1998. The main procedural grounds are the detention beyond 30 days without the necessary warrants of Court or following the procedural safeguards set out in the Immigration Act 13 of 2002 (“Immigration Act”), or detention beyond the statutory limit of 120 days.

It should be noted that there has been a drastic decrease in the amount of detainees detained over the statutory limit of 120 days as compared to previous years. This can partly be attributed to the consistent litigation LHR has engaged in over the last decade and advocacy engagement with other stakeholders like the SAHRC. There were also a significant amount of asylum seekers arrested unlawfully at their Refugee Reception Offices before the conclusion of their asylum claims, specifically without being given their Refugee Appeal Board (RAB) or Standing Committee on Refugee Affairs (SCRA) decisions as required by the Refugees Act. Earlier in the Chairperson of RAB regarding the issue of asylum seekers being arrested without giving their Appeal decisions.

Towards the end of the year we observed a steady decrease in the amount of detainees at RROs without being given their Refugee Application Decisions. This can also be attributed to our litigation coupled with stakeholder engagements with the RAB, the SCRA and the Department legal services department.

The legislative framework governing foreign nationals is rarely applied consistently and accurately by various state organs. The Refugees Act governs Refugees and asylum seekers in the asylum application process in the country. The Immigration Act governs foreign nationals in the country who are not presently in the asylum. The two acts are meant to operate concurrently and someone in the asylum process governed by the Refugees Act should not be detained or prosecuted in terms of the Immigration Act.

The Immigration Act allows the detention and deportation of people who cannot identify themselves as citizens, permanent residents or foreign nationals with a valid immigration permit. The Act however provides various safeguards for people who are detained including statutory limits to their detention and avenues to challenge the legality of their declaration as illegal foreigners as well as the legality of their detention. Where a foreigner is encountered without any documentation and expresses an intention to apply for asylum, such person should not be dealt with as an illegal foreigner in terms of the Immigration Act, but should be treated as an asylum seeker in terms of the Refugees Act and be afforded an opportunity to apply for asylum. Despite these clear statutory and judicial positions, we still encountered the following group of detainees at Lindela:

- New asylum seekers arrested and detained before lodging asylum applications
- Asylum seekers arrested because of expired permits;
- Asylum seekers arrested at RROs before being issued with a decision from RAB or SCRA and thereafter advised that they will be dealt with in terms of the Immigration Act.
- Asylum seekers and other migrants detained beyond the statutory limit of 30 days without their detention being extended by a warrant of court and without being given an opportunity to appear before or make representations to a magistrate concerning their detention;
- Potentially stateless persons arrested and detained despite the Department of Home Affairs not being able to deport them;
- South African citizens who have difficultly accessing documentation proving their nationality or who have had their identity documents unlawfully confiscated.
- Asylum seekers and refugees with valid permits.
- Minors being detained with adults.
- Asylum seekers and refugees being detained for the purpose of deportation after being released on bail.

Mozambican Mineworkers

For Mozambique's large number of current and retired migrant mineworkers, who have a long history of working in South Africa's mines, many are unaware of their rights and the available social protection mechanisms and services. The shortcomings in legal policy implementation, documentation and knowledge have contributed to a number of severe social protection problems for migrant mineworkers, namely, portability of pensions, access to compensation and essential reintegration programmes.

In order to find sustainable solutions, migrant mine workers and their families need appropriate channels to voice their concerns. Managed and implemented by the International Organisation for Migration and funded by the European Union, the aim of this regional project is to improve the protection and advocacy capacity of migrant mine workers and their families in Southern Africa.

The project has three components: institutional capacity-building of the Mozambican Mine Workers Association (AMIMO); facilitating legal services and counseling for mine workers and their families, together with Lawyers for Human Rights (LHR), and; advocacy and communications at the national and regional levels to spur dialogue with stakeholders and inform beneficiaries of their rights.

Strategic Litigation Programme

Much of the work done by our Strategic Litigation Programme in 2015 was dedicated to assisting the Refugee and Migrant Rights Programme with its reaction to the xenophobic violence in Gauteng and particularly KwaZulu-Natal. This included a legal challenge to Operation Fiela-Reclaim and assisting Sonke Gender Justice with an Equality Court charge of hate speech against Zulu King Zwelithini for statements made in April when he referred to foreign nationals as “lice” and “bedbugs”.

Dlamini and Masuku (Swaziland Suppression of Terrorism Act)

LHR has been assisting, in conjunction with Southern Africa Litigation Centre, Maxwell Dlamini and Mario Masuku, two activists in Swaziland who were arrested under the Suppression of Terrorism Act for supporting an opposition party during a rally in May 2014. They were detained and bail was denied to them pending their trial. LHR briefed Advocate Anna-Marie de Vos SC to appear on behalf of the pair. This is to protect local Swaziland attorneys who find it difficult to represent human rights defenders in that country due to the repercussions for their private firms, livelihoods and, sometimes, personal safety.

In addition to a number of other accused in different matters, our clients are challenging the constitutionality of the Terrorism Act as being overly broad and violating the constitutional freedom of expression. The challenge was originally set down for May 2015 but due to perturbations in the Swazi judiciary (including the attempted arrest of the Chief Justice), the matter could not proceed.

Our clients were eventually released on bail after the judge who had initially denied them bail and was due to hear the trial was also arrested.

Swazi rule of law in the spotlight

Pretoria News (Weekend Edition) 18 July 2015 by Zelda Venter

The conviction and subsequent 15-month incarceration of two men may have resulted in something good as the world will be watching what happens in Swaziland when it comes to the rule of law.

Swaziland to fix itself. Politicians may now be reluctant to phone judges and making deals with them at the risk of us reminding them what happened,” Bheki Makhubu, editor of The Nation magazine, said during an interview with the Pretoria News.

He and Swazi human rights lawyer Thulani Maseko were on Thursday officially welcomed back by Lawyers for Human Rights after spending 15 months in a Swazi prison.

The pair were arrested and convicted after they criticised the judiciary in Swaziland, but their names were cleared on appeal and they were released on June 30.

This came in the wake of (now former) Swazi chief justice Michael Ramodibedi and his sidekick, former judge Mpendulo Simelane, being investigated on charges of corruption.

Swazi King Mswati, meanwhile, dismissed Ramodibedi. He left the country and was believed to be in Lesotho. Both Ramodibedi and Simelane were instrumental in the trial and sentence of Makhubu and Maseko to two years’ imprisonment each.

They strongly criticised the judiciary in Swaziland and the behaviour of Ramodibedi in particular, in a series of articles which appeared in The Nation. Ramodibedi at the time appointed Simelane to preside over the case.

Makhubu said while Ramodibedi was back at home (in Lesotho) the people of Swaziland had to pick up the pieces.

"I'm hoping things will get better. But it won't get better because they (the government and its officials) are suddenly nice guys.

"It is going to get better because we will keep on reminding them of the consequences of bad governance."

Makhubu said when Ramodibedi took over the judiciary in Swaziland he gave the government 100 percent legal victories.

"All cases the government had to defend, it won.

"Nobody won against the government and I wrote about this, saying it is wrong."

He said once judges did the government favours, then it (the government) had to reciprocate.

This was especially because the government controlled the finances.

Closure of the Port Elizabeth Refugee Reception Office

On 25 March 2015, the Supreme Court of Appeal (SCA)handed down judgment in the Port Elizabeth (PE) Refugee Reception Office (RRO) matter. They were scathing of the way in which the Department of Home Affairs (DHA), and particularly the Director-General (DG), misled stakeholders, the SCA, Parliament and defied high court orders. The SCA ordered the office to be re-opened by July 2015.

This judgment was taken on appeal to the Constitutional Court. We opposed leave to appeal. DHA attempted to file further evidence in the appeal regarding the low numbers of asylum seekers coming to South Africa in 2014, thereby making the PE RRO unnecessary for the purposes of the Act. The Constitutional Court then refused the DHAs' application for leave to appeal meaning that the DHA had to comply with the ruling made by the SCA that the Port Elizabeth Refugee Reception Office (RRO) be reopened.

We have put the Department on terms to re-open the refugee reception office by 5 November 2015 and to file interim progress reports (as required by the SCA) by 7 September and 5 October. We have received an acknowledgement of receipt but no answer regarding the way forward.

Concourt dismisses home affairs's PE refugee office appeal

By Sarah Evans, published on the 07th of August 2015 (Mail and Guardian)

On Wednesday, the Constitutional court dismissed an application by the department of home affairs to appeal a Supreme Court of Appeal (SCA) judgment that declared its decision to close the Port Elizabeth refugee office unlawful.

This means that the SCA judgment stands.

Asylum seekers and people wishing to be granted refugee status have to apply for in person at a refugee office, such as the one in PE. While their application is being processed, they are given an asylum seeker permit. Without this permit, they are considered to be illegal foreigners, and they can be arrested and deported at any time.

From there on, any other matters related to the person's legal status in the country requires that person to visit the refugee office in person. At the beginning of 2011, there were six such offices: Johannesburg, Pretoria, Cape Town, Durban, Musina and Port Elizabeth. Three of these – Johannesburg, Cape Town and Port Elizabeth were closed. The decision by home affairs not to reopen the office in Johannesburg was previously declared by the high court to be "procedurally unfair and invalid".

In 2012, the Somali Association of South Africa and the Project for Conflict Resolution and Development took the department to court. This time, the decision was to close the PE office. Ostensibly, the office was closed to due an expired lease agreement. The high court set aside the decision to close the PE refugee office to new asylum applications without opening an alternative office in that municipality.

The decision to close the office was unlawful, the court said, because by law, the director general of home affairs must consult with Parliament's standing committee on refugee affairs, and this was not done. Leave to appeal that decision was dismissed. Despite this order, the refugee office has not been reopened, Ponnan explained in his judgment. In June 2012, the Cape Town refugee office was closed. That decision was also declared unlawful in court.

Around the same time, Lawyers for Human Rights, representing the Somali Association and the Project for Conflict Resolution, wrote a series of letters to the State Attorneys in an effort to make home affairs comply with the judgment that said it had to reopen the PE refugee office.

In September, the director general of home affairs, Mkusseli Apleni, responded saying that home affairs had now consulted with the standing committee, and had taken a new decision to close the office. "The error has now been rectified …" he said. Lawyers for Human Rights returned to court.

The high court in Grahamstown again declared the department's decision unlawful and ordered it to reopen the centre, but this time, the department was granted leave to appeal. Apleni said this decision was taken because the refugee centres had to be opened at strategic ports of entry into the country, and PE was not one of these centres.

Apleni said that the new decision to close the PE office was taken on May 30 2012, months before he told LHR that this was so. He further told the SCA, in the appeal proceedings, that once the standing committee had been consulted, the department had consulted with the public and affected parties at the end of June, 2012. "But that meeting, even if it could pass as a 'consultation' in the true sense of that word, hardly assists the relevant authorities because it occurred after 30 May 2012," Ponnan said.

While a stakeholders meeting was held in June 2011, it emerged in court, Ponnan said this meeting was "a charade and positively misleading as to the intentions of the relevant authorities".

Those in attendance were led to believe that the office would not be closed. But the department announced, in October 2011, that it would be closed. Ponnan pointed out that it was "well established", that in order for a decision to be considered legal, it must be rational. As previously established by the SCA in a prior judgment by Robert Nugent, "Rationality entails that the decision is founded upon reason – in contradistinction to one that is arbitrary – which is different to whether it was reasonably made."

Home affairs told the court that it would close the PE office, and open a new office at the Lebombo border post, on the border between Mozambique and South Africa, in Mpumalanga. But the court was presented with new evidence: in a reply to a Parliamentary question in April 2014, the minister of home affairs at the time, Naledi Pandor, said that the department did not intend to open a new office at the Lebombo border. Apleni said that Pandor had understood the question to mean whether the centre would beopen during that financial year.

Ponnon's response to this was scathing: "That such a response is adduced by a senior official - under oath no less - beggars belief. How the question asked of the Minister in Parliament could have been construed as Mr Apleni does, is logically incomprehensible."

In court, Apleni said the department now hoped the Lebombo office would be open in February 2016.

Ponnan said: "Implicit in that must be an acceptance that Apleni believed that theestablishment of the Lebombo RRO, which was inextricably linked to the closure of the PE RRO, would satisfy our obligations to asylum seekers as required by the Act and Constitution. That being so, it can hardly be imagined that thedecision to close the PE RRO would have been taken by Mr Apleni when he did had he known then that Lebombo would only be operational at the earliest in February 2016. It must follow that the DG's decision to close the PE RRO had been made in ignorance of the true facts material to that decision."

Ponnan further noted that the department's assumption, that asylum seekers could use one of the other refugee offices that remained open, would mean that these vulnerable people would regularly have to travel great distances over many months or years. "Travelling and accommodation costs are likely to be substantial – for many, resources that they simply do not have. Throw into the mix the elderly or infirm and parents of small children (who would probably have to make alternative child-care arrangements), for whom undertaking an extended journey to a refugee officesituated far away from the support structures of their communities and families may prove well-nigh impossible. Repeated visits to a distant refugee officealso have the potential to jeopardise the employment and job security of anasylum seeker. And given the admitted backlogs and failing systems at the remaining refugee office, even those asylum seekers who manage to attend are at risk of not obtaining the assistance and protection that they require."

Ponnan said it was obvious that the department did nothing for six months after the first court order that compelled it to reopen the PE office. And it began closing case files at that office despite the order.

"It is a most dangerous thing for a litigant, particularly a State department and senior officials in its employ, to willfully ignore an order of court. After all there is an unqualified obligation on every person against, or in respect of, whom an order is made by a court of competent jurisdiction to obey it unless and until that order isdischarged. It cannot be left to the litigants to themselves judge whether or not an order of court should be obeyed. There is a constitutional requirement for complying with court orders and judgments of the courts cannot be any clearer on that score. No democracy can survive if court orders can be shunned and trampled on as happened here," Ponnan said.

Ponnan ordered that the office be reopened. David Cote, head of LHR's strategic litigation programme, said: "The result of the Constitutional Court's decision to dismiss the appeal is that asylum seekers and refugees in and around Port Elizabeth will no longer have to travel long distances for refugee services. This will go a long way in ensuring protection under international law."

South Africa History Archives

LHR is representing the South African History Archives (SAHA) is an application challenging blanket refusals of applications for information under the Promotion of Access to Information Act. SAHA filed a number of PAIA requests to government departments relating to apartheid era corruption on behalf of Hennie van Vuuren and Professor Jane Duncan. The departments included SAPS, the Department of Justice, the NPA as well as public bodies such as the South African Reserve Bank and the Office of the Auditor-General. Most requests were met with blanket refusals.

Applications have been filed in the matters of the South African Reserve Bank (SARB) and the Department of Justice.

In the SARB matter, the bank's attorneys have attempted to provide some documents while contesting the validity of the PAIA requests in others. This has led to a protracted exchange of correspondence.

In the Department of Justice (DOJ) matter, the state attorney sought a meeting between his clients and SAHA wherein they promised to produce 30% of the documents promised and would look for the other 70%. The "first 30%" has not been forthcoming as promised and we have put them on terms to file opposing affidavits by 5 September to continue with the matter.

Labour matters

SLP has been involved in a number of cases in conjunction with the Casual Workers' Advice Office dealing with the new amendments to the rules around labour brokers and workers. A number of matters have been taken to the CCMA on behalf of workers who are contesting the different in treatment between permanent employees and employees who are hired by labour brokers. The new regulations require that after three months, the workers must be treated as full-time employees.

The question is who is the employer and under what conditions must the employees be made permanent. The workers are of the view that they should be permanent employees of the "client-employer" of the labour broker and receive the same conditions of employment as the other workers. It is more likely that there are two employers, but it is not clear under what conditions they must be hired.

Section 34 Challenge

In 2014, LHR launched a challenge to section 34 of the Immigration Act and the constitutionality of allowing immigration detainees to be detained for 30 days without a warrant of court or appearing *in person* before a court to challenge the lawfulness of a detention in terms of section 35(2) of the Constitution.

This case has garnered some attention, notably from the Cape High Court where Judge Denis Davis asked LHR to intervene as *amicus curiae* in an immigration detention matter dealing with three Zimbabwean nationals who were arrested under Operation Fiela and were detained in horrible conditions at the Milnerton Police Station.

LHR made submissions regarding the lawfulness of detentions under section 34 and the case before the Gauteng Provincial Division, the legality of arrests under the South African Police Services Act as well as the conditions of detention at police stations, particularly in light of the SCA judgment in *Rahim* which found that immigration detention at police stations was not lawful without a proper designation by the Director-General of Home Affairs for that purpose.

Operation Fiela

In the aftermath of the violence in KwaZulu-Natal and other parts of the country in April of this year, the President criticised the violence but expressed sympathy with people regarding complaints about non-nationals in their communities. This was followed up with the creation of an Inter-Ministerial Committee (IMC) on Migration which was tasked with reviewing South Africa's migration policies and laws.

Shortly thereafter, the IMC announced Operation Fiela-Reclaim, which was intended, according to them, to deal with high levels of crime across South Africa. The operation, a joint task force between SAPS, the SANDF and DHA focussed on a number of specific crimes including drugs, illegal weapons, illegal trading and undocumented foreign nationals. While the IMC has been quick to state that the operation has arrested more South African citizens than foreign nationals, it is clear from the reporting, the types of crimes that the operation is focusing on as well as the fact that it was implemented by the IMC *on Migration*, it is clear that foreign nationals have been unfairly targeted.

On 8 May 2015, we were informed of a raid which took place in the Johannesburg CBD at the Fatti's Mansions building as well as at the Central Methodist Church. It was reported that between 400 – 600 people had been arrested. LHR attempted to gain access to the detainees to offer legal advice but we were turned away from the police station. We were given names of individuals but we were still denied access

to the police station. That night, we approached the urgent court and were granted an order by consent between the parties to allow us access to the detainees.

Despite this court order, the police and Home Affairs continued to refuse access to our lawyers. We were again forced to return to the urgent court and seek another order allowing us access, but also staying the deportation of the detainees for a period of two weeks to allow for consultations to take place. We were also given, in terms of the order, a list of the 234 people who had been arrested and detained.

We began a consultation process with just over 200 detainees at Lindela. Their consultations were recorded in surveys taken by LHR staff members as well as volunteers from Section 27. Through these surveys it was discovered that nearly 25% of the detainees had grounds to remain in South Africa. We required a further court order to allow us access to the detainees at Lindela. Two other applications were launched on behalf of individuals but many of the applicants were deported before we were able to achieve their release, including one stateless person who was deported to Zimbabwe and we lost contact with him.

RIGHTS COALITION SLAMS OPERATION FIELA

By Jenni Evans, published on the 12th of May 2015 (News24)

Naming a police and army operation which arrests foreigners ''Operation Fiela'', which translates to ''clean sweep'' implies that those arrested are ''rubbish'' and is counter to government's commitment to crack down on xenophobia, Stephen Faulkner from the People's Coalition Against Xenophobia said on Tuesday.

He was speaking at a press conference called to express concern over the arrest of large groups of foreign nationals during the nationwide operation days after the government had pledged itself to stop xenophobia following a wave of attacks against foreigners in Johannesburg and Durban in April.

''It is not an exaggeration to say it was a military operation," said Faulkner of the raids, the latest taking place last Friday in Johannesburg's CBD and at the Central Methodist Church, which he said symbolises a ''safe haven'' for asylum seekers and refugees.

''Untold numbers, including women and children were then herded like criminals to the central police station,'' he said.

''They are being compared to rubbish".

''We are asking for a complete rethink of Operation Fiela,'' he said.

'**This is increasing xenophobia**'

The coalition believes that instead of dealing with crime and social problems, government is ''harassing and arresting on a mass scale'' and equating crime with the presence of undocumented people in South African society.

''This is not tackling xenophobia, this is increasing it.''

He said lawyers had not even had confirmation from the police yet of how many people had been arrested.

He was speaking after Lawyers for Human Rights (LHR) had managed to finally secure access to those arrested through a second court order in the High Court in Johannesburg on Tuesday.

Earlier on Tuesday, the department of home affairs and the police had narrowly escaped a contempt of court order by finally agreeing to let LHR consult with between 200 to 400 foreign nationals arrested in the raids in Johannesburg last week.

''The parties have come to an agreement. The applicant will be withdrawing the [contempt of court] application," said LHR advocate Julie-Anne Harwood.

The department of home affairs agreed to pay the costs of the application.

LHR had already secured an order late on Friday after hearing of the arrests, because the police allegedly would not let them see the people arrested.

But, in spite of the order, they were still not able to consult those detained, so they lodged the application for contempt of court on Tuesday.

Now LHR can consult with those being detained at Lindela, a holding facility between Krugersdorp and Randfontein on the West Rand, at Johannesburg Central Police Station, and about 22 women living at a Gift of the Givers shelter with their children.

By noon on Wednesday, the State has to give LHR a list of all those detained and is not allowed to deport any of those arrested for two weeks while lawyers check their documentation and explain their rights to them.

According to some of the affidavits submitted for Tuesday's application, people were woken up between 03:00 and 04:00 by police and taken outside. Some said they had lost their documents, and others said they were not allowed to go and fetch their documents.

LHR's David Cote said after the order was granted that about 60 South Africans had also been detained, but were released.

LHR attorney Wayne Ncube said at the coalition's joint press conference: "It is easy to use 'illegal foreigner' as a scapegoat without understanding what the term means.''

Refugee centres closed down

The South African government had made it difficult for people to get the right paperwork by closing down some of its refugee and asylum seeker refugee centres, he said.

Ncube said the deportation process was complicated: it must be verified that a person is an illegal immigrant; then that person's country, through an embassy or consulate, has to verify that they are from there; and then travel plans can be made.

LHR believed that some deportations had been planned for Wednesday, even though the process is not normally that quick. Not following all the procedures could mean sending somebody - an asylum seeker or refugee - to their death, said Ncube.

Lawyers would now have to check all the procedures that were followed for Friday's raids, such as the warrants used and check each detainee's documentation and explain their rights and obligations to them.

Faulkner questioned why the Methodist Church, whose central building was regarded as a haven, had not said anything to condemn the raids.

Asked for comment, government spokeswoman Phumla Williams said: ''We are on record as saying it [Operation Fiela] is a multi-disciplinary intervention of government based on inputs of consultations done for foreign nationals themselves, and communities themselves and consultations the executive did with various communities.''

She said over 77 community engagements were held and over 50 foreign nationals, church and business representatives were consulted and out of that, there was a request to government to intervene in what was happening in communities.

'Illegal weapons, drugs found'

They asked that drugs, illegal weapons, and people in the country illegally are dealt with.

''I should underline that the people said it is not all foreign nationals.''

Operation Fiela was not targeted at any specific person, but it was uprooting problems in the communities.

''Illegal immigrants were found, drug trafficking was found, illegal weapons were found. No one has been taken who has been in the country legally as a foreigner,'' said Williams.

''Anybody who could produce their documentation was not taken. Anybody who did not have an illegal weapon has nothing to fear.''

She said the condition of the children whose parents were detained were checked and ''there was no proof that they were treated unfairly''.

The coalition will meet Gauteng Premier David Makhura next week to discuss its concerns.

Sonke Gender Justice Equality Court Application

LHR has been approached by Sonke Gender Justice to assist them with preparing an application to the Equality Court to challenge the statements by King Zwelethini in which he referred to non-nationals as “lice” and “bedbugs” and asked them to pack their bags and return home. This speech took place in April 2015 and, while not the only cause of the violence in KwaZulu-Natal during that time, it certainly contributed to tensions and attacks against non-nationals.

Sonke conducted a wide consultation process in KwaZulu-Natal and elsewhere with civil society organisations to decide whether to proceed with the application. They were not unaware of the implications, including further concerns about protection for non-nationals in the aftermath of a case but they were also concerned about a lack of accountability for his statements.

LHR is a co-complainant to the South African Human Rights Commission (SAHRC) which is also conducting an investigation into the speech. They were stymied, however, by lack of cooperation from the King’s staff and an inability to access the speech itself. Sonke was able to track down a local journalist who had recorded the speech and had it transcribed and translated. This was also sent to the SAHRC, but so far there has been no follow up from the Commission.

LHR has agreed to act as the attorney for Sonke in this matter. We have received some criticism for this participation, but we feel it is an important step for accountability. Sonke has created a media strategy at our suggestion that will focus on South Africans insisting that their own leaders be held accountable for statements which cause hatred and harm to non-nationals in our country. It is possible that the Court would rather the SAHRC consider the matter, but it is important to ensure that the issue of accountability be addressed and that the matter not be ignored by the SAHRC.

LAND AND HOUSING PROGRAMME

The Land and Housing Programme in 2015 took a decision to move away from urban evictions, which is a topic now receiving the attention of other NGOs. Those seeking assistance are referred to these alternative organisations, this has enabled Land and Housing to direct its limited resources towards working on matters concerning women's property rights, communal land rights as well as mining issues (whereby the is an issue around land).

This year, Land and Housing was also involved with the drafting of the City of Johannesburg's Policy for the Special Process for the Relocation of Evictees (SPRE).

Tshwane University of Technology evictions

During January 2014, student protests erupted on some of the campuses of the Tshwane University of Technology (TUT). In order to quell these protests, TUT decided to, amongst other steps, close all its campuses and evicted all its residence students without obtaining a court order. LHR assisted the students to obtain an urgent interdict against this clearly unlawful mass eviction.

Although TUT published its knowledge of the court order on its website, it failed to comply with the anti-eviction court order for several days. Only when LHR brought an urgent contempt of court application against TUT, did TUT eventually comply. The Pretoria High Court granted a rule nisi against TUT, meaning that TUT was provisionally found guilty of contempt of court, but given the opportunity to take more time to come back to court and prove otherwise.

Subsequently, TUT filed several affidavits by its high-ranking officials in an attempt to explain its non-compliance with the anti-eviction order. These affidavits revealed what had occurred during the period of non-compliance and which officials were directly responsible for the contempt of the courts order. In the light of the blatant contempt and the impact this had on the students' perception of the Rule of Law the need to hold these individuals to account and ensure the necessary apologies and acknowledgement of the contempt occurred.

LHR brought an application to join the individuals identified as responsible to the contempt application. This application was successful and resulted in a precedent setting judgment which paves the way towards holding the relevant officials of TUT responsible.

At the same time and in an effort to circumvent the pending contempt application TUT brought a rescission application to have the initial anti-eviction order set aside. TUT argued that the urgent application, which sought to halt the unlawful evictions, was a class action and as such should have been certified prior to the launching of the application. This application was opposed by Lawyers for Human Rights and eventually dismissed with costs. The Court confirmed that no certification was necessary when it came to the enforcement of the Bill of Rights.

The Contempt application will be heard in mid-2016 and the application dealing with the repeated evictions by TUT in September 2014, on the basis of an ex parte rule nisi has been argued and we are awaiting judgment.

TUT in hot water over residences

IOL, 5 February 2014
https://www.iol.co.za/dailynews/news/tut-in-hot-water-over-residences-1641958

Pretoria - The Tshwane University of Technology (TUT) wilfully acted in contempt of a court order when it refused to re-admit students evicted from their residences, the High Court in Pretoria ruled on Tuesday.

Lawyers for Human Rights (LHR), for the students, on Saturday obtained an urgent court order to force TUT to allow students back into residences.

They returned to court this week with a contempt application after TUT ignored the court order for two days.

TUT's lawyers told the court on Monday they only received notice of the court order at 2pm that day and had already lodged an appeal against the ruling, which they said suspended the court order.

The court was informed that only students with access cards would be allowed back into the residences. LHR objected because some of the students were unable to get student cards due to protests on campus during the past week.

TUT argued that the university had not been given a chance to reply to the allegations and asked the court to remove the application from the court roll on technical grounds.

LHR said TUT closed the residences on Friday and evicted students after protests on some campuses against to a lack of funding from the National Student Financial Aid Scheme.

The university last week obtained an interim order to prevent any further campus protests, but did not obtain an eviction order against the students.

LHR argued that the university could not on one hand ask the court for an order preventing protests while on the other hand unlawfully removing students from their residences.

The court on Saturday declared the evictions unlawful and unconstitutional and ordered the university to allow the students to return immediately.

The court found that students' right to adequate housing had been violated and granted a punitive cost order against the university.

On Tuesday Judge Elias Matojane ruled that TUT's condition that only students with student cards would be allowed back was in flagrant disregard of Saturday's court order.

He gave the university until March 31 to give reasons why it should not be declared in contempt of court, and why the vice-chancellor should not be sentenced at the court's discretion.

Hearing the case on Monday, Matojane asked why TUT had evicted students when they did not know if they had another place to stay.

Nathaniah Jacobs of LHR welcomed the ruling.

"The court has made it abundantly clear that it will not accept incorrect, technical arguments in an attempt to justify the violation of constitutional rights and LHR welcomes this firm stance by court," she said.

Rural Women and Land Rights- the story of Zodwa Lukhele

This matter concerns Zodwa Lukhele, an elderly African woman living near Badplaas, within the Albert Lethuli Local Municipality. The area in which she lives falls under the jurisdiction of the Embhuleni Swazi Traditional Council. She has lived in what is considered her family home for her entire life. She was born on that land and both her parents lived, worked, died and are buried on the land. Her parents worked as labour tenants on the land prior to its inclusion into the self-governing territory of KaNgwane.

At the time of the incorporation of the farm into KaNgwane, Ms Lukhele's father cultivated a portion of land for the family's needs. As Ms Lukhele and her siblings reached adulthood, each sibling – irrespective of gender – was allocated a specific portion of the land to cultivate. Ms Lukhele received her portion in 1976 and has since then been cultivating her crops and grazing her livestock on this land. Ms Lukhele depends upon the crops produced to sustain her family and produce an income.

As the area of KaNgwane became increasingly urbanized, the land surrounding Ms Lukhele's and her siblings' land became increasingly developed. In November 2013, following Ms Lukhele's sister's death, Ms Lukhele's nephew started subdividing and 'selling' not only the land previously used by his deceased mother, but also Ms Lukhele's land. Several shacks were erected on Ms Lukhele's land by 'buyers' of plots of her land.

All attempts to resolve the issue through the Traditional Council failed. Ms Lukhele eventually received a letter from the Traditional Council purporting to evict her and her household from her land and confirming that the Traditional Council granted her nephew the 'right' to occupy her land. Ms Lukhele also attempted to find a remedy through the Department of Rural Development and Land Reform, the Department of Co-operative Governance and Traditional Affairs, the Presidential Hotline, the Public Protector, and the House of Traditional Leaders – all without success.

"The general attitude of the various parties involved was that since Ms Lukhele was a woman, she could not be the holder of property in terms of Traditional Authority's interpretation of Swazi culture. None of the organs of state were willing to assist Ms Lukhele in protecting and recognizing her land tenure. After living on her land and utilizing it for almost seventy years, Ms Lukhele has been subjected to gross inequality, insults to her dignity, tenure insecurity and the hardship of being stripped of her livelihood."

The LHR has launched an application in the High Court to recognise Ms Lukhele as the owner of the land and have the "sale" of her land declared unlawful and the land returned to her.

The Restitution of Land Rights Amendment Act

On 30 June 2014 the Restitution of Land Rights Amendment Act 15 of 2014 (Amendment Act) became Law. The Act was intended to address several difficulties with the original Restitution of Land Rights Act 22 of 1994. One of the significant changes was the re-opening of the land claims process for a period of five years.

The passing of the Amendments Act was challenged by three organizations dealing with land rights and reform within South Africa, as well as, three Communal Property Organizations. The basis of challenge was the alleged breach of sections 72(1)(a) and sections 118(1)(a) of the Constitution through the alleged failure of the relevant legislative bodies to adequately facilitate public involvement. Alternatively, it was argued that the provisions of section 6(1)(g) of the Amendment Act, which required the Commission on Restitution of Land Rights to give priority to existing claims, were incurably vague.

LHR, acting on behalf of four communities who had all intended to lodge claims through the reopened claims process, applied for these communities to be joined as Respondents to the matter. LHR opposed and limited itself to the alternative challenge based on section 6(1)(g) of the Amendment Act and argued that it would not be in the interests of justice for the Constitutional Court to be the court of first instance on such an important issue and that the Court would benefit from the views of the lower courts on such an important matter. It was further argued that the provisions of section 6(1)(g) cannot limited the constitutional right protected in section 25(7), namely the right to claim restitution for prior racially-based dispossessions of land.

Are execution orders appealable? The Case of Mr Mathale vs. Mr Linda and the Ekurhuleni Municipality

On the 2nd of December 2015, the Constitutional Court of South Africa handed down judgment for an application for leave to appeal brought by LHR on behalf of Ntome Steve Mathale, concerning the question of whether execution orders granted in terms of section 78 of the Magistrates' Court Act are appealable. The first respondent in the matter was Mr JJZ Linda, and the second respondent being Ekurhuleni Metropolitan Municipality.

BACKGROUND

An eviction application was brought in the magistrates' court by Mr. Linda against, Mr. Mathale who had been living on a property for approximately 20 years whilst Linda also similarly occupied another property in the same area.

In 1999 the Municipality decided to formalise the Winnie Mandela Township and allocated official "stand numbers" to its occupants in order to determine which part of the land they were entitled to occupy. During this process, Linda was allocated the property occupied by Mathale and Mathale was allocated property

elsewhere. However, Mathale refused to vacate the property, on the basis that he had built a home and family life around the township.

The Magistrates' Court granted an order evicting the Mathale from the property. Mr Mathale appealed against the eviction order. However, Mr Linda, proceeded to successfully obtain an execution order, in terms of section 78 of the Magistrates' Court Act, to have the applicant evicted from the property; notwithstanding the pending appeal by the applicant.

In an effort to halt the execution order bring effected the applicant appealed against the execution order in the High Court of South Africa, Gauteng Division, Pretoria.

The High Court dismissed the appeal on the basis that it would not be in the interests of justice to grant it. Leave to appeal was further denied by the Supreme Court of Appeal.

In a unanimous judgment handed down by Khampepe J, the Constitutional court Court held that the High Court had erred in its approach to section78 orders and noted that those orders did not require a court to engage in the "interests of justice" analysis. Rather, the correct approach was to read section 78 of the Magistrates' Court Act together with section 83(b) of the same Act which allows appeals for orders that are final in effect.

Accordingly, the application for leave to appeal was granted, and the orders of the High Court and Magistrates' Court were set aside.

Wilgerspruit community: their land- their rights

The Lesethleng community is one of 32 villages that form the Bakgatla ba Kgafela traditional community located in the North West. More than a 100 years ago individuals from the Lesethleng village bought the farm Wilgerspruit and have used this land for farming. The land could not be registered in the name of the Lesethleng community because of the apartheid era land laws and as a result it was registered in the name of "The Minister of Native Affairs in trust for the Bakgatla ba Kgafela tribe". This is the manner in which the land has remained registered with the deeds office.

Pilanesberg Platinum Mines managed to get a mining right to expand their open cast platinum mining on the neighbouring farm Tuschenkomst onto Wilgespruit. All consultations and agreements relating to the mining activities on the property were negotiated between the tribal authority the mine. The actual owners were excluded. Pilanesberg Platinum Mines then started to move onto the Wilgerspruit making it increasingly difficult for our clients to continue with their farming activities. The LHU successfully applied to court for an order to put our clients back into peaceful and undisturbed possession of the farm and in effect ordering the mine to cease all activities on the farm until such time as proper agreements and negotiation had taken place with our clients.

ConCourt hands land back to North West community

Sarah Evans 20 Aug 2015 15:36

After seven years of litigation and internecine warfare, a community in North West will legally hold the rights to land they were deprived of during apartheid, following a Constitutional Court judgment handed down on Thursday.

The Bakgatla-Ba-Kgafela community is made up of 32 villages in the Moses Kotane district municipality in North West province.

For years, the community has been at loggerheads with their chief, Kgosi Nyalala Pilane, and the Bakgatla-Ba-Kgafela tribal authority over how their land should be shared.

The community's land was returned to them following a successful land restitution claim. But the dispute arose when the community wanted the land to be held collectively in the form of a communal property association (CPA). But the tribal authority and Kgosi Pilane wanted the land to be held in a trust.

While the litigation turned on the correct interpretation of the Communal Property Association (CPA) Act, the case will give effect to the community's constitutional right to be restored their land after being dispossessed during apartheid.

During oral arguments, which the court heard in May, Deputy Chief Justice Dikgang Moseneke remarked: "This is about access to land, not the rules of the court. Shouldn't there be certainty for this community? Seven, eight years after their restitution claim? So that the community can improve their circumstances? When will these people get to own their land and start to work on it and to benefit from it?"

Unanimous judgment

A unanimous judgment written by ConCourt Justice Chris Jafta overturned a previous court ruling, effectively handing the land over to the community.

The minister of rural development and land reform had intervened and said a provisional association should be formed so the parties could resolve the issue within 12 months. This provisional association is the applicant.

The land was registered in the name of the provisional association's name, but the dispute was not resolved and the provisional association was not registered as permanent.

The provisional association went to the Land Claims Court in an attempt to be registered permanently. The association wanted an interdict against Kgosi Pilane to prevent him from intimidating or influencing departmental officials during the process.

The Land Claims Court ordered the department to register the CPA permanently.

Kgosi Pilane and the tribal authority appealed to the Supreme Court of Appeal.

'Heart of the appeal'

Jafta wrote: "The SCA held that the association's status was at the heart of the appeal and confined itself to deciding that issue only."

The CPA Act states that a provisional association only exists for 12 months unless the director general of the department extends that period. As the director general had not done this, the appeal court said that the association did not exist.

The CPA approached the Constitutional Court and leave to appeal the appeal court judgment was granted. It argued that the appeal court had misinterpreted the relevant sections of the CPA Act.

"The matter raises a constitutional issue relating to the restitution of land, dispossessed under apartheid, to communities in the realisation of the right guaranteed under section 25(7) of the Constitution," Jafta wrote.

He said the court had not considered a case like this before.

The CPA Act states that, in the event that the director general feels that the provisional association's application to become a permanent CPA falls short of what is required in the Act, he or she must make the association aware of this so that the application can be fixed.

The provisional association must comply with several requirements, many of them related to the democratic operation of it, which the ConCourt described as "safeguard[ing] the interests of members of traditional communities and empowering them to participate in the management of a communal property".

Jafta said the Act was designed to "transform customary law and bring it in line with the Constitution".

He wrote that the Act must be interpreted with this in mind. "Had the SCA borne this duty in mind, it could have attached a different meaning to the section. A meaning that would be consonant with the purpose of the Act."

The effect of the appeal court's decision was that the provisional association, having collapsed after 12 months, did not have the legal standing to bring proceedings in the Land Claims Court.

But the ConCourt interpreted the relevant section to mean that the 12-month period only applied in relation to the association's right to occupy and use the land in question.

"The section makes no mention of the provisional association's life span at all," the court found.

But this was not the only problem with the appeal court's judgment.

The court said that the Act allows for the provisional association and the permanent CPA to co-exist: this happens because the provisional association is established as soon as it qualifies for registration, when the relevant departmental official recommends that it be registered. It has not been registered permanently yet, but it remains established.

Throughout the process, and after registration, the Act obliges the director general to a "deep involvement" in ensuring compliance with the Act, the court said.

"It is clear from the scheme of the Act that once a traditional community expresses a desire to form an association, the director general must do everything permissible to assist the community to accomplish its goal," Jafta wrote.

But in this case, the director general "did not approach the registration in the spirit of the Act ... He opposed registration on the basis of shortcomings without helping the community to remedy them … Under a mistaken understanding of the Act, the director general adopted a wholly inappropriate response to the community's legitimate request for registration."

Meanwhile, in court, the minister had agreed that the appeal court's decision should be set aside, but wanted the matter to be referred for mediation.

But the ConCourt said: "There is simply no legal basis for the request in the context of the present matter … The fact that a traditional leader or some members of the traditional community prefer a different entity of the association is not a justification for withholding registration and imposing mediation on the parties."

Dr Aninka Claassens, acting director of the Centre for Law and Society, said: "The judgment comes down firmly on the side of people having the right to choose the form of land-holding they prefer, instead of government dictating 'tribal ownership' as the only option in former Bantustan areas.

"The judgment sends a clear message that current policy, which proposes to transfer title deeds of land in the former homelands to traditional councils cannot fly constitutionally. The judgment shows that the minister and director general failed to uphold the law by elevating the interests of traditional leaders over their duty to support the choice of the community and to fulfil the provisions of the CPA Act.".

ENVIRONMENTAL RIGHTS PROGRAMME

The clear link between the environment and human health drives the ERP's efforts to protect and promote the constitutionally-guaranteed right to an environment not harmful to health or well-being. In practice, this means holding to account government and industry where insufficient environmental oversight and management or damaging operational practices have compromised the health of exposed communities. The ERP will also pursues targeted work on the prevention, mitigation, and remediation of water and air pollution to address their associated health impacts.

The objective of the ERP's work in the area of environmental governance is two-fold: assisting communities in taking measures to protect their rights when confronted with development and helping to improve the overall quality and transparency of South Africa's environmental management framework.

In 2015, the Environmental Rights Programme (ERP) was involved in the enforcement of the right to have access to sufficient water, protection of water resources, protection of land and cultural rights and the protection of heritage resources.

CAROLINA RESIDENTS HAVE A RIGHT TO ACCESS CLEAN WATER

As the Constitutional Court held in the *SA Fuel Retaile* judgment, water is a precious commodity; it is a natural resource that must be protected for the benefit of present and future generations. Mining activities, pollution and damaged municipal infrastructure pose a threat to this natural resource. Based on the information we have received pursuant to a number of requests for access to information in terms of the Promotion of Access to Information Act of 2000 ("PAIA"), it is evident that the pollution of water resources was the cause of the 2012 crisis that left the residents of Carolina without access to water.

From the information available to us, the water resources were polluted and/or contaminated by the seepage of Acid Mine Drainage from the operating and defunct mines on the upper reaches of the Boesmanspruit Catchment which decants to the Boesmanspruit Dam, which supplies water to the town of Carolina.

LHR has continued enforcing the rights of the residents of Carolina to have access to sufficient water in terms of section 27(1)(b) of the Constitution and the relevant provisions of the Water Services Act of 1998.

LHR is one of few organisations whose work relating to water includes enforcing the right to water as a socio-economic right as well as an environmental right. Over the past few years, South Africa has experienced unprecedented numbers of service delivery protests. More often local government's failure to supply sufficient potable water is at the heart of the service delivery protest. Pollution, environmental degradation and damaged municipal infrastructure threaten local government's ability to supply water. In Carolina, water was polluted by acid mine drainage. In Bloemhof, water was polluted by the seepage of sewerage into drinking water.

Water too dirty to drink

By Lindile Sifile | May 16, 2015

The skin on Maria Mkhatshwa's arms is completely covered in black spots from a skin rash she developed from suspected contaminated acid mine water she drank in 2012 in Silobela near Carolina.

Three years on, residents of this Mpumalanga town, southeast of Middelburg, are still faced with the prospect of contracting diseases because the water from their taps still has a dark, murky colour.

Although the Chief Albert Luthuli municipality says the water is healthy to drink, many residents said they won't risk drinking it.

"The tap water is still dirty. We still get cases of people being sick from drinking it. We now only use it for bathing and household cleaning. Thean municipality is lying to us," said Mkhatshwa of Silobela township. She was one of scores of people who fell sick after drinking the water in 2012.

Silobela residents now get their water from four privately owned boreholes.

Jabu Shabangu uses about 20litres of drinking and cooking water a day for his household. But it comes at a cost as he has to pay for transport to the borehole.

"It's nonsense. The same people that say this water is clean, drink bottled water at their board meetings," he said.

In July 2012, North Gauteng High Court Judge Moses Mavundla ordered the municipality to provide short and long-term plans to provide water. However, it seems that this was not adhered to as some taps are dry.

"We wish we could get even the dirty water that other people get because our taps are dry. Now we have to spend at least R50 to hire a bakkie to fetch us water," said Johanna Malindisi.

Neels Oosthuizen, a coffee shop and guest-house owner, said business has taken a knock because of the water crisis. ". it becomes difficult when there is no water at all, which happens regularly. Then I cannot take new guests," said Oosthuizen.

Lawyers for Human Rights's Osmond Mngomezulu said although the organisation was consulting with the municipality, there was no independent proof that thewater was safe for drinking. "I can never say with certainty that the water is safe. There is no concrete evidence of it except for the municipality's word," he said, adding that Lawyers for Human Rights was looking at doing its own research.

Municipal spokesman David Nhlabati said construction on the water plant caused the water to have a brown colour.

"The water is safe. We test it three times daily," he said.

Nhlabati, however, failed to produce test results supporting the municipality's claims.

Full article can be accessed here: http://www.sowetanlive.co.za/news/2015/05/16/water-too-dirty-to-drink

Mokopane Interested and Affected Communities Committee

Parallel to the water-related work, LHR has provided legal support to the Mokopane Interested and Affected Communities Committee in their dispute against Ivanplats, the Department of Mineral Resources, the Limpopo Department of Economic Development, Environment and Tourism. In 2014, we successfully objected to the proposed relocation of 154 graves that Ivanplats intended to move from the area in which the mining operations are meant to take place.

On 30 May 2014, the Department of Mineral Resources granted a mining right to Ivanplats with a condition that the mine fulfil certain conditions, including that "the mining right will not include the area covered by grave yards or any graves that occur in the same vicinity. A sketch plan that depicts such exclusion shall be submitted 10 days prior to execution". We have lobbied the South African Heritage Resources Agency ("SAHRA") to ensure that Ivanplats does not exercise its mining right in a manner that will damage or disrupt heritage resources, including ancestral graves.

The land over which Ivanplats wants to conduct its mining activities is communal land comprising of approximately 180 plots of cultivation land. It has not consulted with the owners of the cultivation land nor has it compensated them for the confiscation of their land. LHR has been instructed to launch a high court application against Ivanplats for appropriate relief including an order directing Ivanplats to cease constructing its mine on the communal land pending meaningful consultation between the parties and the conclusion of a surface lease agreement between Ivanplats and owners of cultivation land. Prior to its withdrawal in the matter, the ERP had already drafted a high court application which only had to be settled by counsel.

Environmental health crisis in the North West

According to media reports, between May and June 2014, at least 15 children and infants, and possibly many more, died in Beisiesvlei and Sanieshof in the North West as a result of dehydration resulting from severe diarrhoea and vomiting - attributed to water contaminated by sewage. Prior to this, three infants had died in Bloemhof in the same manner. According to a media reports[1], the Director of Media and Communications in the North West Department of Health, Tebogo Lekgethwane, issued a statement during July that the department would investigate the deaths of 11 children in Biesiesvlei, allegedly due to contaminated water.

In July 2014, the ERP and Centre for Environmental Rights (CER) travelled to these towns to consult with affected community members, including parents of the respective deceased babies. The following month, the ERP and CER addressed joint letters to the Ministers of Water and Sanitation, Health, and Cooperative Governance and Traditional Affairs (CoGTA), requesting each to intervene urgently to ensure the provision of clean drinking water to these communities.

In 2015, the ERP and CER expanded its advocacy efforts in this matter and called to meet with the chief director and a deputy director in the Department of Health's Environmental Health Directorate. The ERP and CER urged the Department of Health to engage the other departments to ensure the provision of safe drinking water to residents of Sannieshof, Beisiesvlei and Bloemhof, advise us of its mitigation strategy regarding the relevant health risks, and to undertake an investigation into the deaths of children reportedly caused by the water contamination. In response, the Department of Health's Environmental Health

[1] http://www.ofm.co.za/article/Local-News/149459/NW-health-to-investigate-baby-deaths-in-Biesiesvlei

Directorate confirmed that it is working on establishing a Framework for Addressing Social Determinants of Health as required by the World Health Organisation.

Riverlea Extension 2, Johannesburg: The dusty town

LHR also represents residents in Riverlea, an area established in the 1960s when the apartheid government forcibly removed residents from Sophiatown and resettled them within close proximity to an abandoned mine dump or Tailings Storage Facility ("TSF") in Soweto. In late December 2011, DRD Gold began breaking down the old TSF in order to reclaim minerals from the area. LHR's clients live within close proximity to the reclamation operations and are as a result continuously exposed to toxic dust and must endure considerable noise and light pollution. Many suffer chest-related health problems and fear of exposure to radioactive and carcinogenic materials. It has become impossible to grow produce in residential gardens likely as a result of the toxic water that leaches from the reclamation operations. The Riverlea residents' previous attempts to engage State authorities and DRD Gold directly in order to address the socio-economic and environmental impacts of the reclamation have been unsuccessful.

As a first step in assisting these clients, LHR, along with CER, retained two consultants to assess DRD Gold's compliance with relevant environmental legislation, particularly in relation to dust fall and air and water quality. The results of these studies revealed DRD Gold to have fallen short of compliance in a number of areas, exposing failures to implement adequate measures to prevent water pollution, manage exceedances of various air pollution and dust fallout limits, or sufficiently address the operation's environmental impact as outlined in the company's Environmental Management Plan. The ERP is preparing an engagement and possible litigation strategy on the basis of these results.

Disconnection of water supply in the Blyvooruitzicht mining village

Following an unlawful and unprocedural disconnection of water supply in the Blyvooruitzicht mining village, near Carletonville, LHR launched an urgent high court application on behalf of the Blyvooruitzicht community to have its water supply reconnected.

Most members of the community worked for the now-defunct Blyvooruitzicht Mine which was placed under provisional liquidation in August 2013. As the area's largest employer, the closure hit the community hard. This disconnection of water supply dealt a further blow to the already vulnerable community. Residents instructed LHR that the disconnection left them without access to safe and sufficient water for drinking, cooking, bathing, cleaning or washing. They have been forced to use buckets of water to force-flush their toilets, severely prejudicing their rights to basic sanitation and human dignity. Access to water is a basic human right which the Municipality is constitutionally mandated to fulfil.

Less than 24 hours before the court application, the parties reached an interim settlement agreement after a successful mediation by the Gauteng province MEC for Cooperative Governance Traditional Affairs, Mr Jacob Mamabolo, and the South African Human Rights Commission. That settlement agreement was made an order of court and water supply was reconnected to Blyvooruitzicht.

The mine's liquidator undertook to commission a technical assessment to identify possible leakages in the water reticulation network and determine the actual monthly consumption of water at Blyvooruitzicht. The preliminary report has been produced and the parties met in the MEC's office on 24 August 2015 to assess the way forward. The liquidator agreed to pay a further R600 000 to keep the water running. The MEC's office suggested that the meeting join the multinational task team consisting of DMR, DSD, SAPS, the

Municipality, and the Master of the High Court who were appointed to look into a number of issues concerning Blyvooruitzicht.

Blyvooruitzicht's water to be restored

Saturday Star, 13 June 2015, By Sheree Bega

Johannesburg - The Merafong municipality is to instruct Rand Water to reconnect the water supply to the embattled Blyvooruitzicht mine by no later than Monday, according to an interim settlement agreement that has been reached.

An application by Lawyers for Human Rights had sought to compel the municipality and Rand Water to reconnect the water supply to Blyvoor on the far West Rand. It was disconnected last month as the municipality was owed more than R182 million in arrears.

. Picture: Boxer Ngwenya

The plight of thousands of residents of Blyvoor's two mining villages was covered by the Saturday Star last week.

Water is to be restored to the residents under the agreement reached between Lawyers for Human Rights, the mine's liquidator and the MEC for Co-Operative Governance, Traditional Affairs and Human Settlements, Jacob Mamabolo.

"The mine's liquidator undertook to commission a technical assessment to identify possible leakages in the water reticulation network and determine the actual monthly consumption of water at Blyvoor," said Lawyers for Human Rights.

"The liquidator has agreed to pay R600 000 to the municipality towards water use for the period from reconnection of the piped water supply."

The Blyvoor mine was placed under liquidation in 2013, leaving thousands of workers without jobs. The Human Rights Commission inspected conditions of the residents on Friday.

Lawyers for Human Rights said the commission and all other parties would reconvene by July 25 to "map out long-term solutions to the supply of water for the community and how the municipality will charge them".

Access the full article here: http://www.iol.co.za/news/south-africa/gauteng/blyvooruitzicht-s-water-to-be-restored-1.1871223#.VdWz37Kqgkp

PENAL REFORM PROGRAMME

In keeping with LHR's general concern with all forms of detention and its prison-related work of the 1990s and 80s, the Penal Reform Programme aims to further the protection of the rights of prisoners and ensure constitutional compliance regarding the imposition of punishment, sentencing, independent oversight and conditions of detention.

There is, unfortunately, a marked disconnect between the current state of the penal system and the applicable legislative requirements and thus an ongoing breach by the Department of Correctional Services of its statutory obligation to ensure the safe custody of inmates and to protect, promote and fulfil the right of all inmates to be detained in 'conditions that are consistent with human dignity'.

To date, non-litigious advocacy measures on the part of civil society, although successful in relation to legislative and policy reform, have unfortunately failed to bring about any sustained reform within the country's penal system. Particular areas of concern include overcrowding in remand detention centres, assault and torture, parole mismanagement, health care and independent oversight and monitoring of places of detention.

The profile of South African correctional centres has changed dramatically over the last 20 years. There are more inmates serving sentences of life imprisonment and sentences longer than 15 years than ever before. The mandatory minimum sentencing legislation of 1997, intended to be a temporary measure, has caused the shift in sentencing patterns. Having researched extensively these shifts, the PRP hopes to enter into a process of engagement with the South African Law Reform Commission and the Minister of Justice and Correctional Services in an effort to revise the 1997 legislation.

Sentencing

LHR is involved in a number of review applications on behalf of several hundred inmates serving sentences of life imprisonment in various South African correctional centres. The sheer number of like cases is a clear indication of the systemic mismanagement of parole applications that has resulted in the ongoing infringement of inmates' rights to just administrative action.

The way we punish

Written by Clare Ballard – 23 April 2015
Published by Daily Maverick and GroundUp

South Africa is often branded as a country with a high rate of imprisonment. In certain respects, this is true. For, with 290 people per 100,000 imprisoned, it has the highest incarceration rate in Africa. But there is much more to prison population rates than a national head count of bodies behind bars.

About two thirds of the South African prison population have been sentenced to prison. The remaining third are awaiting trial detainees.

One third is a fairly standard proportion for a developing country whose criminal justice system is burdened by high crime rates and the consequent backlogs in administration.

The United Kingdom, for example, has an awaiting trial population that makes up 14% of its prison population. The figure for Nigeria, on the other hand, is 70%. So, yes, compared to the rest of Africa we have a high incarceration rate, but that's probably got a lot to do with the fact that we are convicting at least some of the people that enter the criminal justice system, something the rest of the region is simply failing to do.

It's interesting, then, that we are sending fewer people to prison than we were 20 years ago. In 1995 people were being sentenced to terms of imprisonment at a rate of almost 290 people per 100,000. In 2014 that figure was 210.

The more radical shift, however, has been in the profile of the prison population. In 1995 there were 443 offenders serving sentences of life imprisonment, less than 0.5% of the total sentenced population. In 2014 there were 13,190, accounting for 12% of the sentenced population.

That's nearly a 30-fold increase.

So, currently, there are more offenders serving sentences of life imprisonment in South African prisons than ever before.

During the same period the number of offenders serving sentences of more than 20 years has increased 5.25 fold, 15-20 years 4.8 times and 10-15 years 3.5 times.

Of course, the opposite is true for all the shorter sentence categories.

These figures may explain why the prison population has increased by 24%, despite the rate of sentencing having gone down since 1995. Although fewer people are being sent to prison, those sent to prison are spending much longer there than ever before.

Probably the most important contributing factor to the change in the sentenced prison population was the establishment of mandatory minimum sentencing legislation – the Criminal Law Amendment Act of 1997. The Act restricted the discretion of judges to depart from minimum sentences ranging from 15 years to life imprisonment for certain serious offences.

The Act came into effect at a time when violent crime was at an all-time high and an anxious public was looking to the government for solutions and the imposition of criminal sanctions in line with the desire for retribution. Like in many other countries, the response was a surge in militarised force and episodic saturation policing. And mandatory minimums.

Interestingly, the minimum sentencing provisions of the Criminal Law Amendment Act were intended initially to be temporary. The President extended their period of operation, however, on three occasions, until they were made into a permanent feature of South African legislation in December 2007.

Unsurprisingly, it was between 1995 and 2000 that the prison population soared: from just under 120,000 to just over 170,000.

At best, though, minimum mandatory provisions serve only one goal, and that is retribution. And this particular form of retribution comes at enormous cost to South Africans. Here is why.

Firstly, an offender serving a sentence of life imprisonment is a different type of prisoner. He or she has lost hope. There is a chance that he or she will be paroled, but the minimum period an offender must serve before being eligible for parole is 25 years. The indeterminacy and uncertainty accompanying a sentence of this nature, along with the social isolation, loss of community and family ties that a sentence of life imprisonment (or any severe sentence for that matter) necessitates, have the impact that one would expect.

Research indicates that long-term offenders display many more problems, both psychological and social, than short-term offenders and negative reactions to the prison structure actually increase as an offender's sentence progresses.

I am fully aware that there are many of us that are unlikely to be particularly moved by this information. We are, after all, a country wracked with violent crime and we are sick to death of it. At the very least, however, we need to acknowledge that we are failing to achieve one of the objectives of the correctional system itself as spelt out clearly in the Correctional Services Act: "promoting the social responsibility and human development of all prisoners".

The second factor is cost. We are spending an enormous amount of money on accommodating people in prisons: R10,000 per month per prisoner. And for what? People who commit crimes will, for the most part, re-offend unless rehabilitated. More than 50% of the budget is spent on 'incarceration' and less than 5% on 'social reintegration.'

'Rehabilitation' and 'care' receive about 14%. And it shows. There has never been any kind of meaningful relationship between the incarceration rate and the crime rate in South Africa.

If anything, interpersonal violence increased at much the same point in time as the prison population.

Moreover, harsher penalties have never been shown to have a deterrent effect on behaviour or a positive outcome in respect of public safety. Certainly, a term of imprisonment incapacitates an offender. But there is a significant amount of research indicating that harsher sentences lead to an increase in the rate of further offences and reduce the chances of rehabilitation.

What does deter crime is the certainty of prosecution. Sadly, we are not doing so well on that score. In 2000, for example, when violent crime was near its peak, 610,000 of the 2.6 million crimes recorded by the South African Police Service were referred to the National Prosecuting Authority (NPA) for prosecution. The NPA took on only 271,000 of those matters, which then resulted in 210,000 convictions. So although the NPA were able to secure an impressive number of guilty verdicts, these convictions amounted to only 8% of the crimes recorded.

The third factor is the socio-economic consequences of imprisonment. In addition to the obvious economic consequences of losing a breadwinner, there are a number of profoundly worrying outcomes in respect of the minor children that have an incarcerated parent. There is now ample research from the United States indicating that excessively long sentences are the leading cause of family poverty, juvenile delinquency, poor academic performance and depression and mental illness.

Children in the United States with an incarcerated parent have an imprisonment rate six times that of children that do not. There is no reason to suspect that the figures would be any different in South Africa. Just like the United States, certain groups of people are over-represented in the prison population. For every white person in prison, for example, there are approximately 12 coloured people. This means that whole communities are and will remain plagued by the devastating consequences of incarceration.

Perhaps we're okay with this: a penal system that serves to mete out punishment at great expense to a select group of society and, in turn, perpetuates a cycle of deprivation and delinquency. But if we are, then we need to own up to it. There is simply too much information out there to ignore the effects of the penal system we have chosen. I use the word "chosen" loosely given the fact that our prison legislation suggests that we once imagined a prison environment founded on the right to dignity and thus the care and rehabilitation of offenders. How odd, then, that we cling to a sentencing regime that serves the single goal of retribution. **DM**

Overcrowding

Despite the legal and policy developments within the penal framework that have taken place since the advent of democracy, the conditions in South African prisons have remained poor, particularly in relation

to overcrowding. The latter is an obvious result of the crime and policing policy that dominated the criminal justice terrain during the latter part of the 1990s. The government's response to violent crime, both real and perceived, amounted to a surge in militarised police force.

Unfortunately, efforts to equip the courts and remand detention facilities were absent in the face of the inevitable rise in the number of people arrested and detained. The consequence, of course, was the flooding of an already over-burdened court system and poorly equipped prisons. In 1995 the prison population was just under 120 000, in 2002, it was approximately 190 000. From 2005 onwards the prison population tapered off somewhat, and, as of March 2012, is just under 160 000.

This means that South African, at 133% occupancy, is well below the somewhat startling figures representing the world's ten most overcrowded prisons (four of which belong to African countries). Averages can be misleading, however. The occupancy rates of individual prisons paint a far clearer picture of the conditions of detention to which inmates are subjected. The country's most overcrowded prisons range between 200% and 250% capacity.

Assault and Torture

Prison violence takes on a number of forms: riots, official-on-inmate assault or torture and inmate-on-inmate assault. And South African prisons are extremely violent institutions.

The number of complaints received by the Judicial Inspectorate over the years relating to incidents of assault has remained a significant percentage of the number of complaints in general. Moreover, in the last two years there have been several violent prison riots. It is perhaps no coincidence that the most recent reported incidents of prison violence occurred in some of the country's most overcrowded prisons. Importantly, with the coming into effect of the Prevention and Combating of Torture of Persons Act 13 of 2013 on 29 July 2013, incidents of official-on-inmate assault may well amount to acts of torture.

LHR has received many complaints from inmates that have been severely assaulted in prison. The PRP has undertaken to sue for damages sustained as a result of physical and psychological injury on their behalf as well as monitor the criminal prosecutions of the alleged perpetrators.

STATEMENT OF FINANCIAL POSITION AS AT 31 DECEMBER 2015 (ZAR)

ASSETS

Non-current Assets

Property, plant and equipment	13 000 000.00
Other financial assets	-
	13 000 000.00

Current Assets

Trade and other receivables	1 509 736.00
Cash and cash equivalents	95 659.00
	1 605 395.00
Total Assets	14 602 395

EQUITY AND LIABILITIES

Equity

Accumulated surplus	8 581 280.00

Liabilities

Non-Current Liabilities

Other Financial Liabilities	3 898 544.00

Current Liabilities

Trade and other payables	1 341 681.00
Other Financial liabilities	783 890.00
Total Liabilities	6 024 115.00

Total Equity and Liabilities	14 605 395.00

DETAILED INCOME STATEMENT

Income

Revenue

Funds Received	18 012 671.00

Other Income

Administration and Management Fees	501 000.00
Rental Income	2 669 527.00
Recoveries	606 194.00
Litigation income	2 444 802.00
Cafeteria sales	397 136.00
Other income	4 088.00
Interest received	84 491.00

Total Income	24 719 909.00

Expenses

Administration and Management Fees	501 000.00
Advertising	41 100.00
Auditors Remuneration	103 684.00
Bad Debts	149 627.00
Bank Charges	87 228.00
Capital Expenses	115 424.00
Cleaning	28 059.00
Computer Expenses	313 745.00
Consulting and Professional Fees	374 414.00
Consumables	304 613.00
Depreciation, amortisation and impairment	50 692.00
Documentary and Film	80 130.00
Employee costs	12 629 278.00
General office expenses	159 238.00
Insurance	168 938.00
Lease rentals on operating lease	1 605 753.00
Legal expenses	---
Litigation Expenses	2 169 824.00
Motor Vehicle Expenses	307 520.00
Municipal Expenses	594 657.00
Postage	102.00
Printing and Stationery	479 871.00
Promotions	66 531.00
Refunds to Donors	945 997.00
Repairs and Maintenance	590 981.00
Research and Development costs	18 212.00
Security	203 337.00
Subscriptions	124 733.00
Telephone and Fax	431 386.00

Training	62 679.00
Travel- Local	1 309 506.00
VAT not refunded	525 453.00
Workshop and meeting costs	399 732.00
Total Expenses	*24 943 442.00*
Operating (deficit) surplus	*(223 533.00)*
Finance Costs	*(609 012.00)*
(Deficit) surplus for the year	*(832 545.00)*

PROJECT FUNDING AND DONATIONS

PROJECT FUNDS	ADMIN FEES	DONATIONS
International Federation for Human Rights		230 565.00
International Organisation for Migration		734 768.00
Fastenopfer	53 000.00	958 496.00
Ford Foundation		2 358 058.00
Foundation for Human Rights		8 000.00
HIVOS	80 000.00	950 000.00
USA Bureau Population Refugees and Migration		579 030.00
University of Witwatersrand		450 000.00
Civil Society Development Fund	20 000.00	199 700.00
Legal Aid South Africa		42 105.00
Legal Resource Centre	25 000	500 000.00
Open Society Foundation	148 000	2 095 400.00
The Other Foundation		---
Common Wealth Foundation		599 078.00
Sigrid Rausing Trust	175 000	2 740 515.00
UN High Commissioner for Refugees		5 395 599.00
South African History Archives		60 968.00
Office Rent		501 000.00
Total Funds Received	*501 000*	*18 403 277.00*