LHR

LAWYERS FOR
HUMAN RIGHTS

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Laywers for Human Rights

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NATIONAL DIRECTOR'S MESSAGE

This year marks many important milestones – 20 years of democracy in South Africa and 50 years since the Rivonia treason trial took place. We are also celebrating the 35th anniversary of LHR.

This year marks many important milestones – 20 years of democracy in South Africa and 50 years since the Rivonia treason trial took place. We are also celebrating the 35th anniversary of LHR with our two sister organisations: the Legal Resources Centre and Centre for Applied Legal Studies.

We are fortunate to have a dedicated and diverse team of activist lawyers, paralegals and support staff that makes LHR an effective human rights watchdog.

Since re-launching the Penal Reform Programme, LHR has made significant progress in the protection of the rights of prisoners and detainees, with a special focus on overcrowding, independent oversight and sentencing reform. The programme builds on LHR's past work of detention monitoring and prison reform work.

Public interest litigation remains the focus of our work.

The Refugee and Migrant Rights Programme remains the largest legal service provider to refugees and asylum seekers in South Africa. The programme has had several noteworthy successes in court in the past year, including a case challenging the unlawful targeting of foreign-owned businesses in Limpopo by police (SAPS) as part of the controversial 'Operation Hardstick'. The legal victory ensured the right of foreign nationals to trade in that province.

We continue to attempt to get the Department of Home Affairs to adhere to a court order that the refugee reception office in Port Elizabeth be reopened.

Throughout our work with these reception offices, we receive innumerable complaints of rampant corruption. These complaints have led us to commission the African Centre for Migration & Society to formally research how widespread this corruption goes. The ACMS report will be released publicly in 2015.

The Strategic Litigation Programme spent a considerable amount of time and effort representing expert witnesses, Andrew Feinstein, Paul Holden and Hennie Van Vuuren before the Seriti Arms Procurement Commission into the controversial 1999 Arms Deal. Due to extreme difficulties and the commission's unwillingness to share crucial documentation needed for cross-examination. Our clients decided to withdraw from the commission.

LHR, representing the Southern Africa Litigation Centre (SALC) and Zimbabwe Exiles Forum (ZEF), earned a hard-fought legal battle in the so-called *Zimbabwe Torture Docket* case. The landmark case relates to evidence of crimes against humanity committed during a police raid on Movement for Democratic Change (MDC) Zimbabwe headquarters in 2007. The case was brought to determine South Africa's obligation under international and domestic law to ensure that those alleged to have committed crimes against humanity are held accountable. The Constitutional Court ruled that SAPS does, indeed, have an obligation to investigate.

We had a challenging experience opposing the deportation of Botswana national Edwin Samotse who faced the possibility of the death penalty if returned to his home country. Despite several urgent interventions, Home Affairs unlawfully deported Samotse.

Regional participation has become more and more important in LHR's strategic work. In Swaziland, which is host to an increasingly repressive political regime and diminishing judicial independence. LHR and SALC have been working with local organisations to aid the human rights lawyer Thulani Maseko and journalist Bheki Makhubu after their arrest and sentencing.

The pair had been sentenced under the Terrorism Act in relation to two newspaper articles that had appeared in *The Nation* criticising the Swazi judiciary.

This year, the Land and Housing Programme focused the majority of its efforts on post-judgment implementation, restitution, rural tenure, eviction and housing.

The biggest struggle in our work is often getting state authorities to adhere to court orders, as is the case with Schubart Park and the Bapsfontein community.

The challenge in restitution cases – as with the Makhuva and Mamahule communities – are competing claims which often require mediation. The involvement of the Land Claims Commission is a slow process which often stalls progress.

LHR has seen an alarming increase in the number of matters dealing with rural tenure security. Our focus remains on the development of jurisprudence that promotes tenure security for rural occupiers beyond the mere procedural formalities that appear to precede the inevitable order for eviction. We have several such matters before the courts including Grootkraal community and Kanana Village.

The extractive industry in South Africa has placed tremendous pressure on the environment and the poor communities who are often disproportionately affected by unsustainable mining operations.

LHR's Environmental Rights Programme this year focused on access to quality drinking water for communities. Often, mining activities pollute natural water reserves, putting surrounding communities at risk of serious health problems.

In the south of Gauteng, the re-mining of collapsed gold mine dumps from the 1950s has resulted in acid mine drainage in parts of Riverlea. LHR – in collaboration with the Centre for Environmental rights – has intervened. In Carolina, water quality remains a grave concern and efforts continue to remedy the situation.

In the North West, particularly Bloemhof, Biesiesvlei and Sannieshof, LHR is addressing the contamination of drinking water by sewage.
In Limpopo, LHR is representing the Mokopane community that has been largely ignored by the platinum mining giant Ivanplat Resources during prospecting in the area for what is argued to become the largest platinum mine in the world. A lack of meaningful consultation with the community spurred legal action and LHR is insisting that affected parties be consulted directly.

We extend our deep gratitude to our donors and colleagues in private practice who have given their time generously.

Jacob van Garderen
National Director

Meet the LHR team. LHR has offices in Johannesburg, Pretoria, Musina, Durban, Upington and Cape Town. In 2014 LHR had 51 employees.

REFUGEE AND MIGRANT RIGHTS PROGRAMME

The hopes of thousands of asylum seekers in South Africa were dashed by the closure of the Port Elizabeth Refugee Reception Office!

The space in which refugees and asylum seekers are able to exercise and access their rights is shrinking. Further restrictions on their ability to live independent lives with adequate access to socio-economic rights have an increasingly negative impact on their broader right to dignity and self-determination. Blatant disregard for court orders is also a serious threat to the rule of law – an essential tenet of a Constitutional democracy. This disregard has been seen in numerous cases, including LHR's Port Elizabeth Refugee Reception Office (RRO) closure litigation and a statelessness case in which the Home Affairs Minister had to be declared in personal contempt of court before he complied with an order to issue a decision.

Further immigration restrictions were introduced in 2014 and changes to the refugee status determination procedure are looming, which will further limit the right to apply for asylum in South Africa. In addition, severe limitations on detainees' rights to access legal counsellors have become a disturbing trend.

The Department of Home Affairs has introduced several changes to South Africa's immigration regulations which came into effect on 26 May 2014.

There has been a widespread outcry and opposition against several of these changes including:

LIFE PARTNER/SPOUSAL VISA

A mandatory requirement for this visa is that spouses or life partners have been together for at least two years before applying. They will need to attend an interview "on the same date and time to determine the authenticity of the existence of their relationship".

VISITOR'S/TEMPORARY VISA

The application has been changed from 60 days to 30 days before the expiration of the current visa. The new regulation also means the person cannot apply for a change of conditions of the visa or extension from within the territory. That means they would need to return to their own country or residence to do this.

WORK VISA

These visas will only be valid for three years at a time and businesses will have to get a recommendation letter from the Department of Trade and Industry confirming compliance with labour standards.

CRITICAL/EXCEPTIONAL SKILLS VISA

Exceptional skills permits have been repealed. However, a list of critical skills has not been released.

TRAVELLING WITH CHILDREN

Those travelling with children will now need to be in possession of an unabridged birth certificate and a consent affidavit from the parent or parents of the child authorizing the person to travel with them.

FINES

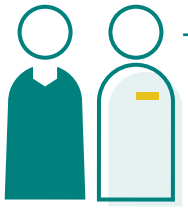
There has been a huge increase in the fines issues to those overstaying their visas. They also face an entry ban for one, two or five years.

Xenophobia continues to threaten independent and safe livelihoods. Coupled with prevailing xenophobic environments within host communities that have proven to be a serious threat to the realisation of meaningful integration, there have also been a number of unhelpful comments made by political leaders in the media. Those in leadership positions wield immense power in shaping public perceptions and attitudes toward refugees and asylum seekers and have a duty for responsible media engagement and statements that are unambiguously inclusive.

Although spiking in 2008, xenophobia prevails as a daily reality for many people. Despite the numerous recommendations about education and local integration strategies issued by the South African Human Rights Commission in 2010 in response to the violence, we haven't seen much implementation and adherence to these suggestions by local or provincial government. This means community integration and the safe hosting of refugees remain elusive, with eruptions of xenophobic violence being dealt with on an *ad hoc* basis by government.

LHR reacted to new legal restrictions through various strategic interventions, including litigation, advocacy and community engagement and training.

LHR has seen a disturbing limitation in legal access to detainees at the Lindela Repatriation Centre in Krugersdorp. In previous years, LHR had enjoyed nearly unfettered access to consult with clients in Lindela but 2014 saw a myriad of bureaucratic restrictions being imposed on legal practitioners that resulted in a reduction of assisted clients from an average of 340 a year to about 160. This drastic reduction results in a serious impediment to our ability to monitor and oversee detention conditions, to provide meaningful legal interventions to detained persons and to continue to pressure authorities to follow lawful detention practices. We have also seen a continuation of a limitation of detainees' rights to adequate health care in detention, impermissibly long detentions and a lack of rights' awareness. In response to this, LHR continued to bring high court applications for the release of unlawfully detained people and was actively involved in the process of



LHR's interventions on protecting refugees following outbreaks of xenophobia:

- Assisting refugees to obtain social relief of distress grants
- Assisting with reporting matters to the SAPS
- Liaising with the Department of Social Development for social assistance
- Referring refugees to partner organisations for housing, clothing and food
- Reporting of xenophobic attacks to the UNHCR, South African Human Rights Commission and the media
- Compiling a file of reported xenophobic incidents
- Screening clients for protection needs arising out of their experiences with xenophobic attacks and where appropriate, sending them for resettlement assessment with the UNHCR

the drafting of the South African Human Rights Commission baseline report that addressed these concerns and made recommendations, that LHR is in the process of ensuring are implemented.

Severe limitations of immigration options for migrants have begun to be introduced with documentation solutions being curtailed and administrative hurdles being increased. In the context of refugee protection, proposed amendments to the form used for Refugee Status Determination (RSD) also bring the process dangerously close to a quasi-visa application and seek to import many irrelevant factors into the RSD process. There should remain a separation between refugee status determination procedures and immigration procedures, and the proposed form blurs the line between procedures. LHR has made submissions on these amendments and will continue to monitor (and oppose) the progress of their implementation in 2015. The biggest concern is an apparent sway towards "desirable refugee" characteristics which are not appropriate and do not reflect the principles of refugee protection embodied in international law and our own domestic legislation.

Rights protection continues to be hampered by the Department of Home Affairs' insistence on closing South Africa's urban refugee reception offices, leaving only Pretoria, Musina and Durban as operational with Cape Town operating but not accepting new applications. This has overloaded the remaining Refugee Reception Offices (RROs) to bursting and restricted the rights of asylum seekers and refugees to move around freely since they are confined to such limited spaces for permit renewal and documentation processing. Home Affairs has failed to comply with court orders addressing the closures and LHR recently argued against their appeal of the Port Elizabeth closure case in the Constitutional Court.

LHR has observed ongoing limitations in accessing health care and education. These challenges were addressed through strategic litigation (such as the separated children's case that dealt with the right to education and documentation of separated children and an application to secure life-saving heart surgery for an undocumented Somali child) and advocacy initiatives such as the gathering of information (in conjunction with the African Centre for Migration & Society and the Migrant Health Forum) about abuses in the health care sector.

Liaising with stakeholders such as the South African Human Rights Commission (SAHRC), the United Nations High Commissioner for Refugees (UNHCR), International Organisation on Migration (IOM), Doctors Without Borders, the International Detention Coalition, the International Association of Refugee Law Judges and others has increased the regional impact of LHR's work and strengthened advocacy networks. Community training and interaction has been an integral part of LHR's work and has been a key tool in community self-empowerment for independent rights enforcement, case theme identification and education.

LHR continues to rigorously defend the rights of our clients in an environment in which the restriction of rights sees no sign of letting up. We foresee that the space for rights implementation and realisation will continue to shrink and heed this as a call to implement all strategies necessary to ensure that the Constitution does not remain a document reserved for South African citizens and that its spirit and intentions are realised meaningfully for asylum seekers, refugees and stateless people.

AREAS OF FOCUS

Access to health care

Through community interaction, LHR became aware of some egregious violations of human rights in the health care sector. LHR received complaints of migrant women being abused and insulted while giving birth and told to "stop having so many babies in our country". As a result of this, LHR in conjunction with the Johannesburg Migrant Health Forum (MHF), became instrumental in a drive to document the extent of the problem.

In Musina, LHR continued to play an active role in the MHF, the Thutuzela Care Centre and the SAPS Victim Empowerment Unit. In addition to these measures, LHR also engaged in litigation dealing with access to health care.

LHR brought an urgent application to secure urgent heart surgery for a 12 year old Somali child, reinforcing the legal principle that a proper reading of Section 27 of the Constitution means that emergency medical health care cannot be denied to a patient on the basis of documentation, especially when in such urgent need.

The case was identified by the Somali community, who brought the desperately ill child to LHR's offices. It emerged that she was suffering from a heart condition that necessitated urgent surgery. Steve Biko Academic Hospital refused to perform the surgery unless she paid an exorbitant admission fee. LHR submitted, in urgent court papers, that this failed to address the fact that everyone (regardless of nationality or immigration status) is entitled to emergency medical care in terms of the Constitution. The court agreed and an order was made that she receive surgery. She is now living a healthy life in South Africa.

SOMALI GIRL TO GET HEART TRANSPLANT

Pretoria News, 19 July 2014

All the 12-year-old girl had was her widowed mother's last money and her hope that she would find safety in South Africa beyond war-torn Mogadishu.

For over 4 000km, crossing several countries, the child travelled alone, by bus, in a harrowing journey that stretched for 10 long days until she reached Pretoria.

All the way to her new life, her heart was giving in.

When she arrived in Pretoria, her reunion with her brother, who fled the unrest last year, was brief.

A day after they embraced, she collapsed, her heart again failing her.

Her brother rushed her to Kalafong Hospital in Atteridgeville where doctors diagnosed a heart condition. But they could not mend her heart valve.

Doctors at Kalafong told her brother they could not operate on her, so they admitted her to Steve Biko Academic Hospital. But they refused to admit her – unless she produced the necessary documentation – or paid a R250 000 deposit.

And so, they sent her back to Kalafong to die.

Eventually, her heart was beating so vigorously, you could be see it outside her chest. Painfully thin, she cannot sit up or talk. Her eyes are glazed and yellow, her body ridden with jaundice. "She is just skin and bone and vomit," her brother said in his earlier court papers.

He had heard of Lawyers for Human Rights, and in his desperation, approached Patricia Erasmus at their Pretoria office.

"When I went to see the child in hospital, she was very weak. She really was not doing well," she said.

And in a victory for gravely ill undocumented minors, Erasmus and her team have ensured that the Steve Biko Academic Hospital has admitted her to its paediatric cardiology unit for assessment and treatment.

"It's one of the happiest days of my life," her brother said on Friday.

On Thursday night, on the eve of the court order, the Health Department agreed to settle the matter and the terms of the lengthy settlement was made an order of court.

"She will now be treated like any South African citizen. She will first be assessed by the cardiologist. At the moment she is very weak and fragile ... but the point is she will get the treatment like any citizen, her documentation is no longer a barrier to treatment."

The siblings cannot be named as the girl is a minor.

The health authorities did not file any papers opposing the application or deliver any argument to court. North Gauteng High Court Judge Johan Louw was told the child was in no condition to undergo surgery and would in any event have to wait her turn as there were about 47 other children on the hospital's waiting list needing similar operations.

"For now I just want my sister to get better and am happy that there is hope for her. She has been in hospital for 15 days and her condition is critical. She is thin and it is clear her life is in danger if she does not get help," her brother said.

A concerned Judge Louw was given the reassurance that the child would receive the operation as soon as it was possible.

Steve Biko has now denied the girl was earlier refused admission or that the hospital required a R250 000 deposit and has launched its own investigation.

"Look, the amount was excessive and prohibitive for them accessing the right to emergency health care. There were indications from all the respondents that the amount was too high. They deny they ever asked for money, which is untrue."

Gauteng Health Department spokesperson Prince Hamnca was unavailable for further comment on Friday.

Immediately after the order was granted, her brother visited his sister in hospital.

"She is now between life and death," her cousin said. "We are just happy that she is able to have the operation now, but we know it could take some time."

In another case, an Ethiopian man was brought to LHR's offices in the final stages of kidney failure. He had been denied both dialysis and placement on the kidney transplant list purely based on his nationality. Although the case was immediately launched, the man died before it could be heard. If the case had continued, LHR would have petitioned the court to order that the Minister of Health must allow non-citizens to be placed onto the chronic renal kidney programme if urgently ill. As it stands, non-citizens and non-permanent residents are excluded from both transplants and dialysis treatment.

LHR intends to address this policy in 2015.

LHR's submissions on proposed changes to Refugees Act regulations

LHR has made submissions to Parliament on proposed amendments to the official forms used in the refugee status determination process. Key concerns relate to the form being under oath – therefore causing a client to commit perjury if his version is not properly translated – certain "desirable refugee characteristics" being asked for (such as education levels, income levels etc.), gross violations of privacy in asking for banking details, permission to choose the gender of an interviewer only being given to women and minors (excluding men) and a lumping together of arrests for genuine crimes and arrests as part of persecution, among others.

LHR also made submissions on the tightening of immigration options. Increased administrative hurdles (such as being forced to apply for visas outside of South Africa) have shrunk the space in which people are able to legitimately document themselves.

Access to education for separated children

It is a well-established principle that the rights in the Bill of Rights (including the right to access education) are wholly applicable to foreign children. Problems in the asylum process such as backlogs, delays, corruption and inadequate determination processes often leave these children undocumented and unable to access basic rights.

Separated minors are defined as those separated from both parents or legal caregivers but not necessarily from other relatives, often aunts and uncles.

LHR's work in this area has sought to demonstrate that these rights are enforceable through litigation since the court is considered to be the upper guardian of minor children and the best interests of the child should be paramount (Section 28 of the Constitution).

Brought in conjunction with the Centre for Child Law at the University of Pretoria the case dealt with the fact that undocumented refugee and asylum seeker children could not access schooling without documentation and schools were even being fined by the Department of Education if such learners were admitted. Also, children classified as "separated" could not apply for refugee status as a dependent of their de facto caregiver. Neither the Children's nor Refugees Acts adequately dealt with documenting this vulnerable group of children – leaving them in a legal lacuna and susceptible to exploitation and unable to access services.

In 2013, LHR obtained an interim judgment after challenging the Departments of Education and Home Affairs on their failure to accept separated children into schools. Since then we have experienced fewer problems with school enrolment for asylum seeker and refugee children. The interim order compelled the Department of Education to admit these children into schools and mandated the Department to amend its admissions policy to specifically make mention of asylum seekers and refugees as a group to receive admission to state schools. To date the Department has not complied. LHR will be in court in 2015 for the final hearing.

REFUGEE DIES BEFORE COURT CHALLENGE

Pretoria News, 25 November 2014

Potentially life-saving treatment came too late for a 27-year-old Ethiopian refugee to South Africa, who was due to ask the high court on Tuesday to force health authorities to give him dialysis.

Badesa Fokora died shortly before Lawyers for Human Rights (LHR) could fight the system on his behalf.

Fokora had been refused dialysis at the Helen Joseph Hospital – he did not qualify for a kidney transplant because he was a foreign national.

As a result he left the hospital and residents took him to the LHR office. "When he came here he was not even able to leave the car and he eventually collapsed," said David Cote, of LHR. He was rushed to the Kalafong Hospital but died soon after.

Fokora was in South Africa on a valid refugee permit and healthy while he worked here as a shopkeeper. He fell ill about a month ago and residents took him to the Helen Joseph Hospital, where he was diagnosed with double kidney failure.

He was classified as an emergency patient and doctors agreed he urgently needed to be placed on to the chronic treatment programme to survive. This involved dialysis and an organ transplant. But the doctors said he could not be placed on the programme as he was not a South African citizen. The hospital confirmed his condition was life threatening, but said due to the National Health Act, it could simply not help him as the programme was not available to foreign nationals.

LHR had planned to challenge this decision and compel the health minister to exercise his discretion to have Fokora placed on treatment.

LHR, watchdog for the vulnerable, also planned on challenging the exclusion of refugees from medical treatment.

In court papers drawn up before Fokora's death and with the aim of convincing the court to order his treatment, it was said that his health was deteriorating by the hour and that death was imminent if he did not urgently get help.

LHR stated that it was only policy that stood between Fokora and life-saving treatment. They were due to argue on Tuesday that the policy which prevents refugees from being placed on the chronic renal treatment programme, was unconstitutional. This argument included that refugees mainly fled their countries of origin and could not go back if they needed life-saving treatment. LHR said it also violated the right to life for all as enshrined in the Constitution. "LHR is disappointed that a young man has died under preventable circumstances. The National Health Act is clear that the minister has a discretion to order chronic renal treatment to foreign nationals.

The manner in which the (health) department has treated Mr Fokora is a gross and unjustifiable violation of his rights to health care, dignity and life," said LHR lawyer Patricia Erasmus.

Human rights abuses, corruption and closures of refugee reception offices

In 2014, LHR observed and documented serious and widespread violations of human rights at South Africa's refugee reception offices, including whippings with sjamboks, beatings with batons, degrading practices of forcing applicants to sit on the floor and kicking or beating their knees when they jut out past a certain line and xenophobic abusive utterances). In one case, an asylum seeker was beaten so badly by Home Affairs security personnel that medics initially believed he was dead when they arrived.

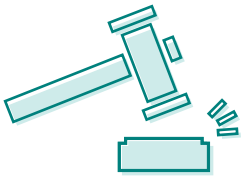
These concerns were documented and sent to the previous and current ministers of Home Affairs who, despite follow up letters, failed to respond substantively to the concerns raised. The end of 2014 saw the introduction of a new operations manager and some changes on the ground, which LHR continues to optimistically monitor.

Corruption

For several years LHR has received consistent allegations of corruption at RROs. As a result, LHR – in partnership with ACMS – began collecting data from surveys outside the RROs in an attempt to document people's experiences. Data was collected by interns/volunteers and focused on the prevalence of corruption at RROs around the country. Approximately 200 people were interviewed at each RRO in TIRRO, Marabastad, Musina, Cape Town and Durban. A comprehensive report will be launched in early 2015 and will set the scene for meaningful lobbying, dialogue and solution finding with Home Affairs and stakeholders.

Closure of refugee reception offices

LHR remains concerned by the incoherent policy of Home Affairs regarding the closure and relocation of RROs to border areas. Despite large numbers of people entering South Africa to apply for asylum (due to increased instability in the region, among other factors), Home Affairs has remained resolute in the closures that have created an impossible situation of overcrowding and bottle-necking at the few remaining offices. This creates an environment where status determination procedures take unacceptably long to process, corruption flourishes and people's right to freedom of movement is infringed as they are forced to travel to the few remaining offices repeatedly regardless of whether they work or live.



The closure of the Port Elizabeth RRO was challenged by LHR in the Supreme Court of Appeal with judgment expected in 2015.

The right to work

The Limpopo traders' case concerned the unlawful closure of refugee and asylum seeker traders' informal businesses by the police in Limpopo. The challenge came in light of the right to work and trade as refugees and asylum seekers in South Africa. LHR represented both the Somali Association of South Africa and the Ethiopian Community of South Africa to challenge the forced closure of informal businesses as well as the non-issuance of trading licenses to refugees and asylum seekers.

In 2013 the high court dismissed the application and on appeal to the SCA, the decision was set aside with a declaration of our clients' rights to apply for business licenses and to operate businesses. The court confirmed that refugees and asylum seekers had the right to work and the right to be self-employed.

This judgment is important because it reaffirmed the essential link between the right to trade and the right to

dignity. It will go a long way in confirming and facilitating the productive role refugees and asylum seekers play within the host community of an urban refugee model and encourages both social and economic independence. The judgment confirmed that asylum seekers and refugees have the right to live and trade among South Africans and should not be unfairly discriminated against by the authorities as they try to establish independent livelihoods in their host communities.

The Gauteng City-Region Observatory, a research institution charged with building a knowledge base for the government and others, released data from its 2013 Quality of Life survey which interviewed 27 490 people in the province. Of this number, 1 979 owned businesses in the informal sector.

It went a long way in dispelling the myth that the informal sector was dominated by migrants.

The survey revealed that:

18% FOREIGN-BORN

Of this number, 82% had been born in Gauteng or migrated to the province from elsewhere in South Africa. Only 18% were foreign-born.

FOREIGN-OWNERS **EMPLOY LOCALS**

Of the 628 foreign traders interviewed in the City of Johannesburg, 263 provided 1 223 jobs (of which 503 went to South Africans) compared to 323 local traders that created 275 jobs. This means foreign-owned businesses are twice as likely to employ people in the informal sector as businesses owned by South Africans.

Visit www.gcro.ac.za for more information

28% PAY RENT TO LOCALS

28% of foreign business owners paid rent to South Africans.

44% USE SA WHOLESALERS

44% of foreign-owned businesses used South African wholesalers to buy stock and 27% used factories.

Access to documentation for Zimbabwean nationals

In 2010 Home Affairs took a decision to regularise the status of Zimbabweans in the country when it made the Special Dispensation Permit (DZP) available. In 2014 Home Affairs announced that new permits – the Zimbabwe Special Permits (ZSP) – would be available only to those persons who had applied for the 2010 permit.

LHR and the Zimbabwe Exiles Forum assisted Zimbabwean applicants to lodge online applications for these permits and assisted to resolve problem cases.

The project was rolled out in all LHR offices and clients were assisted with online applications, general advice, liaison with Home Affairs and preparation of documentation.

LHR helped 5 196 Zimbabwean nationals apply for the regularisation of their status.

On 12 August 2014, the Department of Home Affairs announced the Zimbabwean Special Dispensation Permit (ZSP).

242 731 of 294 511

HOME AFFAIRS APPROVED 242 731 APPLCIATIONS FOR DZP. THE OTHER 51 780 WERE EITHER REJECTED OR NOT FINALISED.

- The application process was made available to existing holders of the Dispensation of Zimbabweans Project (DZP) that was introduced in 2010 to regularise the stay of Zimbabweans in South Africa.
- Home Affairs received 294 511 applications for the DZP and approved 242 731 with 51 780 either rejected or not finalised.
- The ZSP makes it possible to remain in South Africa once the original DZP expired at the end of 2014.

DETENTION MONITORING UNIT

Since South Africa operates an urban refugee model and does not confine refugees to camps, the right to freedom of movement is one of the most fundamental rights a refugee enjoys in South Africa.

Unlawful detention practices place this right under threat and LHR used litigation as a tool to aggressively protect the right to freedom of movement and the right to freedom and security of the person through LHR's Detention Monitoring Unit.

Detained before applying for asylum

JB fled persecution in the Democratic Republic of Congo and came to South Africa in April 2014. While en route to Gauteng, police arrested him despite his pleas to be allowed to apply for asylum and he was transferred to Lindela in preparation for deportation. It was only after LHR launched an urgent application that Home Affairs agreed to release him.

DA, a national of Ethiopia, was arrested as an illegal immigrant in December 2013 and equally, he was not allowed opportunity to apply for asylum. Unlike the JB, however, he was released soon through negotiating with Home Affairs.

Stateless detainees held beyond statutory limit of 120 days

MF, originally from the Cape Verde, was arrested in Cape Town and transferred to Lindela where he spent more than 120 days contrary to the provisions of the Immigration Act. Home Affairs claimed this was because his nationality could not be confirmed as the Cape Verde does not have an embassy in South Africa and he could not just be released as he would become untraceable. He was only released after a legal intervention.

Born in Sudan, *RJ's* parents fled with him to escape war when he was three years old, settling in Kenya. Both the Kenyan and Sudanese embassies rejected him as their national as he had no documentary proof of his identity. LHR launched an urgent application for his release when Home Affairs failed to comply with demands for his release. The court ordered his immediate release, with the provision that LHR should assist him in filing an application for permanent residence.

Arrested after expiry of asylum permit

SM, from the Democratic Republic of Congo, applied for asylum at the Durban refugee reception office but subsequently moved to Cape Town. When his permit expired he approached the Cape Town RRO and was allowed to renew it once. However, when he tried to renew it the next time, the Cape Town RRO advised him to return to Durban to renew his permit. He later moved to Kimberly where he fell ill with TB and was hospitalised and treated for a considerable period of time. After recovering, he returned to the Durban RRO where officials refused to renew his permit unless he paid a fine. He then relocated to Musina where he was arrested as an illegal immigrant. He spent days in the Musina Police Station before being transferred to

Lindela for deportation. He was released after LHR sent a letter of demand.

Report on conditions of detention at Lindela

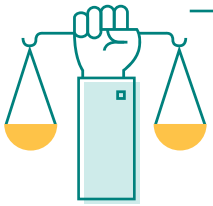
The South African Human Rights Commission has finalised their baseline report into detention conditions in the Lindela Repatriation Centre.

The report, the finalisation of which LHR was instrumental in, makes findings and recommendations about health care conditions in Lindela, access to legal assistance and rights awareness. It also condemns unlawful detention practices.

The timelines for Home Affairs to comply with the recommendations have lapsed and meetings in 2015 are hoped to put the recommendations into meaningful practice.

The report found, among other things, unlawful detention practices in Lindela (detentions beyond the permissible statutory time period, detentions of people who are either validly documented or newcomer asylum seekers and detention of stateless people), the need for improved access to health care within Lindela and a greater rights' awareness among detainees.

LHR called for a return of unfettered access to Lindela for stakeholders and legal service providers and will draft and propose a protocol to this effect. LHR identified a need for an independent oversight body to monitor compliance and respect for human rights in Lindela.



On 18 September 2014, the South African Human Rights Commission released a report following a two-year investigation into severe, ongoing human rights abuses at the Lindela Repatriation Centre.

The investigation was initiated as a result of a joint complaint lodged in 2012 by Doctors Without Borders, SECTION27, Lawyers for Human Rights and People Against Suffering Oppression and Poverty.

It made damning findings against the Department of Home Affairs, the Department of Health, Bosasa Operations, the South African Police Service and the Department of International Relations and Cooperation.

The results included:

- Almost three quarters of respondents reported not being notified of their rights upon being detained
- The majority of respondents were not aware of their right to appeal their deportation
- 43 respondents had been in Lindela for over 30 days
- 9 respondents had been in Lindela for over 120 days
- 26 respondents reported being released from Lindela and being immediately rearrested
- Police injured 17 respondents when arresting them
- 19 respondents reported experiencing violence at Lindela, the majority of cases involved security guards
- The lawful length of time between meals is four and a half hours, respondents reported 15 to 21 hours
- High numbers did not have access to or had to purchase basic personal hygiene items
- Of the 13 respondents who reported being on chronic medication, 10 reported being unable to access their medication
- 50 respondents were unaware of their HIV status
- Only 5 respondents had been tested for TB

STATELESSNESS PROJECT

Statelessness and the denial of citizenship is a serious human rights violation. Recognition of nationality serves as a key to a host of other rights.

As a result, stateless individuals are often unable to access basic human rights, including education, health care, employment, equality, liberty and security of person. Denial of citizenship also frustrates peace and has resulted in violence and armed conflict in several African nations. However, the problem of statelessness has remained largely invisible. Limited mechanisms exist under South African law and policy to assess, prevent and reduce statelessness. At the same time, there is an absence of information or statistics about the magnitude of the problem.

A stateless person is someone whose nationality is not recognised by any country and is therefore living as a "legal ghost", unable to access basic services or any form of legal protection. LHR recognises that a person's right to nationality is the gateway to accessing all other rights and therefore seeks to protect the rights of stateless people through impact litigation done by the statelessness unit.

- In one case, a minor child – born in South Africa – was denied citizenship in South Africa or any country in the world. The case sought to enforce section 2(2) of the Citizenship Act which grants citizenship by birth to children born on the territory who would otherwise be stateless. The court declared the client's right to South African citizenship and ordered the Home Affairs Minister to write a regulation making provision for an application process for this section.

- Eritrea and Ethiopia have both performed mass expulsions of mixed heritage persons. LHR's client has an Eritrean mother and an Ethiopian father. LHR was successful in a review of the decision to reject her asylum claim as manifestly unfounded. Her claim was based on the fact that she was stateless. If returned to Ethiopia or Eritrea, she would have been persecuted as a result of her lack of nationality. The high court substituted SCRA's decision to reject her claim and recognised her right as a refugee.

- Frederik Ngubane was born in South Africa and, being born to South African parents, was entitled to South African citizenship. Due to his parents' migration and deaths during his childhood, he had no proof of his place of birth or the identity of his parents. At the age of 12, his mother was murdered in Kenya and he was left to fend for himself and find his way back to South Africa. He was unable to prove his claim to South African citizenship and applied for permanent residence under "special circumstances". LHR was successful in obtaining an order to compel the Minister to take a decision on his exemption application. After this order, as well as an order declaring the minister in contempt of a court order, he finally made a decision on Ngubane's case after two years. His application was rejected but this opened the door for us to launch an application for review of the decision to reject him in December 2014.

- LHR assisted a South African citizen who was arbitrarily deprived of her citizenship through an unlawful arrest, detention and deportation to Zimbabwe, rendering her stateless. The matter has been heard in urgent court and will be finalised in 2015. The client has a minor child in South Africa. Her other child is attending university but is also a dependent. This case speaks to the heart of the effect that deprivation of citizenship has on the right to dignity, freedom of movement, liberty and family unity.

SA ADOPTS STATELESS BABY

The Times, 8 July 2014

After a six-year legal battle, a girl born in South Africa to Cuban parents has a country she can call home.

Yesterday, the girl's mother said she was able to sleep again after the Pretoria High Court last week ruled that her daughter was a South African citizen, and that the Department of Home Affairs had acted unlawfully by not registering her as such.

The Cape Town family – with the help of nonprofit organisation Lawyers for Human Rights – went to court after both South Africa and Cuba refused the child citizenship.

In 2008, when the child was born in Cape Town, the Department of Home Affairs issued a birth certificate but not an identity number because her parents did not have permanent residency at the time.

Cuba also refused to recognise the child because her parents had been absent from their home country for more than 11 months.

Without an identity number, the parents could not obtain a passport on which the girl could travel to meet her family in Cuba, and her parents could not look for jobs in other countries unless they left her in South Africa.

"We were stuck here in South Africa," the child's mother said. "I lost several job opportunities overseas. Her father lost a job opportunity in Brazil."

The lack of an ID also made the child vulnerable. "I was not able to prove who my daughter was without a DNA test," the mother said.

In its ruling, the court ordered the Department of Home Affairs to enter the girl's name in the national population register, issue her with a South African identity document and re-issue her birth certificate with an identity number.

The court further ordered that a regulation be made under the SA Citizenship Act to ensure that other families do not have to go through a similar nightmare. Lawyers for Human Rights argued that the

department was violating the child's constitutional right to "a name and nationality from birth".

"The violation of her rights will only increase as she becomes older and tries to write her matric, apply to university, open a bank account and access a range of other social services and rights," the organisation said in a letter to the department.

In its reply, the department said the child qualified to be issued with a permit for permanent residence, but the parents were demanding that she receive citizenship.

The department opposed the court application but failed to file an opposing affidavit.

The girl's mother said she was relieved that her child had a home.

"I feel that justice has been done at last; no child should be exposed to the condition of being stateless. It goes against human rights.

"My child, like anyone else, has the right to citizenship at birth, to have a homeland."

MENTAL HEALTH PROJECT

The xenophobic attacks, in particular against Somali and Ethiopian shop owners in the townships, continued in 2014.

As a consequence, the number of clients traumatised by the violence and depressed by the losses of relatives and livelihoods has increased dramatically.

As a result of capacity-building workshops, the project has become familiar among migrant communities who have begun referring LHR to clients facing psycho-social challenges and needing dedicated legal assistance. This is also experienced with health care providers like the Weskoppies Mental Health Institution who frequently call on LHR for legal advice, training and interventions.

The project continued a close working relationship with the Centre for the Study of Violence and Reconciliation who offered on-site psychological counseling and support to clients. The goal of the project is to address the client holistically and to study and take into account the effect trauma has on the veracity of legal evidence, coping skills and memory.

Picture taken outside Marabastad Refugee Reception Office in Pretoria. A lot of non-nationals travel long distances to this office to try get their documentation sorted.

STRATEGIC LITIGATION PROGRAMME

LHR has expanded its use of public interest litigation over the past 10 years and is recognised as one of South Africa's leading public interest litigation organisations

In the past year, LHR has continued its work in the field of regional litigation and embarked on new cases in neighbouring countries. This has been a natural flow from our work in South Africa to assist victims of human rights abuses in the region in seeking protection in South Africa (through the asylum system) and using our courts to seek redress for those abuses.

Regional litigation has allowed LHR to reconnect with many of the partner organisations with whom we have had long-standing ties and associations to assist with human rights defenders in our region and to strategise for the protection of activists.

The Strategic Litigation Programme has a dual mandate, bringing its own court cases while offering guidance to LHR's other programmes.

Strategic litigation has been at the forefront of LHR's work to ensure that constitutional rights are promoted and protected. This tool has proven itself vital in clarifying the law and providing a public arena in which to highlight particular problems which communities face in enforcing their rights under the Constitution.

Another issue is moulding public interest litigation amid increasing barriers to accessing rights. These barriers include an increasingly difficult navigation around strict rigid application court rules, making it difficult to bring matters to court, a lack of compliance with court orders and the increasing use of tools of coercion in order to prevent access to socio-economic rights, such as the right to fair labour practices, protection against unlawful evictions and access to land which is the subject of prospecting or mining rights. Some of these coercive tools are the use of the criminal law to prevent protest (criminal charges under the Gatherings Act), police actions closing formal and informal refugee traders, continued use of alternative methods of evictions such as disaster zone declarations, "emergency evacuations" and a failure to take urban migration into municipal spatial planning schemes. Another tool of coercion has been the use of interdicts to prevent land owners and occupiers from exercising land uses on land which is the subject of a prospecting or mining right.

LHR endeavours to take on cases which have a wide precedent-setting value in order to ensure the widest possible effect of particular cases.

LHR also takes advantage of the wide standing provisions in South Africa's Constitution in order to bring matters in its own name where it is in the public interest to do so. This has included areas where LHR has a particular expertise, such as refugee law or the law or immigration detention law, and in urgent situations where a client is unable to approach a court in his or her own name.

We are also very active in *amicus curiae* or friend of the court submissions. This is a unique opportunity where LHR is not a party to the proceedings but has insight or information that would be useful to a court's determination of issues. LHR has made submissions as *amicus* in cases relating to cost orders in public interest litigation, immigration detention, correcting discriminatory spatial planning and gender equality.

LHR has expanded its use of public interest litigation over the past 10 years and is recognised as one of South Africa's leading public interest litigation organisations. We have assisted other organisations with preparing public interest cases and have been referred to numerous times by the Constitutional Court.

Public interest judgments play an extremely important role in the creation of jurisprudence and clarity in the law but it is most effective when it is an integral part of a wider social movement or community mobilisation project, community engagement and public advocacy.

AREAS OF FOCUS

The Arms Procurement Commission

The Arms Procurement Commission was hoped to bring answers and justice for the perpetual allegations of bribery and wrongdoing in the controversial 1999 Arms Deal. Our experiences and those of our clients who were to be called as expert witnesses were marred by insurmountable challenges and inconsistent application of the rules of engagement. At nearly every instance we were refused access to witness statements until the day before – or day of – their appearance before the commission. This made it difficult, if not impossible, to prepare for effective cross-examination.

Our clients, Andrew Feinstein, Hennie van Vuuren and Paul Holden, held a press conference in March detailing the difficulties they had experienced in accessing documents and cross-examining witnesses, not to mention needing access to documents that would allow them to properly prepare for their own testimony in what would be the next phase of the Commission's work.

In June 2014, a number of high profile witnesses, including former cabinet members such as Trevor Manuel and Thabo Mbeki were called. We cross-examined without the totality of the documents that should have been made available by the Commission. In the end, those witnesses were of little assistance to revealing the truths behind the deal. In fact, former President Thabo Mbeki submitted a mere four-page statement.

By August, it became increasingly clear that the Commission was not going to cooperate with our clients by providing access to scores of warehoused documents that, as evidence leaders and the secretariat admitted, were not even properly paginated or indexed. This was compounded by the widely publicized resignation of a number of evidence leaders, including two who accused the Commission of trying to sideline them in the investigation. It was soon after this that our clients decided to withdraw all participation from the Commission and held a media briefing to explain their reasons, including a lack of access to documents as well as the fundamental unfairness that this would bring without our clients being able to properly prepare themselves.

On 20 October 2014, van Vuuren appeared before the Commission as required by a subpoena delivered on him where Advocate Geoff Budlender SC read out a statement on his behalf.

The Commission has been extended until April 2015 with its report due six months after that.

Suppression of freedom of expression and association in Swaziland

LHR is assisting, in partnership with the Southern African Litigation Centre (SALC), Maxwell Dlamini and Mario Masuku, two activists in Swaziland who were arrested under the Suppression of Terrorism Act.

Both men were charged with supporting a terrorist organisation and were accused of attending a rally and using slogans "Viva PUDEMO Viva" and "Phansi ngetinkudla phansi" (meaning "down with the courts"). PUDEMO, the main opposition party, has been listed as a terrorist organisation in Swaziland. Dlamini and Masuku have been kept in detention since March 2014 after they were arrested and denied bail.

LHR began assisting the pair in an effort to support 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.

The case must be seen in light of the continued threat to the rule of law in Swaziland by the Chief Justice who has allocated a judge to their case who has been implicated in protecting the government against any criticism. The Judge was also the presiding officer in Thulani Maseko and Bheki Makhubu's trial in which they were found guilty of contempt of court for writing a critical article about the Chief Justice.

SALC has been supporting a number of cases to challenge the Suppression of Terrorism Act and the Subversive Activities Act in the Swaziland High Court. The Terrorism Act is overly broad and violates the constitutional right to freedom of expression and association. These constitutional challenges have been set down for 2015.

Dlamini and Masuku's criminal trial, in the meantime, has been set down for February 2015.

Zimbabwe Torture Docket

In a ground-breaking judgment, the Constitutional Court ruled in LHR and SALC's favour that the South African Police Service must investigate crimes against humanity committed in Zimbabwe.

This case was heard by the Constitutional Court on 19 May 2014 after an appeal was lodged by the National Commissioner of Police of the SCA judgment requiring an investigation of the allegations.

This landmark case began in 2008 when SALC handed over a dossier of evidence of these crimes to the SAPS and National Prosecuting Authority (NPA). The evidence dealt specifically with a police raid on Movement for Democratic Change headquarters in 2007.

This ruling was the final step in a lengthy battle to compel South African authorities to abide their domestic and international obligation to investigate and, if necessary, prosecute those accused of crimes against humanity, including torture.

In May 2012, the North Gauteng High Court in Pretoria set aside the NPA and SAPS's decision not to initiate an investigation. The high court held that South African authorities had not acted in accordance with their legal obligations and ruled the decision unlawful.

SAPS had argued that for such crimes to be investigated, alleged perpetrators had to be physically present in South Africa – a ground that the Constitutional Court rejected, stating "the duty to uphold protection against torture travels beyond borders".

The NPA and SAPS took the matter on appeal and in November 2013 the SCA also held that SAPS, in particular, was empowered and required to investigate the crimes against humanity detailed in the dossier. SAPS alone appealed the judgment, taking this matter to the Constitutional Court.

In its judgment, the Court pointed out that South Africa has a duty to investigate when the country in which the crime occurs is either unwilling or unable to investigate. It concluded that it was unlikely that Zimbabwean authorities would investigate the crimes, thereby placing the duty on South Africa to step in this case.

Edwin Samotse

In August 2014, LHR was informed by two lawyers from Legal Aid South Africa (LASA) of the unlawful deportation of Edwin Samotse, a Botswana national charged with murder in that country and facing the possibility of the death penalty in his home country.

In 2011, before his trial, Samotse fled to South Africa where he was apprehended and underwent an extradition process. At the end of the process in July 2014, the Minister of Justice and Correctional Services issued a certificate of non-surrender due to the fact that Botswana refused to give assurances that Samotse would not be executed if convicted of his crimes. In South Africa, it is unlawful to deport a person who faces the potential of the death penalty in their home country.

After the certificate was issued, Legal Aid SA began corresponding with the Home Affairs Department to have him released from custody. At that point, three immigration officers were implicated in deporting him directly from Polokwane prison despite a court order obtained by LASA when it came to their attention that Botswana High Commission officials had been arranging his deportation.

At this stage, LHR was approached to join proceedings to challenge the deportation.

As his whereabouts remained uncertain, LHR also agreed to try to find out where he was being held. We were able to eventually consult with attorneys in Gaborone and Francistown and establish that he was being detained at the Francistown State Prison.

In court papers, Home Affairs contended that no one from its head office was involved in the deportation and that the three immigration officers had acted "on a frolic of their own".

A hearing took place before the North Gauteng High Court where it was demonstrated that officials at head office had been involved in the deportation. On 23 September 2014, the court handed down judgment pronouncing on the various questions raised and declared the deportation to be unlawful and unconstitutional. The court granted a structural interdict and ordered the Departments of Home Affairs and International Relations and Cooperation to file reports on: 1) continued efforts to seek assurances against the death penalty; 2) the results of an investigation into who was responsible for the deportation; and 3) standard operating procedures for similar cases.

Both Home Affairs and International Relations filed reports describing the number of officials that had been suspended (or threatened with suspension) as well as the new standard operating procedure that was amended to provide for failed extraditions.

LHR's role in this case was important as it forced Home Affairs to conduct a thorough investigation and reveal the failings at its head office. It also created a large amount of media attention which was necessary to force Home Affairs to amend its practices, not only for failed extraditions, but for all deportations.

South Africa History Archives

LHR is representing the South African History Archives (SAHA) in an application challenging blanket refusals of applications for information under the Promotion of Access to Information Act (PAIA).

SAHA filed a number of PAIA requests to government departments relating to apartheid era corruption on behalf of researcher 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 (SARB) and the Office of the Auditor-General. Most requests were met with blanket refusals.

We sought to challenge a number of these refusals on the basis that they were not properly considered in terms of the legislation. Most of the refusals dealt were refused out of hand or were deemed refusals due to a lack of response.

Applications have been filed in the matters of SARB and the Department of Justice.

Section 34 challenge

In June 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 their detention as is ensured by section 35(2) of the Constitution. The provision was also challenged under the section 12 right not be arbitrarily detained without trial.

The challenge was filed after the introduction of the new immigration regulations and seeks to ensure court oversight of immigration detention, as provided for under the Constitution. LHR's arguments are based on specific provisions of the Constitution:

- Section 35(1) of the Constitution ensures everyone arrested for having allegedly committed an offence must appear before a court within 48 hours of arrest;

- Section 35 (2) of the Constitution guarantees the right to appear in person before a court to challenge their detention. Since Section 34 only provides for a warrant to be issued by an immigration officer and not a court, we contended that the section is unconstitutional;

- Importantly, Section 12(1) of the Constitution prohibits arbitrary detention without just cause or to be held without trial, a prohibition stemming from the abusive use of detention under apartheid.

According to the Immigration Act, a suspected undocumented foreigner can be detained for up to 30 days without a court warrant. After this period, a court order must be sought for a further 90 days. As things stand, detainees are not brought in person before a court and everything is done on paper.

At the core of LHR's argument are the benefits of having detainees appear before a court in person. For example, this gives the magistrate the opportunity to assess the justification for detention individually and a chance to explain the rights of the individual. It also gives the detainee a chance to explain if and why their detention is unlawful. Allowing those arrested for the purposes of deportation to appear in person ensures effective judicial oversight and control over those who are detained.

Despite the important implications of the case, the Department of Home Affairs has yet to file any pleadings in the matter.

Fines issued under section 37 of the Refugees Act

The administration of fines given to asylum seekers and refugees whose permits have expired is a huge problem and one that LHR has been dealing with for years. The main problems centre on the lack of a unified approach or a practice directive that would ensure unlawful practices in the administration of fines are avoided.

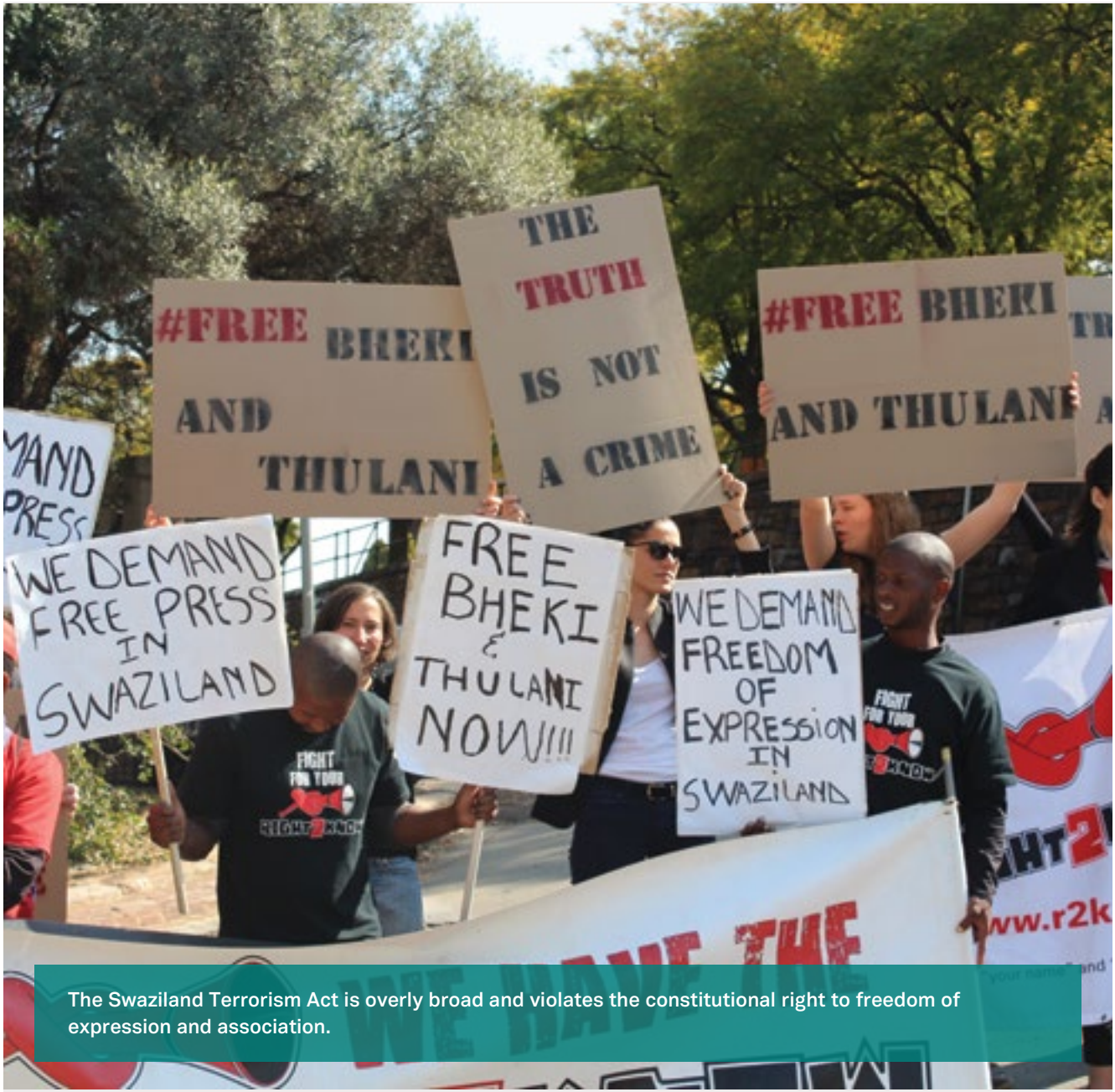
The problem with the manner in which Home Affairs administers fines is two-fold. Firstly, there is complete disregard for due process or procedural regularity.

What should happen is that Home Affairs, if they do not want to condone a late renewal of a permit, must approach SAPS and open a criminal case against an asylum seeker/refugee who has an expired permit. The asylum seeker/refugee then should enter into the normal criminal procedure system where he/she is allowed to challenge the fine by either making representations to the Director of Public Prosecutions or defending him/herself in court or opting to pay an admission of guilt fine. In practice, an asylum seeker/refugee is given no option but to pay the admission of guilt fine, with little or no explanation of the consequences of this action. Renewal of the permit is withheld until a fine has been paid, which, in our view, amounts to an unlawful double punishment and is unlawful.

The second problem is that the process of fines is clouded by rampant corruption at all levels of the process and Home Affairs has not taken adequate steps to curb this scourge.

In 2014, LHR assisted some clients through in having their permits issued pending them exercising their rights to contest the fines against them. In one case, a Zimbabwean asylum seeker recorded a solicitation for a bribe by a refugee status determination officer. The matter was referred to Home Affairs' Counter Corruption Unit but the investigation was delayed by the seeming inability of their officials to organise an investigation. The matter was eventually referred to the Deputy Minister for her attention.

LHR will be challenging the overall illegality of the manner in which fines are administered if a workable solution cannot be agreed upon with Home Affairs. To this end, LHR has negotiated a draft directive for fines administration with Home Affairs but remains disappointed at the low level of compliance with the directive.



The Swaziland Terrorism Act is overly broad and violates the constitutional right to freedom of expression and association.

PENAL REFORM PROGRAMME

The profile of South Africa's 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.

In keeping with LHR's general concerns over all forms of detention and its prison-related work of the 1980s and 1990s, the Penal Reform Programme was established to act as a watchdog over the protection of the rights of prisoners and ensure constitutional compliance regarding the imposition of punishment, sentencing, independent oversight and conditions of detention.

Since 1994, laws around prisons and punishment have been reformed in a number of significant ways. Reform was prompted by the interim and then final Constitution. The Bill of Rights makes it clear that all detainees – awaiting trial or sentenced – are entitled to a certain standard of treatment consistent with human dignity and a set of specific rights. At the core of the Correctional Services Act 111 of 1998 is an acknowledgment that the prison system should ensure the safety and protection and fulfilment of the rights of inmates and promote the "social responsibility and human development" of all sentenced inmates. Given the history of prisons in South Africa, the Act represents a fundamental shift in focus from its predecessor, the Correctional Services Act of 1959, which barely dealt with the rights of inmates, focusing, rather, on the administration of the prison system. There is, unfortunately, a marked disconnect between the current state of the penal system and applicable legal requirements. This translates into 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.

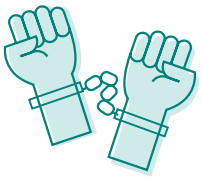
To date, non-litigious advocacy measures on the part of civil society, although successful in relation to legislative and policy reform, have unfortunately failed to bring about any sustained reform within the country's prison system. There also appears to be a lack of political will to improve conditions in this area and a general negative perception among broader society regarding prisoners' rights. Although nothing new, and certainly not confined to South Africa, it means LHR must endeavour to appeal to the political sphere to bring about any real, sustained change. 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.

AREAS OF FOCUS

Conditions of detention/Prevention and combating of torture and ill treatment

Overcrowding at Pollsmoor

The Pollsmoor Remand Detention Facility accommodates men over the age of 21. It has what the Department of Correctional Services terms "approved accommodation" for 1 429.



On 30 September 2014 Pollsmoor RDF was accommodating 4 361 detainees, placing the centre at 280% capacity.

This is dramatically higher than the national average rate of overcrowding in relation to remand detainees generally, which, when measured against the Department of Correctional Services' own benchmark of 25 000, was at 177% in 2014.

LHR will challenge certain conditions of detention at Pollsmoor before the Western Cape High Court. The case will address grave concerns around the rate of overcrowding and inadequate access to amenities. These issues amount to violations of both the right to be kept in conditions consistent with human dignity, at minimum the provision at state expense of adequate accommodation, nutrition, exercise opportunities, reading material and medical treatment and the right to not be subjected to ill-treatment and cruel or inhumane treatment or punishment. Based on the current rate of overcrowding, each detainee at Pollsmoor has less than $1m^2$ of floor space.

ORGANISATIONS ALLEGE DREADFUL CONDITIONS AT POLLSMOOR AWAITING TRIAL FACILITY

GroundUp, 27 November 2014

Lack of mattresses, a leaking roof, lack of hot water and insufficient access to medical treatment: Pollsmoor's facility for awaiting trial prisoners has been slammed by civil society organisations for what they call "several concerns regarding conditions of detention at the facility."

The Visitors Committee for Pollsmoor, the Treatment Action Campaign, Sonke Gender Justice, Lawyers for Human Rights and the Bonteheuwel Support Group for ex-offenders, have written to the Department of Correctional Services, raising their concerns about 200 detainees in units E2 and B3 in the awaiting trial section of the prison.

According to the letter, dated 6 November 2014, "since June 2014 the Independent Correctional Centre Visitors for Pollsmoor [awaiting trial section] have been raising persistently the concern that 200 detainees in units E2 and B3 are compelled to sleep on the floor, due to the insufficient supply of mattresses. Unit B3 reportedly has a leaking roof, which means that detainees there are required to sleep on a wet floor. In addition, the detainees at Pollsmoor [awaiting trial section] have been without hot water since April 2014."

The letter, which asked for a response within two weeks, was sent to several people in the department including regional commissioner, Delekile Klaas who confirmed that the letter had been received. But he denied the allegations. "We don't know where these allegations are coming from because Sonke ad TAC do not have access to our centres. Detainees have beds and the ones that don't are given mattresses. After receiving the letter I went to the facility personally to double check this. The geysers at the centre work like any other normal geyser. If you wake up early, you get hot water. If you wake late or like other detainees, decide to only wash later, you get cold water. We do not monitor how much water is being used by each prisoner. As for medical treatment, especially for TB, all detainees, especially new ones are screened for TB using the Gene Xpert [a relatively new device that detects TB with reasonable accuracy in a couple of hours – Editor]. If they are found to have TB, they are put on treatment immediately."

He continued, "The person who wrote that report, wrote it with bad intention. It is a malicious campaign by Sonke, a publicity stunt. There will be no response because they did not even communicate with me about this and they did not use the correct channels. They just sent this letter," said Klaas.

An official of the Judicial Inspectorate, which monitors treatment of inmates and conditions in correctional centres, said they were aware of the lack of mattresses and lack of hot water at the Pollsmoor Remand Centre through a mini inspection report submitted by an Independent Correctional Centre

Visitor (ICCV) from the Centre. No individual complaints from inmates were received regarding these issues. "We conducted an inspection at the centre earlier this year. We found that the lack of mattresses appear to be a national problem within the department (interim measures were taken by the centre to lessen the problem; more blankets were given to inmates who did not have a mattress). Further, the head of the centre subsequently indicated that the department of public works has sorted [out] the warm water issue," said the official.

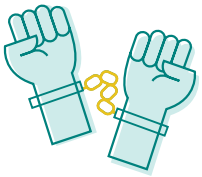
Sonke Gender Justice's policy and advocacy advisor Emily Keehn, said they first learnt about the situation from a visitors committee meeting, where the issue was tabled.

"We found out this information through legal means and we decided to advocate and help after we learnt that even though there have been numerous complaints to the department about the detention facility conditions, nothing has been done about it. As we know there are many problems in prisons, one being health. We don't even know whether any of the detainees are HIV-positive or if they need medical assistance. It is very disheartening that there hasn't been a response to our letter yet, but we will not give up. We just want the department to sit down and talk to us about this situation," said Keehn.

In response to Delekile Klaas' answer to the allegations, Keehn told GroundUp, "Sonke Gender Justice and TAC have a legitimate interest in this matter. We count current and former inmates and remand detainees amongst the stakeholders we serve and whose human rights we seek to advance. We learned of the 200 remand detainees sleeping on the floor in Pollsmoor Remand Detention Facility through the Judicial Inspectorate for Correctional Services, which has the statutory mandate to inspect prison conditions and deal with complaints from inmates. Their independent correctional centre visitors have visited these 200 remand detainees themselves and sought to resolve the complaints through internal mechanisms to no avail.

"Sonke and TAC learned of these conditions through our regular participation in the Pollsmoor Visitors Committee meetings, where it was tabled. Our presence was in line with section 94(3)(d) of the Correctional Services Act of 1998 which states these committees are empowered to "extend and promote the community's interest and involvement in correctional matters". No confidential information was shared with us; only the fact that these conditions were ongoing and that they had no success in resolving the matter with the Department of Correctional Services following internal procedures. In the October Visitors Committee meeting, all the participants agreed to send this letter to Regional Commissioner Klaas, as was proper.

"Regional Commissioner Klaas has effectively claimed that the ICCVs and detainees have fabricated these complaints. We assert that the onus is on the Department of Correctional Service to allow independent verification of these conditions through direct engagement with the remand detainees. We stand behind the ICCVs who have personally interacted with the 200 detainees. The Department should transparently and fully cooperate with the ICCVs instead of denying, closing ranks, and shifting the blame."



The Centre for the Study of Violence and Reconciliation in 2014 released the results of a five year study based on information from torture victims, police officers, the Independent Police Investigative Directorate and the Judicial Inspectorate for Correctional Services.

The study revealed that, from 2007 to 2011, there were:

- 200 unnatural deaths in prison
- More than 6000 assaults by prison officials
- 1778 cases of assault by police officers
- 89 instances of torture by police officers
- In 2011, there were 421 cases of assault and 41 of torture

Mass assaults

LHR has received multiple reports of mass assaults followed by the unlawful confinement of victims of such assaults. During 2014 LHR received complaints from inmates at the Leeukop, Lopersfontein, Zonderwater and Kutama Sinthumule correctional centres. LHR has facilitated the reporting of assaults as incidences of torture (in terms of the Prevention of Torture Act) to the relevant SAPS stations and will monitor the NPA's decisions on prosecution. In one instance the NPA declined, without reasons, to prosecute in an incident involving five inmates and 12 named correctional officials. LHR is reviewing this decision and has sued the Minister for damages sustained by the inmates.

Strengthening judicial oversight

LHR is investigating ways to strengthen oversight and promote accountability at correctional centres. During the course of 2012 and 2013, the Portfolio Committee on Justice and Correctional Services dedicated a significant amount of time towards the legislative setup of the Judicial Inspectorate for Correctional Services and its institutional independence. The Inspectorate, itself, lamented its lack of independence during this time, as did many civil society organisations. Section 85 of the Correctional Services Act 111 of 1998 describes the Inspectorate as being an "independent office". Nevertheless, the Inspectorate enjoys neither financial nor administrative independence from the Department of Correctional Services.

The Constitutional Court has held that institutional independence is a prerequisite for ensuring the effectiveness of watchdog entities like the Inspectorate. The Inspectorate's lack of financial and administrative independence not only circumscribes severely its efficacy but also fails to adhere to international and constitutional standards, particularly in relation to the prevention of torture and ill-treatment.

The majority of complaints from inmates include:

- Transfers to prisons far from family and social ties without the option of a hearing
- Inadequate access to medical treatment
- Lack of progress on parole applications despite being eligible for parole for many years
- Assaults on inmates by officials

POLICE FAIL TO INVESTIGATE PRISON ASSAULTS

Business Day, 16 October 2014

A scant 130 disciplinary cases were instituted against prison officials for assault and torture despite more than 4 000 cases being reported in 2013-14, indicating a culture of impunity at the Department of Correctional Services, a parliamentary committee was told on Wednesday

The Civil Society Prison Reform Initiative's Lukas Muntingh told the justice and correctional services committee the figures showed correctional services did not take seriously its constitutional obligation to prevent the ill-treatment and torture of prisoners. He said it was apparent there was a deep reluctance in the South African Police Service (SAPS) to investigate, and in the National Prosecuting Authority (NPA) to prosecute, prison officials for the abuse of prisoners. "The figures on disciplinary action instituted against (department) officials for assault pale in comparison to the volume of complaints lodged with the Judicial Inspectorate for Correctional Services, he said.

A total of 4 203 complaints were lodged with the inspectorate but only 130 disciplinary actions for assault were instituted against officials. "While the (department) evidently institutes disciplinary action against very few of its officials for assaults and torture, the NPA and the SAPS are also part of the problem," Mr Muntingh said.

The NPA had declined to prosecute in four deaths in Durban prisons. Mr Muntingh said while there might

be legitimate reasons for not prosecuting, these were not known and there was the real possibility that investigations were being deliberately frustrated, as had been revealed by the Jali commission of inquiry into correctional services.

Acting national commissioner of correctional services Zach Modise told the committee that all assaults were reported to the SAPS.

In a written submission to the committee, Clare Ballard of Lawyers for Human Rights expressed concern over the lengthy periods detainees spent in prison awaiting trial. She said that in 2011 more than 24 000 remand detainees out of more than 50 000 had been in custody for more than three months.

About 14% of those detained had been in custody for 12 months awaiting trial, and about 3% to 4% waited for two years to go on trial.

"This means that literally thousands of people in South Africa spend long stretches without access to educational or rehabilitative programmes," Ms Ballard said.

In a separate development, international security company G4S's Africa president, Andy Baker, said correctional services had signed on July 31 for the G4S response to the allegations of torture and forced injections at the Mangaung prison. G4S runs the prison, one of the largest private prisons in the world, in terms of a contract signed in 2000.

Mr Baker's reply follows Mr Modise's claim on Tuesday that finalisation of the report on the prison was being held up because his department was awaiting G4S's response.

Equality cases

LHR has observed an increasing number of complaints emanating from detention settings regarding LGBTI-based victimisation and discrimination. Without swift access to legal representation, victims of such incidences are largely unaware that they are entitled to legal redress through the Equality Court. LHR has taken on two such cases – one from a transgender inmate at Drakenstein correctional centre who hopes to be transferred to a facility accommodating the gender with which she identifies and another concerning an openly homosexual inmate at Rooigrond correctional centre who faces ongoing physical and verbal abuse from correctional officials.

Just administrative action

LHR has received complaints on behalf of several hundred inmates across the country serving sentences of life imprisonment. The complaints concern the fact that they have remained in prison several years beyond the respective dates on which they became eligible for parole. The failure on the part of the Correctional Services Department to arrange for the parole determination process appears to be systemic in nature and LHR is instituting large-scale reviews on behalf of groups of 'lifers' at a number of correctional centres throughout the country.

Rehabilitation and education

Roughly 110 inmates at Pretoria Central (Kgosi Mampuru II) Correctional Centre, despite having been allowed to register and study through small private colleges for many years, have recently been refused access to such training and the necessary study materials by Pretoria Central management. The reason given for this refusal is that it poses a "security risk". LHR is challenging management's refusal.

An unfortunate consequence of the prison's refusal is that educational items, laptops, books, etc. belonging to inmates and previously permitted by prison management have been removed and destroyed. LHR is instituting a number of applications to reclaim such items.

Sentencing reform

The profile of South Africa's 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. For example, in 1995 the number of "lifers" was 443, amounting to 0.5% of the sentenced prison population. In 2014 there were 13 190, amounting to 12% of the sentenced prison population. These figures represent an almost 3 000% increase over the 19 years.

In addition to the dramatic rise in the number of "lifers", the 1997 Act has led to courts imposing much harsher sentences than they did prior to the Act. This is not surprising given the Act's provision for the imposition of minimum sentences ranging from 15 years to life imprisonment for certain offences. Accordingly, the percentage of inmates serving sentences of 10 years or more has increased dramatically since 1995.

Having extensively researched these shifts, LHR hopes to engage with the South African Law Reform Commission and Minister of Justice and Correctional Services to revisit past efforts to revise the 1997 legislation and we have drafted and sent a letter to these institutions to this effect.

The changing face of South Africa's prison system

1995: 443 prisoners serving life sentence – amounting to 0.5% of total prisoner population

2014: 13 190 prisoners serving life sentence – amounting to 12% of total prisoner population

This translates to a 3 000% increase in 19 years

Parliamentary participation

Annual Reports

LHR participated in the parliamentary hearings on the 2013/2014 annual reports for the Judicial Inspectorate of Correctional Services and the Department of Correctional Services. On the former, LHR's submissions noted the constitutional importance, yet absence, of institutional and budgetary independence of the Inspectorate and the implications of such absence on the rights of detainees.

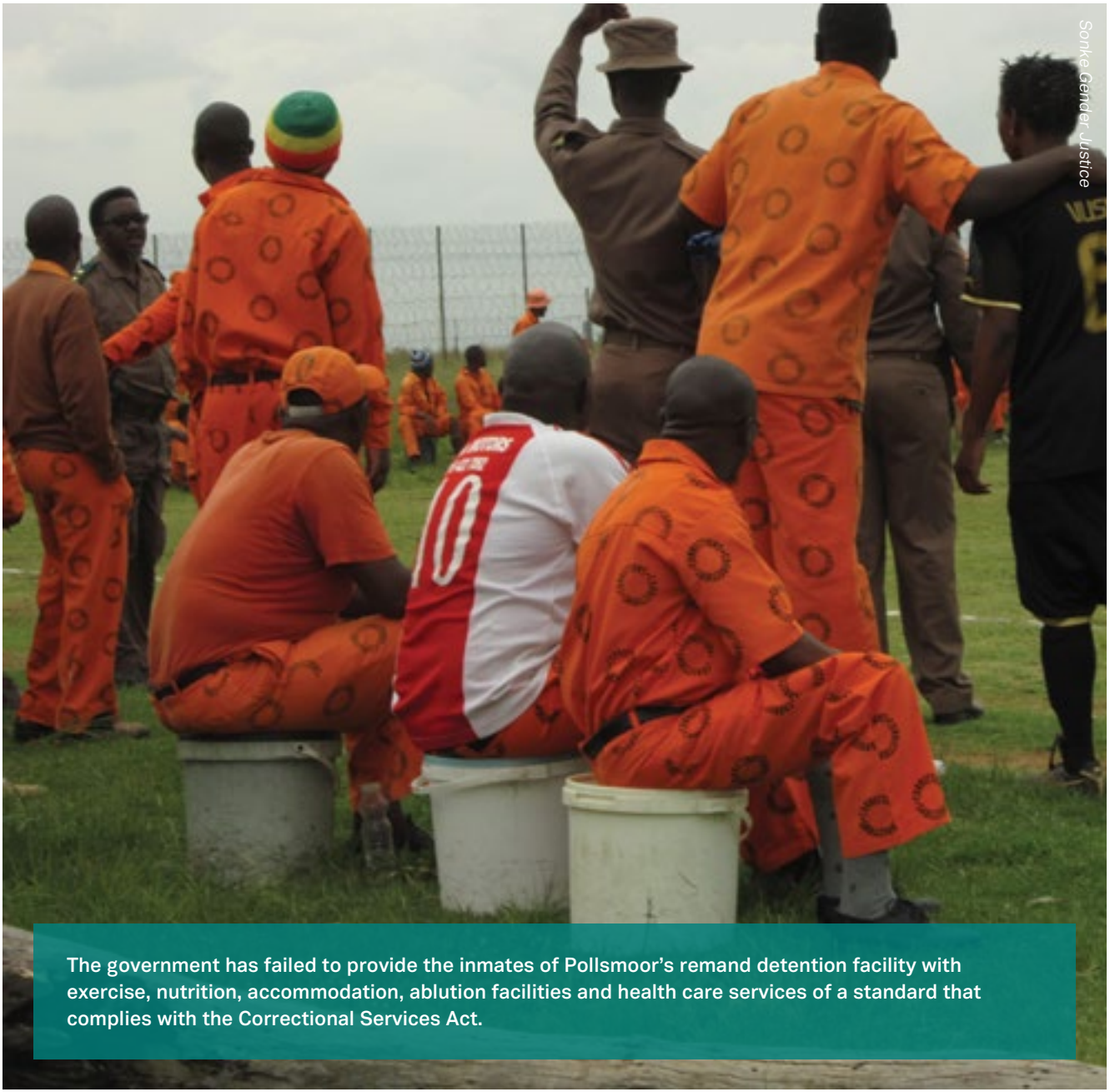
With the latter, LHR highlighted the Department's continued failure to combat extreme overcrowding in remand detention facilities as well as the plight of remand detainees compelled to wait extremely lengthy periods of time awaiting trial in prison.

Amendments to the Sexual Offences Act

Two constitutional cases handed down in 2013 required Parliament to amend the Criminal Law (Sexual Offences and Related Matters) Amendment Act.

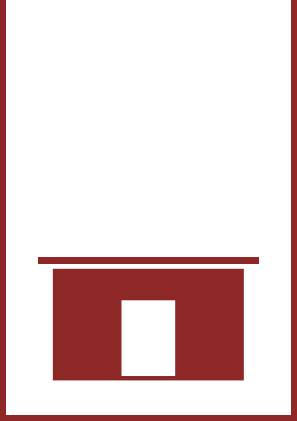
LHR has partnered with the Centre for Child Law and a number of other interested organisations, to make a joint submission at parliamentary hearings on the matter.

LHR participated in two full day meetings with the other interested organisations. The submissions dealt with the constitutionally appropriate amendments to the impugned provisions: the sexual offenders register (in relation to children) and the criminalisation of children engaging in sexual activity.



Sonke Gender Justice

The government has failed to provide the inmates of Pollsmoor's remand detention facility with exercise, nutrition, accommodation, ablution facilities and health care services of a standard that complies with the Correctional Services Act.



LAND AND HOUSING PROGRAMME

Section 26 of the Constitution stipulates that no person may be evicted from their home or have their home demolished without a court order.

THE STATE OF EVICTION: PREJUDICE AND THE RIGHT TO HOUSING

South Africa has a long and tumultuous history of evictions and forced removals.

The devastating impact of evictions on communities and the socio-economic development of affected families is well recognised. From this, a fairly strong constitutional and statutory framework was developed to regulate evictions in both urban and rural environments – something that of often ignored.

During 2014 LHR focused its efforts on post-judgment implementation, pegging the gains made in relation to evictions and progressing restitution and communal land rights claims.

Section 26 of the Constitution stipulates that everyone has the right to adequate housing and that the state must take reasonable legislative and other measures within its available resources to achieve the progressive realisation of this right. Further, it provides that no person may be evicted from their home or have their home demolished without a court order. The Prevention of Illegal Eviction (PIE) and Extension of Security of Tenure Act (ESTA) operationalise these provisions and adapt the constitutional prerogatives to the urban and rural context, respectively.

2014 was an exceptionally busy year with LHR working under extreme pressure to deal with the rising volumes of work in the rural environment and the almost out of control unlawful evictions in the urban environments. As is evident from the constant press coverage, unlawful urban evictions continue with little response from government or private parties to the greater clarity and reinforcement of the requirements set out in the Constitution and PIE that have resulted from our previous successful litigation results in these areas.

It is clear the state has an obligation to take steps towards the provision of adequate housing and to follow judicial procedures allowing the consideration of all relevant circumstances before eviction.

The framework in which the issue of evictions must be dealt with and the tension created between the rights and interests of private property owners, the state and occupiers are something the courts have struggled with for years.

The Constitutional Court has handed down a number of landmark judgments dealing with evictions and the law – particularly PIE evictions – is now clear. The trend of illegal evictions by both state and private property owners has continued and the judgments of South Africa's courts rarely follow the impact of Constitutional Court precedents when dealing with these unlawful actions or granting eviction orders.

Three difficulties have arisen in giving full effect to the Constitution, PIE and ESTA that continue to undermine the security of tenure and the progressive realisation of the right to housing.

The first problem is the failure of our courts to deal with evictions within the constitutional framework. Lower courts tend to ignore clear provisions that prohibit evictions without a court order.

Seemingly at the basis of this is the subordination of the right to housing to the right to property. This disregards the constitutional imperative to balance these rights with some limitations being placed on private property owners to avoid too large a burden on the occupier.

This failure to balance competing interests results in particularly egregious violations of the right to housing in the rural context where legislation is intended not merely as a procedural mechanism to effect and regulate evictions but also, as the name suggests, a legislative mechanism of extending tenure security. When dealing with ESTA evictions, courts often appear to forget that rural occupiers enjoy constitutional protections that address historical inequalities. It is seldom that an application for the eviction

of an ESTA occupier – regardless of the circumstances or occupational history – is refused by a court and the common law conception of ownership remains firmly entrenched.

Within the context of PIE, the granting of eviction orders, particularly against large communities, is more complicated. The tension between the rights and duties of the state, private owner and occupiers must be balanced when determining whether an eviction would be just and equitable. This balancing often means the owner's property rights may need to be limited while alternative accommodation for the affected community is procured. In effect, this would result in a private landowner having to wait a certain period of time until the occupiers find accommodation elsewhere.

While such limitations should be justified for a limited period of time, the duties of the state to mitigate its impact on a land owner remains a grey area and has been left open by Constitutional Court judgments dealing with PIE evictions. This uncertainty may explain why courts continue to fail to adequately balance housing rights and afford protection to owner's property rights over the rights of occupiers.

The old property law paradigm, then, remains one of the greatest obstacles to achieving security of tenure and curbing the tide of unlawful evictions. It is disappointing that courts have been so active in undermining it despite a number of precedents by the Constitutional Court that lower courts are bound to follow.

A second problem is the criminalisation of poverty that has clouded the narrative of both state and private individuals. Even the language used to describe occupiers paints them as criminals with terms such as "land invaders" being frequently used by litigants and judges alike.

In almost every court application or affidavit in justification of an unlawful eviction encountered – whether it relates to ESTA occupiers who are 80-years-old and have lived on the land for 50 years or communities that have recently occupied land – it is alleged or implied that the occupier is engaged in criminal activities. Many of the allegations can be seen as inappropriate stereotyping that many courts appear to entertain as justification for unlawful evictions. This approach fails to deal with the fact that most people occupying land informally simply have no alternative.

Compared to those who suffer from a lack of medical care or educational access, people who suffer from the lack of housing seem to receive very little public sympathy.

This relates to the third problem regarding the failure of the state to conceptualise its constitutional duty to realise the right to housing. Despite legislative and policy frameworks, many state actors appear to believe the state's obligations are limited to providing housing within the narrow confines of Reconstruction and Development Programme (RDP). Consequently, the state appears to regard individuals who fall outside of the RDP as acting illegally and does not recognise its positive and negative legal duties. The constitutional obligation exists within various contexts and different policies; courts must recognise that the right to housing applies across these disparate circumstances.

These problems demonstrate the overarching problem of attitude towards the poor and homeless. Although there is a strong legal framework, it will remain superficial and ineffective until all the actors internalise the values on which the Constitution and legislation rests.

AREAS OF FOCUS

Post-judgment implementation

Many of the rulings by the Constitutional Court have stipulated ongoing engagement and reporting on progress in adherence to its judgments. State parties against whom these rulings are made rarely participate or engage in compliance with the court order, leaving LHR to drive and enforce the process. To further complicate the matter, government parties often refuse to acknowledge the wrongfulness of their conduct; this attitude often results to the parties returning to court to obtain compliance.

Schubart Park engagement

In September 2011, the City of Tshwane unlawfully evicted roughly 5 000 people from the Schubart Park buildings in the Pretoria city centre. The eviction was done under the pretext of an evacuation amid service delivery protests; residents were given incorrect information regarding the structural integrity of the buildings and told to evacuate. These actions were proved unlawful and in October 2012 – after a series of unsuccessful attempts to appeal – the Constitutional Court ordered that evicted residents be allowed to return.

The Constitutional Court ordered the parties to engage on a number of issues, including the identification of those in occupation at the time of the 2011 eviction, the provision of temporary alternative accommodation pending restoration and the date on which residents could return. Reverend Frank Chikane was appointed as a convenor of the engagement process and three committees were established.

The engagement process has been an incredibly challenging exercise and has raised a number of questions regarding the usefulness of meaningful engagement in the aftermath of the unlawful actions of one party. It is in the interests of the City to put off the resolution of issues as much as possible as delay tactics often lead to fractures within the community and some people losing interest. This has put significant pressure on the residents' representatives to drive the process and undertake much of the legwork. The most significant difficulties have been the unequal footing of the two parties, with the Schubart Park Residents Committee being required to put in significant amounts of work on a voluntary basis.

Progress has been glacial and the resources required significant. The identification process is ongoing, limited alternative accommodation has been provided (the conditions of which have caused significant disputes) and the City has yet to provide any information regarding long-term accommodation plans.

F***orced relocation of Bapsfontein community***

The well-established Bapsfontein community was forcefully relocated approximately 30km from where they lived in 2011 because, according to the municipality, the dolomite-rich land had resulted in several sinkholes, jeopardising the community's safety. However, the community – that had lived on the land for decades – had never experienced any dangers previously, negating the need for "emergency evacuation".

The Constitutional Court held that in any situation where a person is removed from their home without the possibility of return, an eviction has taken place and all procedural requirements and safeguards required by law must be complied with. This case clarified a number of issues and effectively closed a loophole used to avoid legislative protections afforded occupiers.

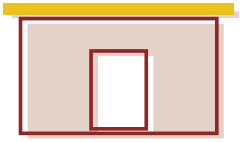
In December 2011, the court held that the municipality unlawfully evicted and relocated the community. In November 2013, the municipality was ordered to find land near the original area for the community to be relocated to and report back on the steps taken. The local authority filed a report essentially claiming no land was available.

As a result of the claim, LHR had to compile a series of expert reports before the case was brought back before the Constitutional Court where the municipality was ordered to explain its failure to comply. Judgment was handed down and although the municipality was not found in contempt, the judgment dealt in length with danger of government failing to comply with court orders.

We have applied to have the case referred back to the high court or for a referee or special master to be appointed to report back to the Constitutional Court on a number of technical issues.

Evictions and Housing

A challenging part of LHR's work is pegging the gains made through our litigation on urban evictions and housing. Despite the progressive judgments handed down by the courts, local authorities and private parties continue to flaunt the law. LHR's litigation in this area aims to ensure compliance with established legal principles and maintenance of the rule of law. Land owners, including government entities, continue to disregard the law because very often they can get away with it – even when the matter does come before the court.



Eviction cases create significant pressure as they cannot be planned for and are mostly brought on an urgent basis.

Once the unlawful eviction has been averted and an order allowing residents to return has been obtained, the considerably more challenging task of ensuring compliance and implementation becomes an issue. These matters often result in a number of ancillary court applications. Increasingly cynical land owners appear to rely on the difficulties to restore the status quo to what it was prior to the unlawful evictions and the pro-land owner bias of many judges to perpetuate delays and cause litigation fatigue amongst evicted communities.

Students evicted from residences at Tshwane University of Technology

Amid heated protests on the two Pretoria campuses of TUT, the university's management gave less than 24 hours' notice of the intended closure of all its residences.

This resulted in thousands of students being forced from their residences without any alternative accommodation in place. LHR turned to the urgent court to have TUT reopen the residences but refused to comply.

It was not until a contempt application was brought that TUT allowed students to return. An application to join the individuals responsible for the TUT's contemptuous behaviour was brought for which judgment is pending. TUT also brought a rescission application, which application was dismissed with costs.

In September 2014, TUT applied for and was granted a *rule nisi* order authorising the eviction of thousands of students from all of its campuses. The court refused the anticipation of the order on 48 hours notice on the grounds that the eviction of thousands of students with no notice or alternative accommodation was not urgent and the students should be certified as a class in order to enforce their constitutional rights. Litigation continues.

Govan Mbeki Municipality

LHR is dealing with three separate matters pending in the high court in Pretoria concerning the Govan Mbeki Municipality and evictions.

In all three of the above cases the municipality has failed to comply with PIE. Our concern is that the judges, despite all the precedent and clear law regulating evictions, come to the assistance of the municipality. The municipality refuses to address the underlying problems of homelessness and peoples' need for land to settle in an organised yet informal manner until such time as suitable formal housing can be provided.

Restitution

The Restitution of Land Rights Act provides that individuals and communities affected by the Natives Land Act of 1913 are entitled to claim restitution through the submission of claims for the return of their land or, alternatively, for financial compensation.

Within the ongoing land restitution process, LHR has been focusing on helping communities finalise their land claims. Historical political interference with traditional leadership, movement of communities, the informal nature of land use rights and current pressures such as mining all contribute to the difficulties experienced in bringing finality to these matters.

The claims often involve complicated issues, particularly regarding historical proof and competing claims. Many of the matters have remained stagnant in the Land Claims Court, due to the Land Claims Commission tendency to shirk responsibility, and significantly, due to the lack of no permanent judges able to provide continuous oversight and supervision.

The matters are often large and require considerable time for the judges to familiarise themselves. Each time progress begins, the judge leaves and a new judge continues the case, causing the matters to stall.

Makhuva community

The Makhuva community lodged their claim to large portions of the Kruger National Park, Letaba Ranch and farms between the Oliphants and Letaba Rivers in 1997. The Commission has still not properly gazetted the community's claim. An application to compel them to do so was brought and the Commission agreed to gazette the claim without the need for a court order.

One year has lapsed and the Commission has still not complied with their undertaking. LHR has lodged an application for a hearing date.

There are a number of competing claimants and it has also been agreed that some of the disputes between the parties will be referred for mediation. The parties have agreed on terms of reference and are awaiting the appointment of the agreed mediators by the Commission.

Mamahule community

The Mamahule claim land just outside Polokwane in Limpopo and because of the location of the claimed property, there is a continuous threat of development on the land.

The two major issues causing difficulties are the Commission's conduct and competing claims. The claim was referred to the Land Claims Court but did not comply with all the provisions of the Restitution Act. After numerous unsuccessful attempts to work together with the Commission, LHR obtained a contempt order in an attempt to compel the Commission to comply with the provisions of the Act.

Rural Tenure

LHR has seen an alarming increase in the number of matters dealing with rural tenure security. Most of these cases deal with the application of the Extension of Security of Tenure Act and the Land Reform (Labour Tenants) Act. LHR focuses on the development of jurisprudence that promotes tenure security for rural occupiers beyond the mere procedural formalities that appear to precede the inevitable order for eviction.

Most difficulties lie in the failure of lower courts to deal with eviction matters within the constitutional framework and the court's failure to balance the competing rights of the various parties. What is often disregarded by the courts is that when dealing with rural evictions, occupiers enjoy not only section 26 housing rights but also section 25 constitutional protections that address historical inequalities.

LHR has also encountered an increasing number of cases of the Department of Rural Development and Land Reform

In 2014, President Jacob Zuma signed the Restitution of Land Rights Amendment Bill into law, reopening the claims process, giving claimants until 30 June 2019 to lodge land claims.

- The initial aim by government was to transfer 30% of commercial farm land by 1999, later adjusted to 2014. Recently, government has shifted this goal to 2025.
- Government claims 96% of valid claims from the Restitution of Land Rights Act of 1994 have been settled
- A lack of effective post-settlement support has resulted in 50% and 90% of all land reform projects have failed
- 92% of successful claimants opted for financial compensation rather than land

Taken from the South African Institute of Race Relations' submission on the Restitution of Land Rights Amendment Bill of 2013

failing to assist communities and individuals facing unlawful limitations of their land use rights and evictions.

Eskom cases

LHR has been assisting 14 individual former labour tenant families who live on land bought by Eskom for a World Bank project related to the newly-built De Hoop Dam.

The project has since been abandoned and Eskom has begun leasing the land to surrounding farmers, creating conflict between the families living on the land and exercising grazing and ploughing rights and the farmers who are leasing that same land to do the same.

As a result Eskom attempted to compel the families to sign agreements that would limit their rights and force them to vacate the land should Eskom ask them to. In November, LHR opposed Eskom's attempts get them to effectively waive their existing land use rights in Roosenekal near the Limpopo/Mpumalanga border. LHR brought an exception to this application on the basis that it was vague, lacked the necessary averments and was bad in law.

Exceptions to the claim were noted and an application for a hearing date was made. At this hearing, Eskom requested that the matter be postponed for mediation between the parties. Meetings took place over the course of a week before Eskom reverted back to its original position of denying the existence of LHR's clients' land use rights. LHR is applying for a hearing date.

In terms of the Land Reform (Labour Tenants) Act, the rights of former labour tenant families are strongly protected. Even in cases where the parties are willing to enter into agreements that alter existing land use rights, there are several procedural requirements and approvals that need

to be followed. However, LHR's clients did not agree to any alteration of their rights.

Grootkraal community

The Grootkraal community consists of farmworker families who work on different farms outside Oudtshoorn.

For the last 140 years, a small portion of one of the farms has been used as a church for the community and more recently as a school. The buildings are also used for community functions like sing-song evenings and festivals. The farm was sold and the new owner began plans to develop it for tourism. They then brought an application to evict the school from the land.

LHR brought an application on behalf of the broader community and the church to be joined as parties in the proceedings. No existing law will protect the interest of the community. LHR brought the case to develop the common law based on various constitutional principles to protect the interest of the community.

Part of LHR's argument is that the effect of an eviction of the school would severely impact on the community as a whole. We have had a pre-trial to agree on dates for the filing of final documents.

Kanana Village

Kanana Village is a well-established rural settlement consisting of approximately 1 000 households roughly 50km from Pretoria. The settlement was established in 2002 by the former landowner who intended to create an agri-village. Shortly after people began moving onto the property, however, neighbouring land owners obtained an interdict against the then land owner preventing him from allowing people to occupy his property.

The majority of households living on the land were rural ESTA occupiers who had been subject to a number of unlawful evictions and were provided with a stable place to stay, through the assistance of the local authority, with what they understood to be the consent of the land owner. The former land owner passed away and the neighbouring land owners bought the property with the intention of evicting the occupiers of Kanana Village.

The new land owner brought an application for the eviction in terms of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act (PIE), which deals with evictions in an urban context. This application was opposed on the basis that the Extension of Security of Tenure Act, which deals with land in a rural context and affords stronger tenure rights, was applicable. A counter application to compel the local authority to expropriate the land was also brought.

In the high court an order for the eviction of the Kanana Village community was granted on the basis of PIE. In granting the eviction order the court made an extensive order against the state respondents. The counter application for expropriation was refused. The matter was appealed to the Supreme Court of Appeal and the Constitutional Court by both the local authority and the Kanana Village.

The appeal was based on the horizontal application of the Bill of Rights, particularly in light of the land owner's purchase of the property with the settlement already in existence and with the specific purpose of effecting an eviction; the interpretation of ESTA and the finding that an occupier community must prove the applicability of already objectively applicable legislative provisions; and the duty of the local authority to expropriate land when such land is occupied by a well-established community whose relocation is not feasible and existence limits the landowner's property rights. The leave to appeal the applications were both refused.

Following the court's refusal to deal with the issues, the local authority issued a notice of intention to expropriation, which the land owner opposes. LHR has addressed motivations in favour of the expropriation of the land and has several meetings with the City. The eviction matter returned to court and the City was ordered to file a report in compliance with the order of the high court.

Overcrowding at the Struben Street Shelter has led to outbreaks of violence and disease. In May, Tshwane Municipality attempted to evict all 600 residents with only 24-hour notice in order to begin renovations.

ENVIRONMENTAL RIGHTS PROGRAMME

Communities in mining-affected areas face particularly significant challenges in South Africa despite stringent legislation that regulates the mining industry.

LHR successfully represented the Mokopane Interested and Affected Communities Committee (MIACC) in Limpopo for much of 2014 in a number of efforts challenging government licensing of various aspects of mining activity in the area.

South Africa's history is one of land dispossession, institutionalised discrimination and systemic deprivation. Black South Africans were relentlessly dispossessed of their land and given insecure tenure to land on which they had little or no access to basic services. After the 1994 elections, though, the transformational imperative of the final Constitution was clear, committing to healing the divisions of the past and establishing a society based on social justice and fundamental human rights. The Constitution enshrines a number of fundamental and binding rights, including the right to an environment that is not harmful to the health and well-being of communities and traditionally related right to sufficient and safe drinking water.

In South Africa at present, the reality is that for many rural, poor communities, the protection and realisation of these fundamental rights remains a distant dream, despite the constitutional protection of environmental and water rights. Far too many communities continue to live in underdeveloped and poorly serviced areas within the territorial boundaries established during the Black Authorities Act of 1951. Their post-apartheid South Africa life, unfortunately, is eerily reminiscent of the apartheid era status quo that was characterised by insecure tenure, poor education, unemployment, poverty and a lack of access to basic services. Millions of South Africans still live in extreme poverty with little to no access to water, where taps run dry or water sources are located far from their homes. Through a lack of a viable alternative, many rely on untreated water from nearby rivers and other water sources, some of which are polluted by mining and farming activities.

Constitutional Court Justice Kate O'Regan once commented during a case that "while piped water is plentifully available to mines, industries, some large farms and wealthy families, millions of people, especially women, spend hours laboriously collecting their daily supply of water from streams, pools and distant taps".

It is against this backdrop that LHR, often while partnering with other civil society organisations, asserts, claims and defends the environmental and other constitutional rights of these communities.

Communities in mining-affected areas face particularly significant challenges in South Africa despite stringent legislation that regulates the mining industry. For example, the National Environmental Management Act 107 of 1998 unequivocally establishes imperatives like "the polluter pays principle", requiring that that those responsible for causing pollution must pay for the costs of avoiding or mitigating pollution and remedying its effects. However, government enforcement of this and other such imperatives has been extremely lax. Mining-affected communities therefore continue to suffer the effects of pollution, environmental degradation and deprivation of fundamental rights including access to sufficient potable water.

Over the past several years, LHR has been a key role-player in the advancement of the right to water and a safe environment on behalf of communities that are disproportionately affected by negative environmental burdens created by the extractive sector and other large industries. To achieve this, LHR assists communities in many ways, including claiming their right to water, protecting their heritage sites, defending land rights, protecting their environment and accessing environmental information.

AREAS OF FOCUS

Water contamination 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 Biesiesvlei and Sannieshof in North West of dehydration from severe diarrhoea and vomiting. The deaths were attributed to consumption of water contaminated by sewage. Prior to this, three babies had died in Bloemhof, also in the North West, in the same way. In July, the North West Department of Health issued a statement that it would

LHR's efforts through the Environmental Rights Programme focus primarily on:

- Ensuring and monitoring compliance with section 24 of the Constitution
- Mitigating the disproportionate negative environmental harm created by the mining sector on poor communities
- Preventing and mitigating the undesirable impact of pollution and environmental degradation on the health and well-being of communities
- Ensuring the state meets its obligations to respect, promote and fulfil social, economic and environmental rights
- Promoting communities' right to access environmental information and be consulted on issues that will impact their right to live in an environment not harmful to their health and well-being

investigate the deaths of 11 children in Biesiesvlei, allegedly caused by contaminated water.

The Department of Water and Sanitation's 2012 Blue Drop Report, which assesses water quality throughout the country, ranked the districts in which Bloemhof, Biesiesvlei and Sanniesfhof are located, as among the worst performing district municipalities in the province. The report noted that residents in Ngaka Modiri Molema should not consume tap water "without taking appropriate measures to improve the water quality".

In July, LHR and the Centre for Environmental Rights (CER) travelled to these towns to consult with affected community members, including parents of the deceased babies. We then sent several letters to the Ministers for Water and Sanitation, Health, and Cooperative Governance & Traditional Affairs (CoGTA), asking each to intervene urgently to ensure the provision of clean drinking water in light of the recent deaths related to contaminated drinking water. LHR and CER have since held meetings with CoGTA and the Department of Health in a further attempt to address these challenges. In September, LHR and CER held a meeting with deputy director-general of regulation and compliance in the Department of Water and Sanitation, during which the department's strategy regarding water contamination was detailed. We were later able to obtain this plan through a Promotion of Access to Information Act (PAIA) request after the department refused to provide it directly.

We have continued to liaise with CoGTA throughout 2014 to help guide its interactions with the Department of Water and Sanitation.

LHR AND CER ASK MINISTERS TO ADDRESS HEALTH RISKS POSED BY NORTH WEST WATER QUALITY

On Friday, 8 August 2014, attorneys at Lawyers for Human Rights (LHR) and the Centre for Environmental Rights (CER) addressed joint letters to the Ministers of Water & Sanitation, Health, and Cooperative Governance & Traditional Affairs, asking the Ministers of each of those Departments to intervene urgently to ensure the provision of clean drinking water to a number of towns in the Northwest Province in which numerous infant deaths in recent months have been linked to contaminated drinking water.

Three babies in the Bloemhof area, based in the Dr Ruth Segomotsi Mompati District Municipality, and at least 15 babies in the Biesiesvlei and Sannieshof areas, based in the Ngaka Modiri Molema District Municipality, have died in recent months from dehydration linked to diarrhoea and vomiting – deaths which appear to have been caused by poor quality drinking water, most likely contaminated by sewage.

In the Department of Water & Sanitation's 2012 Blue Drop Report, the Dr Ruth Segomotsi Mompati district municipality ranked 9th out of 11 positions in the province, and the Ngaka Modiri Molema District Municipality was the worst performing district municipality in the province. The report contained the following warning:

"The Department hereby issues a warning to all residents and visitors to the Ngaka Modiri Molema District Municipality area not to consume the tap water without taking appropriate measures to improve the drinking water quality. This warning is applicable to the towns of Tswaing/DeLarey, Tswaing/ Sannieshof, Dinokana+Lehurutse, Kraaipan, Madibogo, Madibogopan, Motswedi+ Gopane and Setlagole."

Despite this stark warning, there is no evidence that any meaningful attempts have been made by these municipalities to mitigate the risks posed by contaminated drinking water. Instead, as evidenced by the numerous infant deaths in recent months that have been linked to contaminated water, it appears that water quality in these areas may have worsened.

This situation constitutes a clear violation of the Constitutional rights of the residents of the affected areas to an environment that is not harmful to their health and wellbeing, and to access to water. The failings of the municipalities also potentially constitute numerous violations of national legislation, including the National Water Act, the Water Services Act, the National Environmental Management Act, and the National Environmental Management: Waste Act.

LHR and CER have asked the Ministers:

- To exercise their powers under the Constitution to intervene to ensure the provision of safe drinking water to residents of Biesiesvlei, Sannieshof and Bloemhof.

- To advise what programmes the Departments of Water & Sanitation and Health are implementing to ensure both provision of safe drinking water and mitigation of health risks posed by poor drinking water quality to residents of Sannieshof and Bloemhof, Northwest.

- To investigate the deaths of children reportedly caused by water contamination in the Sannieshof area. This investigation should include a pathological diagnosis of the exact cause of the deaths.
- To share monitoring results of surface and groundwater undertaken by the DWS over the past 6 months in these areas, and in any event also to commission independent water quality monitoring in the area.
- To the Minister of Cooperative Governance & Traditional Affairs, to oversee liaison between the two departments, and generally to oversee the administration of the Ngaka Modiri Molema District municipality, which is was placed in administration in July 2014.

Water pollution in Carolina

LHR first became involved in the Carolina water crisis in 2012 when residents of the Mpumalanga town were left with inadequate access to safe drinking water that ultimately led to service delivery protests. The community was initially left without access to potable water after the water supplied by the municipality was declared unfit for human consumption as a result of mining-related pollution from coal mining in the area. The mines had leaked high levels of manganese, aluminum, iron and sulphate into the town's main water source, the Boesmanspruit dam.

As a temporary solution, the municipality began carting in water through water tanks until a sustainable solution was sought. Unfortunately, this water was inadequate and in violation of statutory provisions as deliveries were irregular, leaving the community without clean water for long periods of time.

LHR, in conjunction with the Legal Resources Centre, successfully obtained a court order mandating that the local government provide regular potable water to the Carolina residents and actively and meaningfully engage with the residents on its efforts to ensure permanent water to be supplied in Carolina.

Since October 2014, LHR and the Department of Water Affairs have undertaken door-to-door visits to a number of households in the area to gauge water-related challenges facing residents, including a sporadic, dirty water supply with a strange taste.

These visits highlighted some of the most common ailments suffered by the community as a result of the dirty water, including stomach cramps, skin rashes, sores and permanent scarring.

Residents have never been meaningfully consulted on the water quality issue, nor informed about whether it is even safe for human consumption.

LHR has lodged a series of requests and applications for access to environmental information in terms of the Promotion of Access to Information Act (PAIA) in order to determine the source of pollution of Carolina's water resources and the steps, or the lack thereof, being taken to address the pollution. These applications are meant to allow affected community members to participate in environmental governance and to monitor, protect and exercise their rights to seek information on the impact of mining on their community.

After several long delays, PAIA requests and applications, LHR received a number of documents containing some of this environmental information. The majority of our PAIA applications were denied, something LHR will challenge as the failure to provide these basic documents contradicts the fact that they should be in the public domain.

To our understanding, the "polluter pay" principle was not enforced in Carolina despite clear evidence that the pollution of water resources was a result of the surrounding mining companies. Instead, the government footed the bill of environmental remediation in Carolina.

Facts about safe drinking water

- 783-million people do not have access to clean and safe water. 37% of those people live in Sub-Saharan Africa
- 1 in 9 people globally do not have access to safe and clean drinking water
- In developing countries, roughly 80% of illnesses are linked to poor water and sanitation conditions
- Over half of the developing world's primary schools don't have access to water and sanitation facilities
- Less than one in three people in Sub-Saharan Africa have access to a proper toilet
- 84% of the people who do not have access to improved water live in rural areas where they live principally through subsistence agriculture
- Globally, we use 70% of our water sources for agriculture and irrigation and only 10% on domestic use
- Nearly 1 out of every 5 deaths under the age of 5 globally is due to water-related disease

Figures drawn from The Water Project

Hazardous mining practices in Riverlea

The Riverlea community is located in an area that was initially formed in the 1960s when the apartheid government forcibly removed residents from Sophiatown and relocated them in close proximity to a part of Soweto renowned for hosting some of Johannesburg's "super gold mine dumps" major – most of which were abandoned when the resource was completely extracted. However, these abandoned dumps contained dangerous mine waste – including the highly toxic and dangerous uranium – from the mining that occurred in the 1950s.

Beginning in December 2011, the mines near Riverlea were partially rehabilitated through "re-mining" by DRD Gold when uranium became regarded as a valuable mineral. This mining has had a devastating impact on the Riverlea community, which is constantly exposed to toxic dust and must endure continual noise and light pollution. Many community members have reported chest-related health problems and fear the extended exposure to the radioactive and carcinogenic materials.

It has become impossible to grow produce in the area because of toxic water leaking from the reclamation operations.

Every attempt by the residents to speak to state authorities and DRD Gold directly about the socio-economic and environmental impacts have been ignored. LHR and CER consequently intervened on the community's behalf.

As a first step, LHR and CER commissioned two consultants to assess DRD Gold's compliance with environmental laws, particularly in relation to dust fall and air and water quality.

The results of these studies revealed that DRD Gold failed dismally short of compliance in a number of areas. LHR is tabling the findings of the assessment studies to the environmental authorities to ensuring the implementation of reasonable measures to prevent pollution as envisaged under section 19 of the National Water Act and section 28 of the *National Environmental Management Act*.

There are six principles for integrating biodiversity into mining-related decisions are described in the Mining and Biodiversity Guidelines:

1. Apply the law
2. Use the best available biodiversity information
3. Engage stakeholders thoroughly
4. Use best practice in environmental impact assessment to identify, assess and evaluate impacts
5. Apply the mitigation hierarchy when planning any mining activities and develop strong environmental management programmes
6. Ensure effective implementation of environmental management programmes

Challenging mining, environment and water use permits in Mokopane

LHR successfully represented the Mokopane Interested and Affected Communities Committee (MIACC) in Limpopo for much of 2014 in a number of efforts challenging government licensing of various aspects of mining activity in the area.

Water use license

LHR initially confronted Platreef's application for a second water use license in the area after the community raised concerns about the cumulative impact of mining on water resources in Mokopane. In July 2014, LHR requested the Minister of Water and Sanitation to exercise her discretion in terms of the National Water Act of 1998 by initiating a consultation process with all interested and affected parties. After LHR appointed an expert to conduct an independent review of the company's new water use license application and engaged in other forms of advocacy on the issue, the Department's Water Use Authorisation Administration Advisory Committee advised the company to withdraw one of its two water use licenses for its mining activities, which the company agreed to do.

Mining rights and environmental authorisations

LHR also challenged the decisions of the Department of Mineral Resources and the MEC for Limpopo Economic Development, Environment and Tourism regarding their respective grants of mining rights and environmental authorisations for several platinum companies to begin operating in the Mokopane area.

LHR supplemented these formal appeals with a variety of additional advocacy efforts, including letters to relevant Ministers to call attention to the issue. It is LHR's understanding that to date, these appeals are still under consideration.

The common denominator in the above case studies is the adverse impact of pollution and environmental degradation on water resources and the right to have access to safe potable water. The link between environmental damage and violation of socio-economic rights is not a new phenomenon but has existed in South Africa for centuries.

Unless the government, as a trustee for our natural resources and the regulator for the use of natural resources, enforces the progressive environmental laws of this country, the transformational imperative of the Constitution will never be realised, making a mockery of these communities' constitutional rights. LHR will continue to provide legal support to these communities to fight for social justice for all and to make constitutional rights a reality.

NOTE OF THANKS

We at Lawyers for Human Rights could not do any of the work that we are doing if it was not for the generosity of our funders, both from South Africa and abroad, whose contributions are hereby gratefully acknowledged below:

Atlantic Philanthropies, Claude Leon Foundation, European Union, Fastenopfer, Foundation for Human Rights, Ford Foundation, Legal Aid South Africa, National Lottery Board, Open Society Foundation, Sigrid Rausing Trust, United Nations High Commissioner for Refugees, HIVOS and OXFAM.

We are also extremely grateful for the incredible contribution made by LHR's social justice partners organisations as well as the dedicated group of advocates and attorneys who have assisted us.

We wish to thank the following people and organisations:

Advocates:
Janice Bleazard
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Sumayya Tilly
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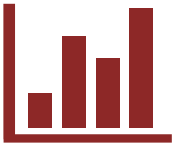
Chris Watters Attorneys (Johannesburg)
Simon Delaney Attorneys (Johannesburg)
Webbers Attorneys (Bloemfontein)
Tani Cloete (Pretoria)
Louis van der Merwe

Residents of Schubart Park attempt to salvage as many of their belongings as possible during their unlawful eviction.



STATEMENT OF FINANCIAL POSITION

AS AT 31 DECEMBER 2014 (ZAR)

ASSETS

NON-CURRENT ASSETS	
Investment property	R 13 000 000.00
Other financial assets	R 36 294.00
CURRENT ASSETS	
Trade and other Receivables	R 961 070.00
Cash and Cash Equivalents	R 1 324 792.00
TOTAL ASSETS	**R 15 322 156.00**

EQUITY AND LIABILITIES

EQUITY	
Accumulated surplus	R 9 413 824.00
LIABILITIES	
Non-current liabilities	
Other Financial Liabilities	R 4 063 579.00
Current liabilities	
Other Financial Liabilities	R 760 535.00
Trade and other payables	**R 1 084 218.00**
TOTAL LIABILITIES	**R 5 908 332.00**
TOTAL EQUITY AND LIABILITIES	**R 15 322 156.00**

EXPENSES

Administration and Management Fees	R 376 500.00
Advertising	R 17 395.00
Auditors remuneration	R 190 091.00
Bank Charges	R 55 096.00
Capital expenses	R 431 893.00
Cleaning	R 9 552.00
Computer expenses	R 222 855.00
Consulting fees	R 249 823.00
Employee costs	R 10 765 041.00
General office expense	R 142 773.00
Insurance	R 156 842.00
Lease rentals on operating lease legal expenses	R 1 381 460.00
Legal expenses	R 151 811.00
Litigation Costs	R 2 092 993.00
Municipal Expenses	R 105 660.00
Postage	R 10 272.00
Printing and Stationery	R 483 513.00
Promotions and Publications	R 244 452.00
Repairs and Maintenance	R 488 518.00
Research and Development costs	R 10 914.00
Security	R 100 619.00
Subscriptions	R 122 431.00
Telephone and Fax	R 375 543.00
Training- staff development	R 56 174.00
Travel	R 1 077 242.00
Workshop and meeting costs	R 304 365.00
TOTAL EXPENSES	**R 19 623 828.00**

STATEMENT OF COMPREHENSIVE INCOME (AS AT 31 DECEMBER 2014)

Revenue	R 22 427 630.00
Other Income	R 2 939 048.00
Operating Expenses	R -19 623 828.00
Operating Surplus	R 5 742 850.00
Investment Revenue	R 299 488.00
Finance Costs	R -147 427.00
Surplus of the year	R 5 894 911.00
TOTAL COMPREHENSIVE INCOME FOR THE YEAR	**R 5 894 911.00**

PROJECT FUNDING AND DONATIONS (AS AT 31 DECEMBER 2014)

Atlantic Philanthropies	R 7 000 000.00
Claude Leon Foundv	R -
International Organisation for Migration	R 1 447 117.00
Faternopfer	R 663 717.00
Foundation for Human Rights	R 2 171 864.00
HIVOS	R 318 000.00
Horizont3000	R 1 030 000.00
Multy Agency Grants Initiative	R -
National Lottery Board	R 987 000.00
Legal Aid South Africa	R 41 040.00
Open Society Foundation SA	R 837 858.00
Canadian High Commission	R 199 429.00
Sigrid Rausing Trut	R 2 456 609.00
UN High Commissioner for Refugees	R 4 740 961.00
South African History Archives	R 75 000.00
TOTAL	**R 21 968 595.00**

OTHER INCOME

Interest Received	R 299 488.00
Litigation Income	R 1 673 173.00
Vehicle Replacement Fund	R 70 275.00
Office Rental KDC	R 819 100.00
Other Income	R 835 535.00
TOTAL	**R 3 697 571.00**

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LAWYERS FOR
HUMAN RIGHTS

LHR will continue to use the law as a
positive tool for change and to deepen
the democratisation of South African society.

Follow our progress on Facebook and Twitter
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