

ANNUAL REPORT



20
14

CALS

Centre for Applied
Legal Studies

CONTENTS

05

Dedication

06

Message from the
Director

10

Our Programmes:
Basic Services

14

Our Programmes:
Business and Human Rights

18

Our Programmes:
Environmental Justice

24

Our Programmes:
Gender

28

Our Programmes:
Rule of Law

32

Growing the Social
Justice Sector

38

Working Across
Disciplines

42

Academic Activity

46

Our Staff

52

Our Finances

54

A Note of Thanks

DEDICATION

This publication is dedicated to three friends and colleagues of CALS who devoted their lives to social justice. They are dearly missed and we send our deepest sympathies to their families and friends.

Nick Hiltermann was a champion of environmental rights and fought ceaselessly to protect the Mapungubwe Cultural Landscape. He was the founder and Chair of the Mapungubwe Action Group and was instrumental in establishing the Save Mapungubwe Campaign. We remain deeply saddened by his loss and will remember him as kind and gracious, always generous with his time and his photographs, and above all so passionate about the sacred place that is Mapungubwe.

Gerald Kraak was a dedicated human rights defender, an anti-apartheid activist and the head of the Atlantic Philanthropies Reconciliation and Human Rights Programme in South Africa. Gerald was a good friend to CALS, supporting many of our projects over the years while at Atlantic

Philanthropies and most recently our work on access to education. He has authored two award-winning books exploring South African politics and directed a documentary on gay conscripts in the South African army during apartheid. He will be remembered for being delightfully irreverent and deeply committed to realising an equal and just society for all.

Dudley Lee was the applicant in *Lee v Minister of Correctional Services*, in which CALS, the Wits Justice Project and the Treatment Action Campaign intervened as *amici curiae*. He spent over four years in prison before being acquitted of all charges in September 2004. He successfully sued the Minister of Correctional Services after he acquired tuberculosis while awaiting trial. The case resulted in a landmark judgment from the Constitutional Court on the rights of remand detainees and the obligation of the state to protect their rights while incarcerated. Mr Lee was unswerving in his commitment to advancing the rights of detainees and he will be truly missed.



Photograph of Prof Bonita Meyersfeld courtesy of Delwyn Verasamy

MESSAGE FROM THE DIRECTOR

Prof Bonita Meyersfeld

Social justice work requires fortitude and strength of character and 2014 certainly demanded these characteristics of CALS staff. From the seminal case of Dladla – where CALS’ amicus intervention led the court to incorporate gender into its decision – to the heartbreaking report on sexual violence in schools in South Africa, CALS staff faced the full gamut of injustice in South Africa and worked towards its remediation. At the Marikana Commission of Inquiry, CALS’ policing expert, Gary White,

gave testimony, which was a devastating indictment of police conduct at the Marikana Massacre. After Gary’s first day of testimony, a mine worker who had been injured in the massacre quietly approached Gary and asked to shake his hand, in thanks for ‘telling the truth’.

In Kliptown, where the Freedom Charter was signed in 1955, clients who had been living in degenerate conditions in flood-exposed areas, were relocated to decent ac-

commodation, shifting the aspiration of social justice closer to a reality. Research into the legal profession revealed a damning report on the lack of transformation in the profession, which remains largely homogenous and alienating, especially for black women in South Africa.

The intensity of the work was matched by the importance of our successes and innovation in human rights lawyering. CALS initiated its first community learning exchange, where we brought communities who are likely to be affected by mining, to communities who have been affected by mining. This exchange facilitated the flow of information and experiences to ensure that, in the future, mining companies would be less able to exploit the information asymmetry that often characterises the relationship between mining companies and mine-affected communities.

CALS produced its first documentary about the use of access to information legislation to secure the rights of a community negatively affected by pollution from a nearby steel mill. CALS also completed the first and innovative Community Engagement Policy, which seeks to attenuate the power disparities that often exist between lawyers and their clients. The launch of this report saw a robust and enthusiastic response from civil society, with several colleague organisations incorporating the policy into their own important work. CALS was invited to the UN African Regional Forum on Business and Human Rights in Addis Ababa, where we were also proud to be founding members of the new civil society initiative, the African Coalition for Corporate Accountability.

CALS was delighted to organise two major convenings with our funding partners. The first was a convening of Fellows sponsored by the Bertha Foundation, which saw young social justice lawyers from around the world gather for a week in Cape Town to discuss, with their directors, the methods of social justice lawyering, their aspi-

rations in this field and the areas of work that demand our attention. The gathering included seminars throughout the day, with the fellows and senior lawyers continuing these discussions well into the night. CALS was also delighted to assist the Ford Foundation in one of its events during the visit of Ford Trustees to South Africa.

On the academic front, CALS produced a notable research output, including eight research reports, eight op-eds and twelve academic publications. The theme of reflection and intellectual consideration of our work was fortified through our skills training and research and reflection sessions every Friday afternoon. CALS staff benefited from both external speakers and internal research presentations. The candidate attorney training has been the most successful development in our candidate attorney programme.

We were delighted to welcome two new candidate attorneys and Bertha Fellows in 2014, namely, Palesa Madi and Wandisa Phama. We also welcomed Nomonde Nyembe as our business and human rights attorney and Phindile Khulu, our new project finance accountant. We were also proud to have our first candidate attorney, Keamogetswe Thobakgale, admitted to the legal profession in March 2014.

On a personal note, in October 2014 I temporarily handed over my 'director' hat to go on maternity leave. Lisa Chamberlain, the deputy director, was acting director for the last few months of 2014. Under her stewardship, CALS not only stayed afloat but flourished. I am indebted to her, and to all my colleagues at CALS, for taking on the extra burden of work in my absence, allowing me to focus on the new addition to my family. I am equally grateful for the warmth with which CALS staff embraced our new daughter into the family that is CALS. I quickly learnt that social justice work does not only require fortitude and strength of character, but also a deep humanity and friendship.

OUR PROGRAMMES

The Centre for Applied Legal Studies is a human rights organisation based in the Wits University School of Law. We use a combination of strategies including research, advocacy and litigation to work towards our vision of a socially and economically just country. Our mission is to challenge and reform systems within South Africa which perpetuate harm, inequality and human rights violations; to provide professional legal representation to victims and survivors of human rights abuses; to challenge systems of power and act on behalf of the vulnerable; and to act with courage against impunity for non-compliance with human rights standards.

CALS has a dual identity as both a law clinic and an academic institution, which allows us to leverage intellectual, legal and political skills in pursuit of human rights. CALS has a particular focus on the ways different kinds of rights violations can intersect and we therefore structure our work into a number of overlapping programme areas, namely Basic Services, Business and Human Rights, Environmental Justice, Gender, and the Rule of Law.



BASIC SERVICES

South Africa is fortunate to have a Constitution which contains progressive protection for socio-economic rights, including the rights to sufficient water, health care services, adequate housing and protection from arbitrary eviction. The Basic Services Programme focuses on ensuring that these rights are realised by the State. The Programme also aims to raise the public's awareness of human rights through education workshops and media engagement.



BUSINESS & HUMAN RIGHTS

The latest addition to CALS' areas of work, the Business and Human Rights Programme, focuses on the impact of corporations on the rights of individuals and communities. The Business and Human Rights Programme continues CALS' legacy of addressing conditions of poverty, and the human rights violations associated with it, not only in South Africa but on the African continent and beyond.



ENVIRONMENTAL JUSTICE

A healthy environment is critical for the development of all, especially communities living in poverty who are often unable to choose the environment in which they live. The Environmental Justice Programme assists communities to combat environmental harm. The mining sector, contributing to development on one hand and inequality on the other, remains a main focus for the Programme.



GENDER

CALS has a rich history of research and advocacy work in the gender rights arena. In particular, CALS' work explores the gendered impact of human rights issues, for example, how a lack of water and sanitation impacts on women's rights to dignity, education and safety and security. While gender is a theme that cuts across all our work, 2014 has also seen two stand alone projects with a focus on gender. One examines sexual violence in schools and the other the transformation of the legal profession.



RULE OF LAW

The rule of law is a fundamental concept in any democracy, and is another theme that emerges in all our work. This Programme aims to ensure that the rule of law is upheld in South Africa with projects on topics ranging from access to information to criminal justice. Since 2012, CALS has also formed part of the response to the Marikana tragedy where we continue to represent the South African Human Rights Commission at the Marikana Commission of Inquiry.



Homes in the Freedom Charter Square Informal Settlement, Kliptown, Soweto (25 January 2014)

BASIC SERVICES

For a number of years, the Basic Services Programme largely focused on the need for housing and the continuing problem of unlawful evictions in inner city Johannesburg. The Programme has since expanded to include work on access to water, sanitation, and electricity - where we have been able to ensure our clients get the free basic services to which they are entitled. Housing and evictions remain a major challenge, however, and CALS continues to represent eight client communities in this area. Of particular concern is the need for the state to provide temporary alternative accommodation to people left homeless when evicted. The Programme had two major successes with housing cases this year.

CASE STUDY: 'DLADLA'

Dladla Ellen Nomsa and Others v City of Johannesburg and Another, known simply as *Dladla*, represented a landmark case for housing and evictions.

The case involved a challenge brought by the Socio-Economic Rights Institute (SERI) against the City of Johannesburg and Metropolitan Evangelical Services, with CALS entering as *amicus curiae*. The application challenged the constitutionality of rules that were imposed in shelter accommodation provided to people who had been evicted.

“Socio-economic rights are your very basic needs. You can’t do anything without a roof over your head or without water. You depend on them every day and a lack of basic services impacts on all your other rights. Basic services - like water, sanitation and housing - are core.”

Zeenat Sujee

Ekuthuleni shelter has been used as alternative accommodation since 2012 after a Constitutional Court ruling in a CALS case known as *Blue Moonlight*. The City of Johannesburg was ordered to provide temporary housing for people who were left homeless after they were evicted from their homes in Saratoga Avenue. They were placed in Ekuthuleni shelter, managed by Metropolitan Evangelical Services, which implemented a ‘managed care model’. The most troubling aspects of this model include rules for daytime lockouts (where residents are forced to leave their accommodation at 8:00 and only return at 17:30), gender segregation (forcing families to separate) and evictions from residences without court orders.

SERI brought the matter to court, arguing that these rules infringe on the residents’ rights to dignity, privacy, and freedom and security of the person. The case was heard on 12 August 2014. CALS, represented by the Legal Resources Centre, entered the matter as *amicus curiae*. We were able to assist the court with international law around issues of temporary emergency accommodation. Our submissions also exam-

ined the rules from a gendered perspective, arguing that they are unconstitutional because they have a disproportionate impact on women.

“You have to look at a role a woman is expected to play in a family. Most of the time, in a lot of cultures, it’s women who do the cooking; it’s women who do the cleaning; it’s women who are responsible for taking care of the children... You can imagine the difficulty in trying to fulfil that role as a woman in your family when these rules are imposed,” says Palesa Madi, candidate attorney at CALS.

On 22 August 2014, Judge Wepener ruled in our favour. He found that the City’s policy on temporary accommodation was unconstitutional and interdicted the City from implementing the shelter rules. He noted that the “splitting up of families at the shelter cuts to the very heart of the right to dignity and the right to family life” (at paragraph 38) and that the “lock-out also results in residents being exposed to dangers inherent in street life and... clearly infringes on their right to freedom, security and dignity” (at paragraph 42).



Community from Freedom Charter Square Informal Settlement protest for access to basic services (22 August 2014)

The judgment also acknowledged our contribution as *amicus curiae*, saying that “the argument submitted by the amicus was... most valuable and of assistance to the court” (at paragraph 44) and further awarded us costs against the City of Johannesburg. Unfortunately, the City has appealed the judgment to the Supreme Court of Appeal. The matter will be heard late next year.

CASE STUDY: ‘KLIPTOWN’

Another highlight for the Basic Services Programme came towards the end of 2014. CALS represented around 250 households residing on a flood line in the Free-

dom Charter Square Informal Settlement in Kliptown, Soweto. In October 2014, heavy rains caused severe flooding in the area which destroyed our clients’ houses and damaged their property, including food, clothing and personal belongings.

CALS had been liaising with the City of Johannesburg about the danger of flooding in the informal settlement since March 2014, when heavy rain had also threatened to displace the community. When we approached the City to find a solution to the current emergency, we were told the situation was “not life-threatening”. At the time, the flood water was up to three metres deep in places.



On 31 October 2014, CALS took the matter to court, filing an urgent application on behalf of those living on the flood line. The application called for the City of Johannesburg to relocate the community urgently to temporary emergency accommodation. *Thelma Mbatha and Others v City of Johannesburg and Others* was heard on the 5th of November 2014.

The Court took some time to deliberate over the matter. On 5 December 2014, Judge Moshidi granted the urgent application with costs, saying the situation is “an ongoing, imminent, life-threatening one... In my view, it would be a dereliction of duty for the courts to shirk the duty of res-

cuing persons like the affected residents and applicants in the circumstances” (at paragraph 12). Judge Moshidi not only ordered the City of Johannesburg to relocate those named in the application, but to investigate if others not cited in the application were affected by the flooding. The judgment further ordered the City to relocate the residents within 7 court days.

The relocation successfully took place in December 2014 and our clients were pleased with their placements. The case represents a victory for those living in poverty in Johannesburg’s informal settlements and beyond.



Image of a gold mine courtesy of Wikimedia Commons

BUSINESS AND HUMAN RIGHTS

Business and Human Rights is one of CALS' newest areas of interest, but one with perhaps the strongest regional and international components. Traditionally, the social justice sector has focused on the state's responsibilities regarding human rights. There are, however, repositories of power beyond the state such as corporations which are, in some cases, even more economically powerful. The Business and Human Rights Programme examines the role of corporations in respecting the rights of individuals and communities that they affect.

Our work on business and human rights also goes beyond targeting only the corporations themselves towards those who provide their funding such as investors and financial institutions. As with our other programmes, Business and Human Rights also takes a gendered approach to its work, mindful of the manner in which rights violations intersect. The Programme broadens CALS' legacy of addressing conditions of poverty and its associated human rights violations in South Africa and the region through a number of different projects.

NATIONAL ACTION PLANS

CALS currently partners with the Centre for Human Rights at the University of Pretoria and the South African Institute for Advanced Constitutional, Public, Human Rights and International Law (SAIFAC) at the University of Johannesburg on this project. Together with the Singapore Management University, we formed a coalition which won a tender to work on a UN General Assembly report. The report was commissioned by the UN Working Group on Business and Human Rights, and our role is to give a ‘Global South’ perspective on implementing national action plans worldwide. National action plans are instruments designed to implement the UN Guiding Principles on Business and Human Rights. Our expertise in gender, developing economies and conflict areas is particularly valuable in this project. In 2014, we made two sets of submissions to the UN Working Group on the developmental agenda for Asia and Africa.

MARIKANA SUBMISSIONS

CALS has been part of the response to the Marikana tragedy since 2012 and has continued to represent the South African Human Rights Commission before the Marikana Commission of Inquiry. Phase I of the Commission focused on the roles of those directly involved in the massacre, such as the police, striking mine workers and unions. Phase II, on the other hand, was meant to investigate the conditions that pre-empted the massacre, and particularly the involvement of the mining company, Lonmin.

CALS made two submissions for Phase II of the Commission of Inquiry. The first fell under the work of the Environmental Justice Programme, analysing Lonmin’s failure to comply with its social and labour plan. The second was conducted under the Business and Human Rights Programme and examined Lonmin’s corporate responsibility in respect of human rights.

“Business and human rights is a new field for a lot of organisations, because so much focus in the past has been placed on the state as the agent responsible for human rights compliance. South Africa is in a unique position as a country in the Global South with a Bill of Rights that also applies to corporations.”

Nomonde Nyembe

FINANCIAL INSTITUTIONS

CALS' work in this area began as early as 2011 when Prof Bonita Meyersfeld hosted a series of roundtables on financial institutions and human rights. These roundtables brought together academics, activists and representatives from the banking sector to discuss a set of principles for financial institutions in South Africa. These discussions formed the basis for what became known as the Johannesburg Principles.

The Principles aim to provide a human rights-centred framework for financial institutions in South Africa. They set out the practical steps that can be put in place by financial institutions when providing finance for projects. These steps are intended to assist with monitoring projects, for example, by doing human rights due diligence or staggering loans which are conditional on complying with human rights standards.

Our goal has been to target institutions like development banks, insurance companies and retirement funds to make them aware of how they may be financing projects which violate human rights. Our ultimate

goal is to ensure that the Johannesburg Principles are adopted by banking institutions and investors in the country.

BUSINESS, HUMAN RIGHTS & GENDER

While the field of business and human rights critically explores the power disparity between developed countries, multinational corporations and the developing world, hardly any literature examines this from a gendered perspective. CALS is keenly aware of the gendered impacts of human rights violations and brings this into every area of our work, most particularly with regard to communities affected by mining activity.

In 2013, CALS began consulting with women whose health had been affected by pollution from a local gold mine. Many of the women not only live near the mine, but have worked for the mining company underground. Our focus has been on examining the corporations' responsibilities with regard to rehabilitation and environmental degradation considering the women's particular experiences.

“Financial institutions are foundational. If you could make sure that they either attach conditions to their funding or don't provide financing for projects that are potentially harmful to human rights, then human rights violations would not occur.”

Nomonde Nyembe



Participants in a roundtable on Development Banks and Human Rights hosted by CALS and Conectas Brazil on (24 November 2014)

“Having a gendered perspective is important because women are the ones who experience harm in a more exaggerated and nuanced way,” says Nomonde Nyembe, attorney in the Business and Human Rights Programme.

“When people don’t have water, it’s women who have the gendered role of providing that resource to the family and who then have to go and fetch it kilometres away and carry it on their heads. When there’s no electricity, it’s women who have to sit in front of the paraffin stove and cook food. When there is no food, it’s women who have to find it. When there are no toilets and people have to use a pit latrine outside, it’s women who can’t do that at night because of the gendered bias that exists in South African society.”

The situation is even worse for women who work in the mines. “When the state demands that women should make up 10% of underground workers in a mine, don’t forget that those women are going into a very sexist environment,” she says. “South Africa is already sexist. One in four women will experience sexual violence in their lifetime. What is that doing for the women going underground who are in a particularly vulnerable space? It’s particularly gendered. Not only is it gendered in its

effect, it’s almost gendered in its design. Capitalism is a system that depends on exploitation. And the most widely exploited and marginalised people the world over are women.”

INTERNATIONAL & REGIONAL ADVOCACY

The Business and Human Rights Programme also conducts regional and international advocacy work as part of the African Coalition for Corporate Accountability (ACCA), and as regional legal experts in the International Network for Economic Social and Cultural Rights. Our main objective is calling for a protective binding treaty on business and human rights in the Global South.

CALS attended the annual meeting of ACCA in Addis Ababa in September this year. At the same time, our representatives were also able to attend the UN African Regional Forum on Business and Human Rights which was organised by the UN Working Group. The purpose of the Regional Forum is to draw out the African perspective on business and human rights, since the main forum only occurs in Geneva and is not as accessible to African representatives.



View from the Interpretation Centre overlooking Mapungubwe National Park (6 November 2014)

ENVIRONMENTAL JUSTICE

The Environmental Justice Programme is committed to realising Section 24 of the Constitution, which establishes that everyone has a right to an environment that is not harmful to their health or well-being. The Programme takes a human-centred approach, focusing on how impacts on the environment are also impacts on people. Currently, most development in South Africa takes place in a manner that is not only unsustainable but also unfair. Poor and marginalised people largely bear the burden of the environmental and social

development, while the benefits go to investors and corporate actors.

CALS aims to change the behaviour of both the corporate actors that make use of natural resources, and the state which regulates this process. Our focus remains on the mining sector, which is a major contributor to economic growth in the country, but which is also responsible for much environmental harm as well as the exploitation of mine workers and communities affected by their operations.

“Right now, we have an unequal exchange, a disparity of impact, and a disparity of voice when it comes to mining. It’s primarily companies and investors who have a say in how development takes place. Community interests don’t often come into play. Their voices are not equally weighted and that’s an environmental injustice.”

Robert Krause

SOCIAL & LABOUR PLANS

When a company applies for a mining right, it is required to submit a number of documents on its plans to mine, which the Department of Mineral Resources (or ‘DMR’) then uses to assess whether the potential mine is viable. One of these documents is a social and labour plan (or ‘SLP’). Social and labour plans set out how the company intends to share some of the benefits that flow from mining. These include, for example, initiatives for developing the skills of their employees; upgrading local schools, upgrading roads; as well as providing housing, water and sanitation in the area.

“Effectively, SLPs are one of the tools for redressing the historical inequality in mining, in particular the fact that people have been working in dangerous conditions and earning very little, and that communities have had their lives altered irrevocably and not in a positive way. These requirements

seek to balance that out a bit. That’s why they’re so important,” says Robert Krause, researcher in the Environmental Justice Programme.

Once a company is awarded a mining right, the social and labour plan they submitted becomes a binding legal document. “The point of SLPs is that they are binding requirements that the government and the public can use to hold companies to account. At least in theory. In practice, we only know of one occasion so far when the DMR suspended a mining right as a result of non-compliance with an SLP,” says Robert.

Outside of this anecdotal evidence, very little research on social and labour plans has been conducted in South Africa. As a result, CALS has initiated a social and labour plan project to investigate whether the system is working effectively. The project will require CALS to examine a repre-

sentative sample of social and labour plans from mines extracting different minerals in areas around the country.

The project began in 2014 with collecting the data. This involved making a large number of requests for the documents under the Promotion of Access to Information Act (or 'PAIA'), which was very successful. The social and labour plans of around 40 different mines will be analysed as the project continues in 2015.

During 2014, CALS was also able to provide an analysis of social and labour plans in two very different cases. Firstly, Lawyers for Human Rights approached us on behalf of a community living in the area of Moko-pane in Limpopo where a new platinum mine was planned. We were able to assist them with an expert opinion of the social and labour plan of the intended mining operation, assessing whether the document included all the information required by regulations.

Secondly, the Environmental Justice Programme was able to provide an analysis of Lonmin's social and labour plan as part of CALS' submissions to the Marikana Commission of Inquiry. The analysis showed that, over the four years prior to the Marikana massacre, Lonmin did not fulfil the obligations set out in its social and labour plan. For example, Lonmin undertook in this time to build 5,500 houses for workers and their families but, by their own admission, built only three - achieving less than 0,001% of the target.

"This is not just an indictment of the system (because there was no compliance monitoring by government) but it also gives some insight into how seriously mining companies take the benefit mechanism that flows into the communities that they impact," says attorney Louis Snyman. "It's a symptom of a bigger issue. It's a symptom of how mines view communities, not as partners, but as obligations and obstacles."

“There is a close relationship between our culture and our environment. Our community depends on the environment to provide food, to provide shelter, to build houses. We can't let the environment be disturbed. We are responsible for protecting it.”

Mashile Phalane



Mashile Phalane, CALS community liaison officer and Batlhabine community activist, leads a discussion with community members (April 2014)



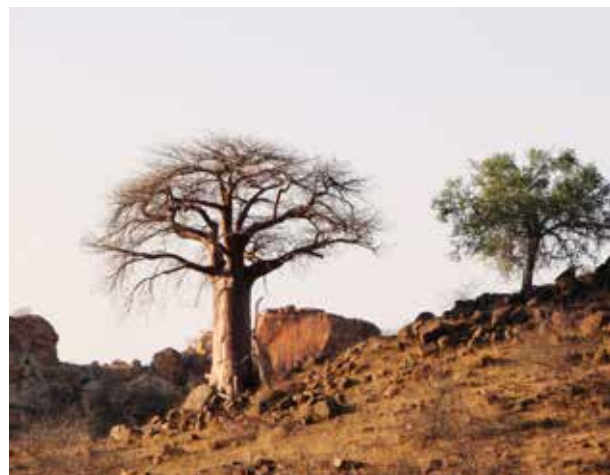
Communities go on a site visit to Batlhabine, where land has not been properly rehabilitated by a nearby mine (April 2014)

COMMUNITY LEARNING EXCHANGES

One of our most successful community-based initiatives this year has involved facilitating a series of community learning exchanges. The exchanges provide a platform for a community who may soon be impacted by a mine to meet with another community already affected by mining. This way, they are able to hear a first-hand account of the impacts, share their knowledge and experience and discuss their legal options. CALS' role here has been to facilitate and structure these exchanges and offer legal advice. "We provide a 'know

your rights' component, a launch pad for the exchanges," says Louis. "Mostly it's about the communities empowering and teaching each other about environmental impacts. Getting across how mining affects a community is more meaningful coming from people who have been impacted by it."

This year, CALS hosted two community learning exchanges in Limpopo. Not only did communities share their experiences, they also organised a site visit of land near a mine. "We went to see what un-rehabilitated land looks like, and what a degraded environment looks like. I think it carried a



lot of weight and I think it's sprung them into action." An important measure of the success for this initiative is that communities have since begun to convene without our assistance.

MAPUNGUBWE PROJECT

CALS has represented the Save Mapungubwe Coalition with our partners at the Centre for Environmental Rights since 2010. The Coalition formed when a coal mine was constructed within 7km of the Mapungubwe World Heritage Site. Coal of Africa's Vele Colliery posed a threat to the integrity of both the sacred site and the surrounding water scarce area. We have used a number of strategies to oppose this threat, including litigating against the min-

ing company and later entering into negotiations with them. After negotiations broke down in 2012, the Coalition decided to take a different approach. We accepted the mine's offer to participate on a body known as an Environmental Management Committee (or 'EMC').

Mining licences often require mines to set up an Environmental Management Committee whose purpose is to monitor their compliance with environmental obligations. The mining company is tasked with engaging experts to deliver reports at regular meetings and keep members of the EMC updated on the mine's environmental management. This helps them to monitor any environmental impact and ensure that the mine is complying with its licence conditions.



Sites of Mapungubwe National Park (6 November 2014)

CALS continues to represent the Save Mapungubwe Coalition on the Vele Colliery EMC and is, as far as we know, the first and only civil society organisation in South Africa to sit on such a committee.

“We’ve been involved in holding the mine to account on this body,” says Robert Krause. “Often, in practice, they’re just made up of the odd government official and then the mine largely regulating itself. We’re there to ensure that this mechanism actually works as intended by policy makers.”

The Vele Colliery EMC is very different from a typical Environmental Management Committee. The Save Mapungubwe Coalition is made up of a diverse range of groups, with expertise in everything from conservation

to water and even heritage resources. This means we have a number of specialists who are able to sit on these committees and properly monitor the mine’s activities.

This year, CALS also produced a series of reports based on the Mapungubwe case study. The first, *Changing Corporate Behaviour*, examines corporate accountability in the environment sector. The second publication, a Community Engagement Policy, was developed as a guide for our staff in maintaining relationships with communities and is now used by numerous other NGOs. The third report, *Structures of Governance*, examines the co-operative governance model in the environment sector. These three reports formed the basis of CALS’ first book, *The Mapungubwe Story: A Campaign for Change*.



CALS attorney Zeenat Sujee speaks to learners at a secondary school in Johannesburg (1 August 2014)

GENDER

CALS has been active in the gender rights arena for many years and has focused on issues such as equality between men and women regarding old age pension benefits, and mandatory sentencing for the rape of girl children.

Gender remains a theme that is integrated into all of our work at CALS. Many of the projects outlined in other Programmes have a gender component or take a gendered perspective. There are, however, several major projects which fell under the Gender Programme in 2014, examining a range of issues from sexual violence to gender discrimination.

TRANSFORMATION OF THE LEGAL PROFESSION

The legal profession in South Africa continues to face the challenge of meaningful transformation more than 20 years post-democracy. Top positions in the profession, from partners in law firms to senior counsel and members of the judiciary, are still largely filled by white men. The lack of diversity in the judiciary has come under particular scrutiny in recent years. This lack of diversity cannot, however, be understood without examining transformation at all levels of the profession.

While there have been a large number of black women graduating from law schools in South Africa, comparatively few remain in the profession long enough to reach the top posts. In 2014, CALS partnered with two independent researchers to investigate the barriers which may be keeping black and/or female lawyers from advancing in the legal profession.

The research involved engaging directly with members of the profession at various stages of their careers, from recent graduates and candidate attorneys to senior professionals. The researchers used a combination of individual interviews, discussion groups and electronic surveys to engage participants.

The findings of the study are captured in the *Transformation of the Legal Profession* Report. They show that all three approaches consistently showed that race, gender and class are factors that lead to discrimination in the profession. There are still many barriers that restrict the careers of talented black and female lawyers, including racist treatment; sexual harassment; briefing patterns which give preference to

white men; and a lack of accessible child-care facilities to name a few.

These findings may go some way to explaining why there is relatively little diversity at the senior levels of the legal profession. They suggest that lawyers experience a range of hostility and exclusionary conduct based particularly on their race and gender. This is deeply inconsistent with the notion of dignity which underlies our constitutional democracy and represses talent in the profession. The report's recommendations are for law firms and members of the bar to acknowledge and respond to patterns of discrimination, and to protect victims of discrimination and sexual harassment; and for government to map the progress of black women in the profession.

The report has already played an important role in opening a space to discuss issues of diversity and transformation in the profession and more broadly. CALS has participated in a discussion of the report held by the National Association of Democratic Lawyers on 17 October 2014. The report will be officially launched next year.

“Despite the lip service paid to transformation, racism and sexism still plague the legal profession. There is a latent, almost invisible, structure of discrimination against black and female lawyers, and in particular against black women.”

Bonita Meyersfeld

SEXUAL VIOLENCE IN SCHOOLS

Sexual violence is a widespread problem, both in South Africa and beyond. Young women in particular are affected by sexual violence and one of the places they are most vulnerable is at school. In South Africa, many learners are sexually harassed and abused by their teachers. Though the severity of the problem is well known, its actual prevalence is difficult to determine as many cases go unreported. What is clear is that this harassment and abuse have a devastating impact on the health and education of the (mainly female) learners who experience it. While South Africa has

introduced progressive laws and policies to combat this problem, sexual violence in schools continues to pose a threat to the right to education.

In 2013, CALS set out to investigate the gaps in the system that allow educators to get away with sexually abusing the learners in their care. Partnering with Cornell Law School's Avon Centre for Women and Justice, we conducted field research in Gauteng schools in September 2013. Mindful of the sensitive nature of the research, we decided not to approach learners and instead we interviewed teachers, principals and community members to investigate their experiences with reporting cases of sexual violence in school.



The results of the research are captured in a report entitled *Sexual violence by educators in South African schools: Gaps in accountability*. The report suggests that there are a number of these gaps and makes recommendations for all stakeholders from various government departments to the South African Council of Educators, trade unions, police and the judiciary. CALS plans to take the research forward by offering workshops to the schools and communities that participated in the study.

Our work in this area has also produced a handbook entitled *Managing Sexual Abuse in Schools* in partnership with two other NGOs, Lawyers against Abuse (LvA) and

SECTION27. The handbook is designed as an accessible guide for children, their families and community members on what to do if someone been abused, especially while at school. The handbook was launched on 11 April 2014 at the Women's Gaol of Constitution Hill.

GENDER ROUNDTABLE

CALS continues to host a regular gender roundtable bringing together academics from various disciplines, including law, politics and literature. This year's theme was 'The Feminisation of Politics' and speakers included Cathi Albertyn and Shireen Hassim.



The launch of the handbook *Managing Sexual Abuse in Schools* (11 April 2014)



Women of Marikana protest for a peaceful resolution to the current strike (still from the film Marikana: The lived reality)

RULE OF LAW

The rule of law is the cornerstone of any constitutional democracy, ensuring that no-one is above the law and everyone is guaranteed fundamental human rights. The World Justice Project ranks South Africa at 36th overall on their Rule of Law Index in a survey of just over 100 countries. While the country has laws and mechanisms in place for holding individuals, private and public entities to account, access to justice is still not a reality for many in South Africa.

A key aspect of the rule of law is having an effective criminal justice system. Here, this system is flawed and is moreover often responsible for perpetrating human rights

abuses. Our Remand Detention Project aims to protect the rights of people awaiting trial in South African prisons and bring to light the unfair and inhumane treatment they suffer.

The Rule of Law Programme also focuses on protecting civil and political rights, such as the right to protest. Many of the client communities with whom we work are unable to exercise this right when municipalities refuse to allow them to march against poor service delivery or police violence.

CALS also remains committed to seeking justice for the 2012 Marikana massacre.

REMAND DETENTION

The most recent Annual Report from the Department of Correctional Services puts South Africa's prison population at 157,170 people. The country has 243 correctional facilities with a maximum capacity of 118,441 beds. This means that, currently, our prisons are nearly 30% over capacity. One of the reasons for this overcrowding is the overuse of pretrial detention.

Detaining any person accused of committing a crime should be the exception rather than the rule. This is not the case in South Africa, however. Remand detainees make up an estimated 30% of the prison population. This adds significantly to the problem of overcrowding which in turn has a number of negative effects. Overcrowding increases security risks, infringes inmates' privacy, limits their access to medical care, reduces inmates' ability to obtain educational materials, and places immense pressure on prison staff and warders.

CALS has conducted extensive research in this area and produced a number of reports. In 2014, we hosted a series of roundtables with representatives from government to present our findings and get their views on the current situation.

In 2014, CALS also initiated a pilot project with our long-time partners at the Wits Justice Project, a unit in the Wits Journalism Department dedicated to investigating cases of wrongful conviction and remand detention. The idea behind the project was to place an attorney from CALS at the Wits Justice Project for a few days every week to assist with legal research and investigations into human rights abuses in prisons.

This year, attorney Megan Geldenhuys was able to assist with research leading to the publication of twelve exposes on human rights abuses in South Africa's prisons. Apart from providing research, as a lawyer Megan was able to access legal documents and secure interviews with inmates.

This led to more to more thorough investigations in a number of cases. The pilot project shows that human rights abuses can be addressed more effectively through the joint efforts of lawyers and journalists.

ACCESS TO INFORMATION

Access to information cuts across all CALS' work and is often the first step in communities' struggles to realise other rights. CALS is one of a number of organisations committed to instilling a culture of openness and transparency in South Africa. In 2011, this group came together to form the PAIA Civil Society Network (CSN) with the aim of raising awareness about the right to access information and improving compliance with the Promotion of Access to Information Act (or 'PAIA'). In 2014, CALS chaired the PAIA CSN.

Each year, the PAIA CSN releases a 'shadow report' to complement the South African Human Rights Commission's work monitoring the implementation of PAIA. The report tracks requests for information made to public and private bodies by members of the Network, and summarises the legislation and litigation impacting on access to information in South Africa. The 2013 / 2014 report shows that there has been a slight improvement in responses to PAIA requests compared to previous years, but overall compliance with the Act remains low. In fact, over half of requests made to government departments in the time period were denied. The most common reason given for refusal was that the records requested did not exist or could not be found. This may be a rather worrying indication of poor record-keeping in these departments. A further quarter of the requests for information received no response whatsoever from government. The private sector was likewise unresponsive, with less than half of all requests receiving a reply within the statutory time frames. These results reflect poorly on the level of accountability of these powerful entities to the public.

MARIKANA COMMISSION OF INQUIRY

In August 2012, mine workers in South Africa's platinum belt went on strike, asking for a living wage and better living conditions in their community. 44 people lost their lives during the strike, with 34 mine workers killed by police in a single day. The Marikana Commission of Inquiry was established by President Jacob Zuma at the end of 2012 to investigate this massacre.

CALS has continued to represent the South African Human Rights Commission before the Marikana Commission of Inquiry. Part of our role has been to perform a 'watching brief' overseeing the proceedings and ensuring that the process is fair. We have also been able to bring forward expert evidence that would otherwise not come to light, especially regarding international standards of policing.

In June 2014, CALS brought a policing expert, Mr Gary White, to testify before the Commission of Inquiry. Mr White is a former police official from Northern Ireland who has worked on crowd control during some of the area's most serious conflicts. He presented testimony about the lack of co-ordination, planning and effective constraint in the use of force by the police in August 2012, calling the plan for crowd

control "haphazard, rushed, negligent and inadequate."

"In the wide spectrum of public order events, the situation at Marikana was extremely challenging, but that does not mean that the application of public order crowd management principles was no longer appropriate," says Mr White.

CALS also commissioned an expert analysis of all the video footage taken on 16 August. "There was so much video evidence; everyone was taking shots from different angles. It was impossible to know what was going on," says Palesa Madi. "What the expert did was to put together all the pieces of evidence to give a better sense of what was happening at each and every second."

The analysis provides a clear time line of events, which contradicts much of the police's evidence and undermines the claim that they acted in self-defence. "The most important thing the analysis showed was exactly where the strikers were going when they were shot. It was very clear from the evidence that they were going home and not advancing towards the police," says Palesa. CALS also commissioned a film entitled *Marikana: The Lived Reality*. The purpose of the film was to give the Commission of Inquiry an idea of the lived experiences of the women of Marikana.



While the police may have been at fault on the day of the massacre, there are many factors which contributed to the unrest that ultimately resulted in the strike. Not least of these is the role played by the mining company, Lonmin. Lonmin's role in the massacre was meant to be examined during Phase II of the Commission of Inquiry. However, there was not nearly enough time dedicated to this in the last months of the proceedings.

CALS made two submissions to Phase II of the Commission of Inquiry, such as it was. The first fell under the Environmental Justice Programme and focused on Lonmin's failure to comply with its social and labour plan. The other was produced by the Business and Human Rights Programme and examined Lonmin's corporate responsibility with respect to human rights.

GATHERINGS: WOMEN OF MARIKANA

When the mine workers went on strike in 2012, they were not only requesting an increase in their low wages, but also improved living conditions in their community. This was not a strike driven solely by unions or the workers. It was a strike driven by the community and strengthened by the women of Marikana.

Since 2012, very little has changed to improve conditions in the Marikana community. In January 2014, the mine workers again went on strike to demand a living wage. Fearing that the strikers would once again face violence from the police, the women of Marikana spoke out. They wanted to organise a march to Lonmin's offices in an attempt to end the strike peacefully.

CALS assisted the women of Marikana in drafting a notice, as required under the Regulation of Gatherings Act, informing the local municipality of their intention to gather. We also assisted with planning the route and represented the women at meetings with other stakeholders. As with most of our work on gatherings, we faced some opposition. "You would think that in South Africa, considering our history, that the right to protest would be a valued right but in our experience it's quite a challenge to march successfully," says Palesa Madi.

Despite this, the march went ahead on 21 March 2014. "It was the most moving moment of 2014, to have the march finally happen despite the challenges we had had along the way - from Lonmin and from the municipality," says Palesa. "The community members made it happen. It was a tense moment in Marikana during the strike and the women were persistent. They really managed to mobilise the community."



Stills from the film *Marikana: The Lived Reality*



Bertha fellows and interns at the South African Bertha Fellow's Convening (22 July 2014)

GROWING THE SOCIAL JUSTICE SECTOR

One of the most important projects at CALS involves growing the social justice sector by exposing law students and recent graduates to our work in human rights. CALS supports young lawyers with a passion for social justice in a number of ways including through our long-standing internship programme, our partnership with student-led initiatives such as the Wits Chapter of Students for Law and Social Justice, and our continued involvement with the Wits School of Law's annual Careers Day.

INTERNSHIP PROGRAMME

Many young lawyers struggle to access information about alternative kinds of lawyering that don't necessarily involve working for corporate firms. CALS is well placed within a university like Wits to offer students practical experience in human rights work through our internship programme. Having this experience allows young people entering the legal profession to make an informed choice about their careers.

Many young lawyers are also unable to take up opportunities in traditional unpaid internships. A vast majority of these internships are only accessible to people from the Global North. Since 2013, CALS has adopted a policy to create opportuni-

ties for individuals from previously disadvantaged parts of South Africa and other areas of the Global South. Our partnership with the Bram Fischer Fund has made this possible and in 2014 we were able to offer internships to 16 people.

Intern Spotlight: Mbonisi Nyathi - Winner of the 'Feminisation of Politics' Essay Competition

I loved my internship and I am proud of the work I did here at CALS. The internship was a very worthwhile experience which helped me gain considerable knowledge about a civil society organisation that promotes human rights.

During my internship I witnessed the daily work that is done at CALS. My first task was to work on the op-ed which I had written earlier during the year about gender and politics. I also had the opportunity to compile a memorandum on the impacts of extractive industries on gender issues. The internship provided me with ample opportunity to learn new skills and develop existing ones, especially in terms of my writing and research skills.

The culture at CALS is great. I feel privileged to have experienced the kind of working relationship that exists at CALS. There is an open-door policy for interns. Everyone is always available to assist. Even if they are busy, they make sure they make time. The working relationship among the employees is fantastic. Collegiality is always encouraged, which I think is one of the ingredients for success at CALS. As an intern, it feels good to be included in every project meeting taking place; it gives you that sense of belonging.

What I also observed at CALS is diversity. The people at CALS are from diverse backgrounds. Their working relationship with each other is excellent. They all relate to

each other very well and there is respect for everyone.

I also had the opportunity to visit the South Gauteng High Court to hear judgment in the case *Thelma Mbatha and Others v City of Johannesburg and Others*. There was a great atmosphere and it was exciting to see everyone associated with the case happy with the outcome, especially considering how much this meant to the residents of Kliptown whose livelihoods have been affected.

This internship experience changed the way I think about my own capabilities and beliefs about what I can do and will do when I graduate next year. This experience will continue to have a profound effect during my studies at Wits. Working in the Business and Human Rights, Basic Services and Gender Programmes has allowed me to closely reflect on such an option and realise that it is something I am truly called to. I can be an asset in the community and help make a difference in the future.

I am very grateful for the opportunity to be part of the work at CALS. I would also love to intern at CALS again. Lastly, I would like to express my thanks to all those with whom I worked during my internship including Zeenat, Nomonde, Lisa, Wandisa, Palesa, Lee-Anne, Kay and Cebile. I greatly appreciate the assistance you provided me.

STUDENTS FOR LAW AND SOCIAL JUSTICE

Students for Law and Social Justice (SLSJ) is a student-led organisation dedicated to protecting human rights, preventing discrimination and promoting social justice and the rule of law. The Wits Chapter was formed in 2012 and continues to be based at CALS. This year our Director, Prof Bonita Meyersfeld, also spoke at the SLSJ National Seminar along with Justice Zak Yacoob and Commissioner Mohamed Ameerma.

CAREERS DAYS

CALS is committed to exposing students to the different career choices available to them after graduating with a law degree. Every year, we support the Wits School of Law Careers Day and organise for other public interest organisations as well as the Public Protector's Office and the National Prosecuting Authority to have a stand. This year, we were also invited to participate in the University of Pretoria's Careers Day for the first time.

Report from Students for Law and Social Justice: Rachel Mazower and Nonhlanhla Dawn Ngwenya

Students for Law and Social Justice (SLSJ) is a South African students organisation dedicated to protecting human rights, preventing discrimination, promoting social justice and the rule of law. We have branches at eleven universities across South Africa.

In 2014 the Wits branch has focused on creating organisational structures that are sustainable. It was clear to the Leadership Committee of the branch that having a small leadership structure meant that there was little variety in our activities and that most of the institutional memory of the branch was lost. At the end of 2013 the Leadership Committee had various workshops and planning meetings to facilitate a formal planning process. CALS was instrumental in facilitating several of these workshops and providing advice on how to plan effectively. Lisa Chamberlain and Palesa Madi have also acted as sounding boards for the Leadership Committee throughout the year.

The Wits branch aims to be active in the promotion of social justice and accordingly has a focus on creating opportunities for members to get involved with social jus-

tice projects and organisations in our community. This year we participated in several educational projects in partnership with CLASI, the Constitution Hill Education Project and the Hillbrow Community Advice Office. These projects have been successful, with high rates of volunteer retention and reports of satisfaction from members. We hope to improve on collecting partner feedback in 2015.

The branch also hosted several documentary film screenings with the aim of generating interest in international human rights issues. Our final educational event was a discussion hosted in partnership with the United Nations Association of South Africa. The topic was Freedom from Violence and International Processes. Bonita Meyersfeld was one of the key speakers at the event, which was very well attended and SLSJ Wits' flagship interdisciplinary event.

The branch has grown and strengthened this year, as has our partnership with CALS. We see our partnership with CALS as fundamental to providing a supportive environment for socially conscious students to gain the skills to facilitate transformation.



Fellows and senior lawyers from the Bertha Network visit Robben Island as part of the convening organised in part by CALS in March 2014. Image courtesy of the Bertha Foundation.

BERTHA FOUNDATION CONVENINGS

The Bertha Foundation support organisations that practice public interest law and promote movement lawyering through their Be Just Initiative. The Foundation provides two year fellowships for law graduates in countries around the world as the first step from university into a career in public interest law. CALS candidate attorneys are also Be Just Fellows.

The Foundation also believes in the power of building networks and sharing ideas. This year, they hosted the first Bertha Justice Initiative global convening in Cape Town in March 2014, organised in part by CALS. This brought together over 100 Fellows and senior lawyers from countries across the world including Colombia, the US, Philippines, Germany, Thailand, Peru, Pakistan, India, Mexico and South Africa. The programme included motivational talks from prominent lawyers and activists like Justice Edwin Cameron, Zackie Achmat and Justice Albie Sachs; as well as tours of District Six, a screening of *Miners Shot Down* and trips to local sites. Achmed Kathrada led a moving tour of Robben Island, detailing his experience inside the prison and reflecting on South Africa's struggles.

"We had Fellows from around the world meeting in one place for the first time. Meeting other eager young public interest lawyers and being surrounded by like-minded people was great," said Palesa Madi. "It was inspiring to know that there are so many organisations out there fighting for the same cause."

During the global convening, it emerged that many of the young lawyers were women while only three of the organisations in the Bertha Network were run by women. The younger female lawyers wanted to start a conversation about what it was like to be a woman human rights lawyer. This resulted in the organisations establishing a women's sub-network which met for the first time in Berlin in October 2014. At the gathering, the group discussed a range of issues associated with the experience of being a woman in the legal profession.

CALS also hosted this year's South African Bertha Fellows Convening on 22 July 2014. The Convening gave Fellows an opportunity to meet and hold discussions. Sessions included reflections on the role of young lawyers in advancing social justice and the South African political climate in which our organisations work. The convening also included a skills training session on alternative forms of writing and story telling.



Kayum Ahmed, CEO of the South African Human Rights Commission, during filming for Breaking the Steal Wall

WORKING ACROSS DISCIPLINES

In order to be effective human rights lawyers, we believe we need to be creative and go beyond traditional notions of lawyering. We value taking an interdisciplinary approach which allows us to explore and integrate different disciplines into our legal work and more effectively advocate for our clients. Examples of this interdisciplinary approach include film (as a storytelling tool) and social work (as a method of understanding the psychosocial drivers of trauma experienced by many of our clients).

SOCIAL WORK PROGRAMME

In 2012, CALS was approached by the Social Work Department at Wits to act as a placement for final year students to get their required practical experience. CALS hosted its first two social work interns in 2013 and has continued our partnership this year. We are delighted with the way the social work students have been able to integrate into our community-based projects.

Report from Social Work Interns: Marcel Kutumela and Wilma Chibonore

Our year's placement at CALS gave us great experience and exposure to the work of the organisation. We have been given a chance to practice our skills as student social workers in a real world environment.

We have continued to build a relationship with the legal team and enabled the organisation to deal not only with the legal side of a community's needs but also with the social issues the client communities may face. The staff members at CALS have been very welcoming, supportive and forthcoming; they have always included us and made us feel like part of the family.

Social work students can contribute to the organisation in a number of ways. Our expertise gives us a unique understanding of the social issues that clients may face and how they are affected by rights violations. We can work together with the legal teams to advocate for the well being of their clients in sensitive cases.

Working together, we can give lawyers a more holistic understanding of the impacts of poverty, disability and disadvantage on individuals, families and communities. We are also able to provide services directly to clients. These services can include therapeutic interventions as well as advocacy work which assists with capacity building and empowering community members.

This year we have been working primarily with the Basic Services team and their clients in the Kliptown informal settlement. We helped clients to establish two commu-

nity projects, including a community vegetable garden and a clean-up campaign in partnership with Pickup.

We also faced a number of challenges while completing our placement at CALS. Firstly, we had to find a way to work on projects that would not complicate the work of the organisation and instead build our partnership through our shared passion for social justice.

We would recommend that going forward the organisation give social work students a thorough training week in the beginning of the year. This would allow them to better understand the work of the organisation and see where they may fit in before they begin their work. This could also give the social workers an opportunity to learn about the basic legal frameworks that guide their practice and what they should be advocating for.

We hope in future that CALS will take this collaboration further and consider establishing a social work unit within the organisation so as to monitor the progressive social change in the communities. This way even the student social workers will be largely advantaged as they'll have someone with expertise in their field to consult with. This would give the organisation a chance to further integrate human rights work with psychosocial support.

We would like to thank everyone at CALS for supervising our work and for making us feel welcome.

LAW AND FILM

CALS has been working to incorporate film into our work in a number of ways since 2012. We have since produced three animated short films used as advocacy tools during our workshops on housing rights and environmental rights. This takes human rights law out of the court room and distributes information about fundamental rights in an accessible way to those affected by rights violations. Film can also be a useful tool in the court room as evidence that can give judges a better idea of our clients' lived reality. In 2014, CALS produced two short documentary films, entitled *Breaking the Steel Wall* and *Marikana: The Lived Reality*.

Breaking the Steel Wall

In partnership with the South African Human Rights Commission and One Way Up Productions, we commissioned our first documentary film *Breaking the Steel Wall*. The documentary was developed as an advocacy tool to give a practical example of how communities in South Africa can use the Promotion of Access to Information Act (or 'PAIA') to access information that will help them to realise another right.

Breaking the Steel Wall tracks the journey of communities trying to access information from ArcelorMittal South Africa, the self-styled largest steel producer in Africa. In the documentary, community members



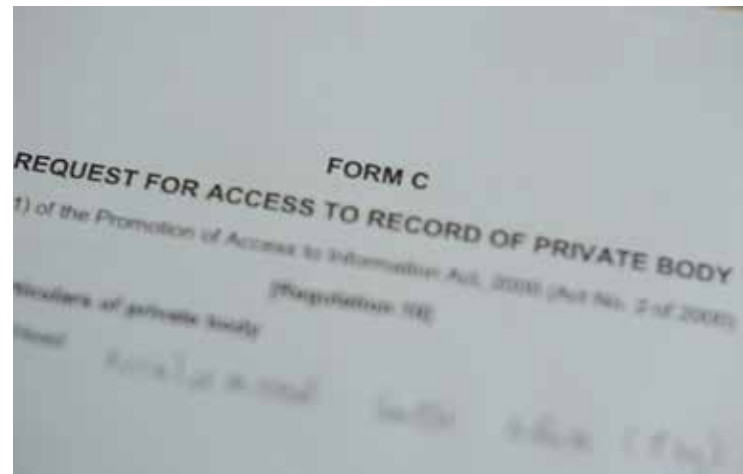
explain how pollution from a steel mill in the area has negatively affected the health of the community members and their animals. It follows the efforts of the Vaal Environmental Justice Alliance to access documents from the steel giant, and gives a practical guide to using the Promotion of Access to Information Act.

Marikana: The Lived Reality

In 2014, CALS also used film as evidence at the Marikana Commission of Inquiry in two different ways. Firstly, we submitted a visual time line which gave a clear idea of the events of 16 August 2012. Secondly, we produced a film entitled *Marikana: The Lived Reality* in partnership with the New

Media Advocacy Project and the International Human Rights Clinic at Harvard Law School. The film examines the lived realities of the women living in the Marikana community.

CALS has been working with the women of Marikana and their organisation Sikhala Sonke since we first assisted them to march in protest against police brutality in 2012. *Marikana: The Lived Reality* shows the living conditions in Marikana and details the experiences of these women. The purpose of the film was to give parties at the Commission of Inquiry an idea of these experiences and to give a voice to the women who were not otherwise represented at the Commission.



Stills from the film *Breaking the Steel Wall*



Participants at this year's Public Interest Law Gathering in the foyer of the Wits Law School's Chalsty Centre

ACADEMIC ACTIVITY

CALS has an identity not only as a law clinic and civil society organisation, but as a university centre and research unit based at Wits. As such, many of our staff members contribute to the academic project of the University by co-ordinating courses and lecturing in the Law School and other departments; and by publishing their own personal research and attending conferences. We are committed to nurturing young academics and our Director and Deputy Director offer career development sessions to encourage staff in their personal academic development. CALS also provides regular staff seminars where staff have an opportunity to share their research and receive feedback.

TEACHING

CALS staff members teach both undergraduate and postgraduate courses at Wits University and are often called on to present guest lectures. In 2014, Prof Bonita Meyersfeld co-taught LLM courses in Human Rights and the Marketplace and Advanced International Law. Lisa Chamberlain taught the LLB course on Bill of Rights and Kathleen Hardy once again was the course co-ordinator for Criminal Law. They have also given guest lectures on a number of topics. Megan Geldenhuys, Nomonde Nyembe and Louis Snyman also guest lectured not only at Wits but also at the University of Pretoria and Vega School.

PUBLIC INTEREST LAW GATHERING

The Public Interest Law Gathering (PILG) is an annual event that brings together a range of people working with public interest law. This includes not only practitioners and civil society organisations, but also legal academics, law students, social movement leaders and community members. PILG provides a space to discuss ideas and trends in a variety of areas of public interest law.

PILG is co-hosted and organised by a committee which includes CALS, Lawyers for Human Rights, the Legal Resources Centre, PROBONO.ORG, SECTION27, the Socio-Economic Rights Institute, the Southern African Litigation Centre, Students for Law and Social Justice, and the Wits School of Law. This year the gathering was held from 23 - 25 July. CALS participated on five different panels and plenaries on topics ranging from transformation of the legal profession to environmental rights to gender, health and education.

2014 marks the 35th anniversary of Lawyers for Human Rights and the 36th anniversary for both CALS and the Legal Resources Centre. We decided to celebrate our birthdays jointly at PILG on 24 July.

SOUTH AFRICAN JOURNAL ON HUMAN RIGHTS

The South African Journal on Human Rights (SAJHR) is dedicated to advancing human rights scholarship and justice-related law in South Africa and is considered both the oldest and most widely cited public law journal in South Africa. The SAJHR continues to be housed in the Wits School of Law with the Director of CALS as the Chair of the Editorial Board. This year the SAJHR celebrated its 30th anniversary, which will be commemorated in January 2015 with a conference on 'Transformation and the Courts'.

SEMINAR SERIES

CALS runs a weekly in-house training programme with sessions on practical legal skills for our candidate attorneys as well as research and reflection sessions once a month. The purpose of research seminars is to improve the quality and quantity of our research output and to assist us in setting internal deadlines for our research output. Reflection sessions give us a chance to explore the themes that permeate our work and create an opportunity for us to engage in areas of law beyond those which we are directly working on.



Duduzile Mlambo, Justice Edwin Cameron and Sibongile Ncube attend an event celebrating South Africa's oldest public interest law organisations - CALS, the Legal Resources Centre and Lawyers for Human Rights. Justice Cameron was the guest speaker and honoured us by reflecting on the intersecting journey of each of our organisations.

PUBLICATIONS

Academic Papers

Chamberlain, L. 'Housing the Ghostwriters: the Appropriate Institutional Location for Legislative Drafting Expertise'. *South African Law Journal*.

Chamberlain, L. 'Standing in the Water Tribunal: Access to Justice down the Plughole'. *South African Journal on Human Rights*.

Chamberlain, L. & Murombo, T. 'International Environmental Law'. In E. de Wet, H. Hestermeyer & R. Wolfrum, *The implementation of international law in Germany and South Africa*.

Meyersfeld, B. & Jain, M. 'Lessons from *Kiobel et al v Royal Dutch Petroleum Company et al*: Developing homegrown lawyering strategies around corporate Accountability'. *South African Journal on Human Rights*.

Meyersfeld, B. 'A gender perspective on the relationship between HRL and IHL' in E. de Wet & J. Kleffner *Convergence and Conflicts of Human Rights and International Humanitarian Law in Military Operations*.

Meyersfeld, B. 'Committing the crime of poverty: The next phase of the business and human rights debate' in C. Rodriguez Garavito *Business and Human Rights: Beyond the End of the Beginning*.

B Meyersfeld, 'Domesticating international standards: The direction of international human rights law in South Africa' in S. Woolman *Constitutional Court Review*.

Magaya, I.; Cooke, M.; Macchelli, P. & Chamberlain, L. 'Constitutional Court Statistics for the 2010 Term'. *South African Journal of Human Rights*.

Ongeso, J. P.; Wentzel, M.; Ndebele, C.; Tungay, G.; Wijesundara, C.; Cooke, M. & Chamberlain, L. 'Constitutional Court Sta-

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Snyman, L. & Krause, R. 'Do Social and Labour Plans Belong to Communities? Clarity, Accountability and Responsiveness in the Legislative Framework'. In *Good Company?*

Viljoen, J.; Magaya, I.; Ongeso, J. P.; Ndebele, C.; Tungay, G.; Wijesundara, C.; Cooke, M.; & Chamberlain, L. 'Constitutional Court Statistics for the 2011 Term'. *South African Journal of Human Rights*.

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Conference Papers

Chamberlain, L. 'Environmental Health: the Next Frontier? Paper presented at the Environmental Law Association Conference, Muldersdrift, 18 October 2014.

Chamberlain, L. 'Assessing the Enablers: Lessons From Practice on the Disturbing Implementation of Rights of Access to Information and Protest in South Africa' Paper presented at the NYLS Workshop - Constitutional Rights, Judicial Independence and the Transition to Democracy: Twenty Years of South African Constitutionalism, New York, 16 November 2014.

Krause, R. & Snyman, L. 'Rehabilitation and Mine Closure Liability: An Assessment of the Accountability of the System to Communities' Paper Presented to the 9th International Conference on Mine Closure, Johannesburg, 1-3 October 2014.

Research Reports

Avidon, C.; Searle Fonzi, J.; Heywood, M.; Mahonde, K.; Meyersfeld, B.; Nevin, A.; Pooe, N.; Stein, N.; & Vance, S. *Managing Sexual Abuse in Schools: A guide for children, families and community members*.

Brock, R.; Brundige, E.; Furstenau, D.; Holton-Basaldua, C.; Jain, M.; Kraemer, J.; Mahonde, K.; Osei, M. & Gaffoor, N. *Sexual Violence by Educators in South African Schools: Gaps in Accountability*.

Hardy, K.; Thobakgale, K.; Whitworth, K.; Geldenhuys, M. & Tungay, G. *Barred (In) Justice: A study on the impact of bail proceedings in respect of remand detention in select Magistrates Courts in Johannesburg*.

Meyersfeld, B.; Snyman, L.; Phalane, M.; Jain, M. & Krause, R. *CALS Community Engagement Policy*.

Snyman, L.; Krause, R.; Geldenhuys, M.; Chamberlain, L. & Meyersfeld, B. *Changing Corporate Behaviour: The Mapungubwe case study*.

Snyman, L.; Krause, R.; Tungay, G.; Meyersfeld, B. & Chamberlain, L. *Structures of Governance: Enhancing or impeding environmental justice?*

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Op-eds

Chamberlain, L. 'Mining problems in focus at alternative indaba' in the *Business Day*. 12 February 2014.

Chamberlain, L. 'There's no shortage of tools to regulate mines' in the *Business Day*. 26 June 2014.

Krause, R. 'Mining communities are ignored' in the *Business Day*. 12 March 2014.

Krause, R. & Snyman, L. 'Strikes highlight the need for bold reforms' in the *Business Day*. 14 July 2014.

Nyembe, N. and Phama, W. 'Corporations rob Africa of its resources, dignity and people' in the *Sowetan*. 29 September 2014.

Sujee, Z. 'Service delivery protests and the media' in the *Daily Maverick*. 7 September 2014.

Sujee, Z. and Thobakgale, K. 'Too classy to be bothered with Jo'burg's poor' in the *Mail & Guardian*. 17 January 2014.

Whitworth, K. 'Taking small but vital steps to make hospitals better' in the *Star*. 18 June 2014.

Submissions

Submission to the UN Working Group on the issue of human rights and transnational corporations and other business enterprises.

Written submissions regarding 'Phase one' of the Marikana Commission of Inquiry.

Update and Input for Preliminary Guidance on National Action Plans to the UN Working Group on Business and Human Rights.

Proposed Amendments to Promotion of Access to Information Act.

Submission of Expert Workshop on National Action Plans to the UN Working Group on Business and Human Rights.

Report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions.

Presentation to the UN Working Group on Business and Human Rights regarding National Action Plans.

Comments on the Promotion and Protection of Investment Bill.

Submission on the Women's Empowerment and Gender Equality Bill.

OUR STAFF



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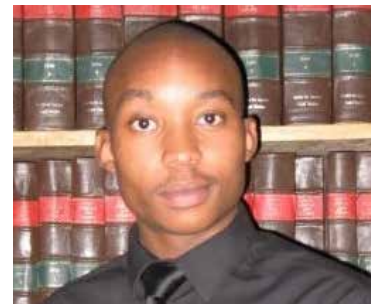
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ASSOCIATED STAFF

CALS has recently adopted a new policy to create opportunities for students, recent graduates and visiting researchers to contribute to our work. Apart from formal employment opportunities, CALS offers a range of other positions related to research, internships, volunteering, and fellowships. We hope to continue to welcome outstanding candidates to fill associated staff positions from across the globe. We believe that the intersection of different cultures, values and jurisdictions will be enormously beneficial to our approach to human rights law in South Africa.

In 2014, CALS continued to host Dr Zonke Majodina as a visiting researcher. Dr Majodina is the former Chairperson of the UN Human Rights Committee, and a widely-respected authority on the rights of refugees, asylum-seekers and migration policy. Since returning to South Africa, Dr Majodi-

na has taken up posts as senior lecturer at Wits University and Deputy Chairperson at the South African Human Rights Commission.

Interns

Each year CALS hosts a number of interns who undertake activities ranging from conducting desktop research to assisting with community workshops. While traditional internships are usually unpaid and only accessible to students from the Global North, CALS specifically targets students and young lawyers from South Africa and other countries in the Global South. Through our partnership with the Bram Fischer Fund, we have been able to give many more internship opportunities which expose young people to human rights and social justice work. In 2014, CALS hosted 18 interns with a vast majority coming from the Global South.



**Lynne Barry - Intern
Business & Human Rights**



**Sharon Chimhanda - Intern
Law and Film**



**Robert Freeman - Intern
Social justice research**



**Wilma Chibonore
Social work intern**



**Gerron Fraser
Environmental Justice**



**Christine Grobler
Rule of Law**



**Marcel Kutumela - Intern
Social work**



**Johan Mokoathi - Intern
Environmental Justice**



**Nkosivile Shongwe - Intern
Environmental Justice**



**Queen Letshabo - Intern
Business & Human Rights**



**Cebile Ndebele - Long-term
Intern across programmes**



**Dong Song - Intern
Basic Services, Gender**



**Nkosana Maphosa - Intern
Rule of Law**



**Mbonisi Nyathi - Intern
Basic Services, Gender**



**Grant Tungay - Long-term
Intern across programmes**



**Kgomotso Mokaba - Intern
Basic Services, Gender**



**Muhammed Patel - Intern
Basic Services**



**Baone Twala - Intern
Environmental Justice**

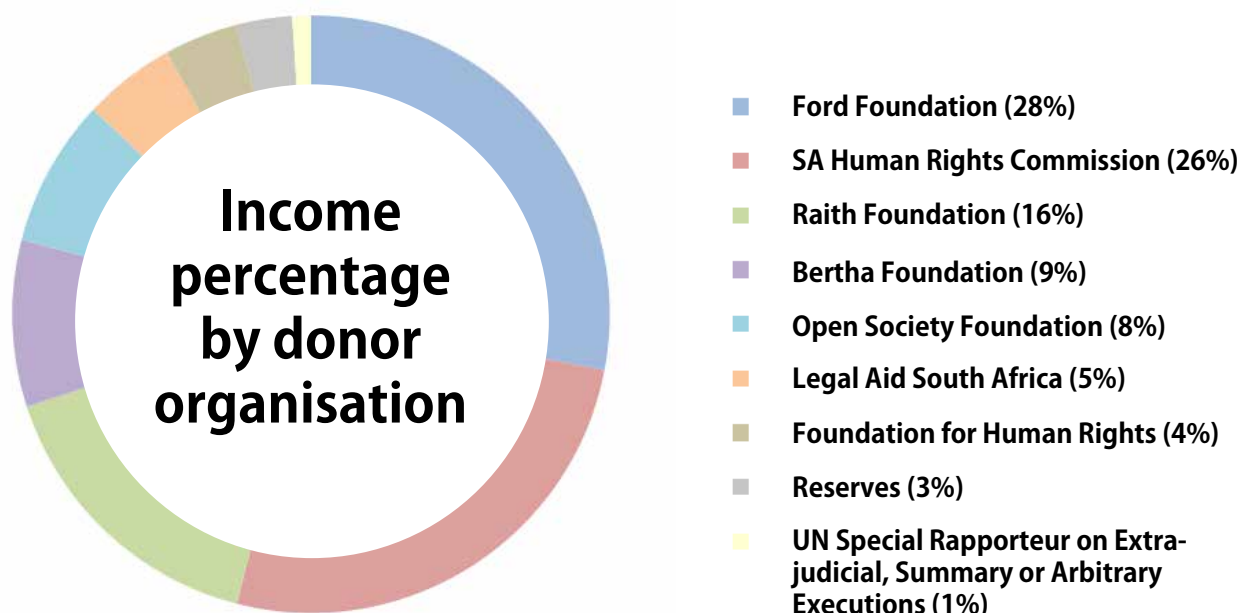
OUR FINANCES

CALS' auditors (Douglas and Velcich) are currently conducting an audit. We therefore do not have audited financial statements for 2014 available and have provided financial statements instead.

Please note that we have not presented a full balance sheet as CALS is a unit within the broader university. This means for example that many of CALS' "assets" belong to the Faculty of Commerce, Law and Management rather than CALS as a stand-alone entity. This

also means that CALS does not operate its own bank account but uses the University's broader bank account and financial systems of checks and balances.

The graph below shows a breakdown of the income received in 2014 by donor organisation. The table on the page that follows gives the actual donation amounts. Most of the available funds at year end are for projects that will continue into next year.



DONOR INCOME

Ford Foundation	R	3,671,851
South African Human Rights Commission	R	3,325,567
Raith Foundation	R	2,000,000
Bertha Foundation	R	1,114,298
Open Society Foundation for South Africa	R	1,000,000
Legal Aid South Africa	R	705,300
Foundation for Human Rights*	R	571,000
Reserves**	R	422,221
UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions	R	86,192
TOTAL		12,896,429

EXPENDITURE

Project costs	R	6,768,833
Administrative costs	R	1,262,867
TOTAL	R	8,031,699
Net surplus	R	4,864,730

* The Foundation for Human Rights is funded by the Department of Justice and Constitutional Development and the European Union under the Sector Budget Support Programme.

** Reserves include accumulated funding from previous years, admin fees from current grants, and specific funding from the Bram Fischer Fund (managed by the Wits School of Law).

A NOTE OF THANKS

None of the work that CALS does would be possible without the support we receive in a variety of different areas. We would like to take this opportunity to thank all those who have been part of our work in 2014. You are far too numerous to mention by name, but we sincerely thank you all. We would also particularly like to thank the following funding partners for their valued contribution:

- Bertha Foundation
- Bram Fischer Fund
- Ford Foundation
- Foundation for Human Rights
- Legal Aid South Africa
- Open Society Foundation South Africa
- Raith Foundation
- South African Human Rights Commission
- UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions
- Wits School of Law

In addition, we would also like to thank the many advocates who have assisted us and generously given their time, including:

Amelia Rawhani
Buhle Lekokotla
Janice Bleazard
Jason Brickhill
Kameshni Pillay SC
Kate Hofmeyr
Michelle le Roux
Ngedwani Mgcina
Nkensani Ntuli
Nyoko Muvangua
Reghana Tulk
Steven Budlender
Stuart Wilson
Wim Trengrove SC

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Breaking the Steel Wall produced in partnership with the South African Human Rights Commission and One Way Up Productions

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