

ANNUAL REPORT 2012



CALS

Centre for Applied
Legal Studies

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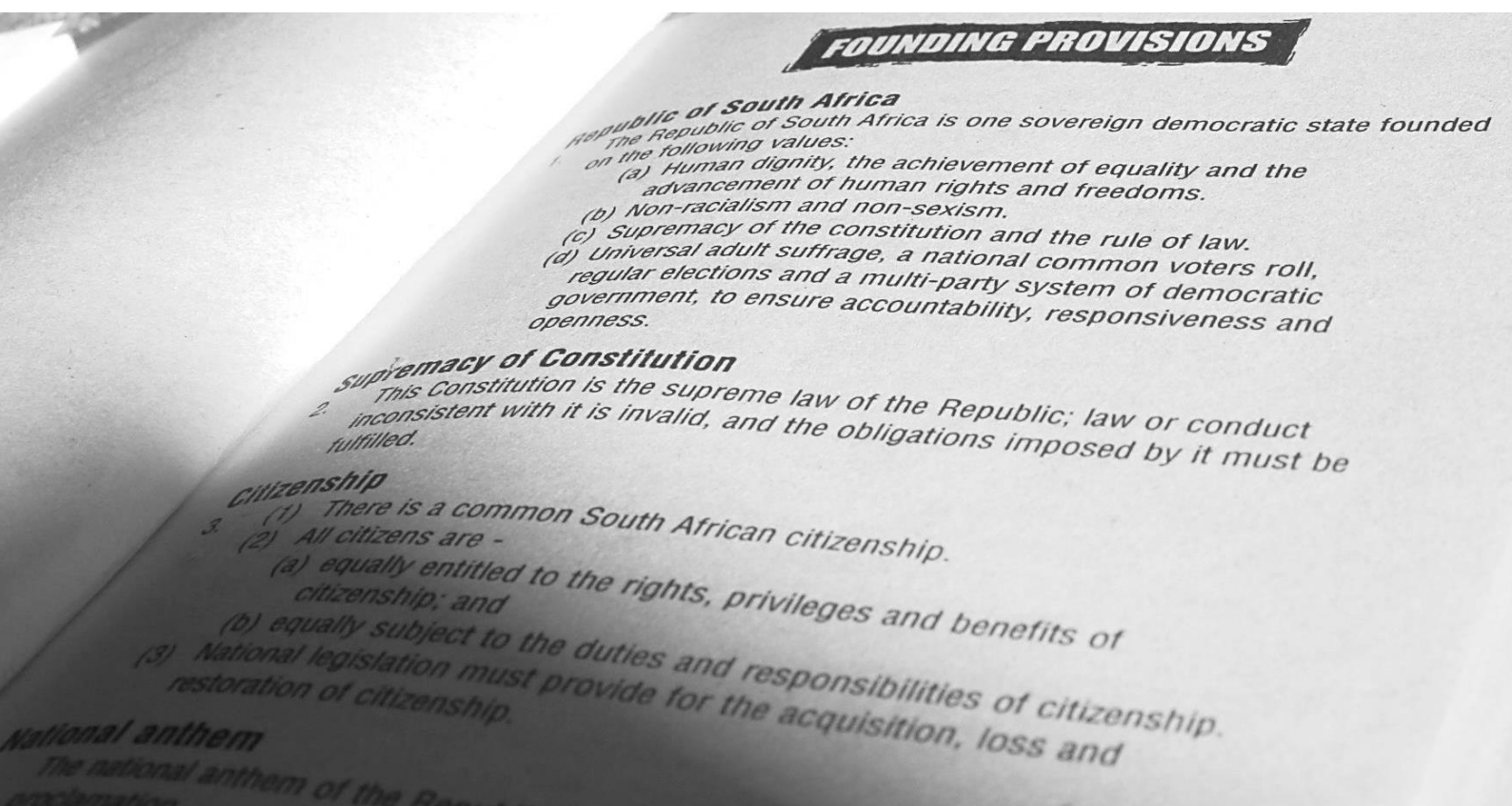
vision and mission 2012

The Centre for Applied Legal Studies was founded in 1978 by Professor John Dugard as a legal research unit within Wits University. The purpose of the Centre was to encourage law reform and improve access to justice during apartheid. While much has changed in the 34 years since then, our organisation remains committed to promoting human rights and challenging systems of power in South Africa and the region.

CALS envisions a country where human rights are respected, protected and fulfilled by the state; corporations; individuals and other repositories of power through a commitment to the dismantling of systemic harm and a rigorous dedication to justice.

Our mission is to challenge and reform systems within South Africa which perpetuate harm, inequality and human rights violations; provide professional legal representation to victims of human rights abuses; actualise a politically, socially and economically just society; challenge systems of power and act on behalf of the vulnerable; and act with courage against impunity for non-compliance with human rights standards.

CALS continues to use a combination of research, advocacy and strategic litigation to work towards realising our vision in a variety of areas. Sensitive to the way in which different kinds of rights violations can intersect, we structure our work into a number of overlapping programmatic areas. These areas include the advancement of basic services, gender related issues, the adherence to the rule of law, the provision of education, as well as issues relating to a clean and healthy environment



acknowledgements

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 2012. They are far too numerous to mention by name, but we sincerely thank them all. We would particularly like to thank the many advocates who have assisted us and generously given their time in court.

A special thanks is due to our funding partners for their financial assistance and valued contribution:

Atlantic Philanthropies
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Gauteng Department of Education
Norwegian Centre for Human Rights
Open Society Foundation for South Africa
Raith Foundation
Soul City Institute

The
A T L A N T I C
Philanthropies



THE CLAUDE
LEON FOUNDATION



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GAUTENG PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

UiO **Norwegian Centre for Human Rights**
University of Oslo

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**OPEN SOCIETY FOUNDATION
FOR SOUTH AFRICA NPC**

**T H E R A I T H
F O U N D A T I O N**

SOUL CITY INSTITUTE
HEALTH & DEVELOPMENT
COMMUNICATION

director's note

The Centre for Applied Legal Studies has seen some of the most dynamic, effective and dignified lawyers and academics walk its corridors. It was, therefore, a great honour to become a part of the CALS family and history in March 2012 as Director. As a new director and colleague, it was important to begin the process of defining a vision for the next stage of the organisation's work and determine how it would continue its auspicious history of social justice lawyering in South Africa.

We began the year with the precedent-setting court victory in the case of *Blue Moonlight*, involving the eviction of occupants from privately owned property and the duty of the state to provide alternative accommodation for the evictees. The case saw us returning to court to demand that the State comply with the court order and, together with lawyers from the Socio-Economic Rights Institute, we marked the first quarter of 2012 with litigation success.

Our litigation success continued with the case of *Dudley Lee* (in partnership with the Wits Justice Project, SECTION27 and the Treatment Action Campaign), where CALS' amicus application was seminal in the Constitutional Court's finding that the Minister of Safety and Security was responsible for the conditions that led to Mr Lee's health issues.

In 2012, CALS focused on the implementation of human rights and constitutional law in South Africa. This was a phase where we would need to be ever more creative and responsive, not only to our clients and constituents, but also to our donors and the broader principles of the rule of law.

2012 also saw additional staff members join us and we welcomed leading academics and lawyers on board. We successfully obtained permission from the Law Society of South Africa to hire and train candidate attorneys for the first time and our funding partners began to grow with us. We benefitted enormously from the support and guidance of our donors and partners.

We were also delighted to receive funding via the Wits Law School from the Bram Fischer funds for our new internship programme. This allowed us to invite outstanding South African and African interns to work at CALS and benefit from our colleagues' training. This was an important shift from relying on interns from the Global North institutions who had the necessary financial support to intern at CALS. For the first time we could shift our focus from training lawyers from the Global North to training lawyers from the Global South.

The year, however, was one that will always be marked by the shadow of the tragedy of Marikana. Images of the massacre ricocheted across the globe and the country was chilled into a devastating recollection of apartheid police brutality. CALS closed its offices for the day after the massacre; as human rights lawyers and academics it was seminal that we used our greatest strengths to map our response, our collective knowledge and our impossible pain. We knew that our most important contribution would be to write our thoughts while working with our colleague social justice organisations to advance justice in the face of this regressive moment in the South African

democracy. We embarked on a long and successful partnership with the South African Human Rights Commission, which CALS represented before the Marikana Commission of Inquiry.

2012 was a year of surmounting insurmountable hurdles; where colleagues became friends and lawyers worked heroically. While the nuances of social justice lawyering, and truly responding to the needs of our clients, was a key challenge, the people who comprise the Centre for Applied Legal Studies worked tirelessly, effectively and with great dignity and it was a privilege to traverse the year with such talented and capable colleagues.

— Bonita Meyersfeld
Director

staff



Lisa Chamberlain is the acting Head of Programmes at CALS and a lecturer at the Wits Law School. She holds an LLM from the University of Michigan, and LLB and BA degrees from Wits University. She joined CALS in 2009 as an attorney in the Environment Programme. Lisa completed her articles of clerkship at Cheadle Thompson and Haysom Inc., where she later practised as an attorney. Lisa has also worked as a law research clerk to Justice Skweyiya and Acting Justice Kondile at the Constitutional Court of South Africa.



Kathleen Hardy joined CALS in 2011 as an attorney in the Rule of Law Programme. Prior to joining CALS, she completed an internship at the United Nations Counter-Terrorism Committee's Executive Directorate in New York. Kathleen obtained her LLB and LLM from the University of Pretoria. She has previously practised as an attorney and lectured full-time at the University of Pretoria. Kathleen is a sessional lecturer at Wits where she currently lectures criminal law.



Robert Krause joined CALS in June 2012 as a researcher in the Environment Programme. He holds an LLB and an LLM from the University of Cape Town. Between the completion of his LLB and the commencement of his LLM, Robert spent a year in London as a research assistant to a legal consultant involved in international investment matters before the International Centre for Settlement of Investment Disputes (ICSID) and other arbitral tribunals.



Bonita Meyersfeld is the Director of CALS and an Associate Professor at the Wits School of Law. Bonita has contributed to work in the human rights arena in a number of capacities including as a legal advisor in the House of Lords in the UK. She has also been involved in the work of the UN Special Representative on Business and Human Rights, at Interights in London, the International Centre for Transitional Justice in New York, and People Opposing Women Abuse (POWA) in Johannesburg.



Duduzile Mlambo is an Administrative Officer. She has more than 10 years' experience as an administrator within Wits University. She was previously employed at the Centre for Health Policy at Wits as a Senior Secretary. Duduzile has experience in administrative and logistics support. Her training has adequately equipped her to contribute to the goals and objectives of CALS in the administrative field.



Bekezela Moyo, a teacher by profession, is a researcher in the Education Programme at CALS. She also holds a BA degree and a Graduate Certificate in Education from the University of Zimbabwe; a BSc (Geography and Environmental Studies) from Zimbabwe Open University; and a BSc Honours (Geography and Environmental Studies). Bekezela is also currently working towards an MSc (Geography and Environmental Studies) from Wits University.

Blessing Mushohwe is a researcher in the Education Programme at CALS. Blessing is also currently also completing his PhD at the Wits School of Law. He holds an LLB from the University of Fort Hare, and an LLM from the University of KwaZulu Natal. Prior to joining CALS, Blessing showed his commitment to child welfare in his various positions as an intern at the Zimbabwe National Council for the Welfare of Children and as a projects officer for the Distressed Children Network.



Nyoko Muvangua holds a BA from Smith College (USA), and an LLB and PhD from the University of Cape Town. Before joining CALS as a researcher, Nyoko worked as a law research clerk to Emeritus Chief Justice Sandile Ngcobo at the Constitutional Court of South Africa. While at CALS, she lectured commercial law at undergraduate level. Nyoko is a co-author of *Ubuntu and the Law: African Ideals and the Postapartheid Jurisprudence* (Fordham Press, 2012).



Sibongile Ncube is an Administrative Assistant and is responsible for providing administrative services to ensure the effective and efficient operations of the organisation. She is currently completing a BCom degree through UNISA. Prior to joining CALS in 2011, Sibongile was an administrator at the College for Business and Maritime Studies. Sibongile is also a qualified teacher who is passionate about equal access to education for all.



Toby Fisher joined CALS as a consultant in October 2012 to provide strategic advice and support for CALS' work on the Marikana Commission of Inquiry. He is a barrister at Landmark Chambers in London. He has double first class honours from Cambridge University, and a Masters in Law with distinction from the LSE. Prior to coming to South Africa, he was junior counsel to the Leveson Inquiry into press ethics, and had an established practice in public, human rights and environmental law.



Zeenat Sujee completed her LLB at Wits University in 2006 and thereafter completed articles at the Legal Resources Centre in Johannesburg. She was admitted as an attorney in 2009 and remained at the LRC until March 2012 when she joined CALS as an attorney in the Basic Services Programme. She has worked on a number of important Constitutional Court matters dealing with different aspects of the law, such as appealing against the awarding of costs against civil society organisations acting in the public interest.



Lerato Thekiso is an LLM candidate in International Law at the University of Johannesburg. Prior to joining CALS, she worked at other organisation in the NGO sector, as well as at the firm Edward Nathan Sonnenbergs, and the Independent Electoral Commission in various capacities. She is currently the attorney in the Environment Programme at CALS, and has been involved in work mainly relating to coal-mining developments.



Keamogetswe Thobakgale obtained an LLB from Wits University in 2011. He held various leadership positions while a student at university, including treasurer of the Law Students Council, member of the Wits Students Disciplinary Committee, Wits Law Clinic labour law student consultant and board member of the Tshepo-Themba Community Project. Keamogetswe is a Candidate Attorney at CALS and is mainly involved in the Basic Services and Rule of Law Programmes.



interns

CALS has an established Internship Programme which offers students and recent graduates worldwide an opportunity to participate in our work, while at the same time enhancing our own capacity and bringing an international dimension to all we do. This year, CALS provided internships to ten people from South Africa, Venezuela and the United States.



Brian Ahn
Basic Services



Claire Avidon
Gender and Education



Marianna Belalba
Rule of Law



Sharon Chimhanda
Law and Film



David Houze III
Rule of Law



Chaka Laguerre
Gender and Education



Sithembiso Mabaso
Rule of Law



Caroline McMahon
*Basic Services and
Environment*



Christopher Mercer
Gender and Rule of Law



Karen Orzekowski
Environment

staff seminars

CALS has recently introduced two new platforms for staff to share their experiences and keep others updated on their current work. Staff seminars provide an opportunity for staff members to present formally on their research outputs. They act as a platform to get feedback on conference papers that staff are preparing for presentation, or as a way to share results from current research or submissions.

Brown bag lunches provide a more informal space for staff to share knowledge, ideas and interests in their particular areas of expertise. As the name suggests, these sessions take place during lunch times where staff members gather to share knowledge over a meal together. Preparation for these sessions is not nearly as intense as for seminars, and the presentations are intended to be more casual, with a format of one person making an informal presentation on something they find interesting and relevant, and leading a discussion with others around this topic. The first of these sessions took place on 12 October 2012, with one of our interns, Christopher Mercer, sharing his experiences in the United States Army and how this led him to a career in human rights.



CALS Staff Members (standing, left to right) Bonita Meyersfeld, Lisa Chamberlain, Zodwa Dlamini, Sibongile Ncube, Chaka Laguerre, Kathleen Hardy, Bekezela Moyo, Duduzile Mlambo, (seated, left to right) Keamogetswe Thobakgale, Zeenat Sujee, Lerato Thekiso

Image courtesy of Michael Meyersfeld



Former Chief Justice Arthur Chaskalson
Image courtesy of Roz Berman

basic services

The work of the Basic Services Programme concentrates on ensuring the implementation of socio-economic rights enshrined in the Constitution, primarily concerning the right of access to adequate housing. In Johannesburg, poor and marginalised communities are regularly evicted from their homes. In addition to extensive research and advocacy work in this field, CALS represents a number of communities in the Johannesburg inner city who face eviction, and has been at the forefront of developing the constitutional jurisprudence in this area.

Our litigation work has included precedent-setting Constitutional Court cases on the obligations of the state in situations of eviction at the hands of private land-owners and the substance of meaningful engagement. Increasingly, the Programme is expanding to focus on the provision of other basic services such as electricity, water, sanitation and the provision of public health care. The sections below cover the major projects of 2012, including housing and the public health care system in Gauteng.

HOUSING AND EVICTIONS

South Africa's Constitution contains progressive protection for socio-economic rights, including the right of access to adequate housing and protection from arbitrary eviction established in section 26. The housing project within the Basic Services Programme focuses on ensuring the implementation of this right. The Basic Services team represented 12 communities in 2012.

One of the highlights of 2012 was the resounding victory for the urban poor in the Constitutional Court case of *City of Johannesburg v Blue Moonlight Properties 39 (Pty) Ltd and Others*, in which CALS represented the residents of an abandoned textile factory in Berea, Johannesburg.

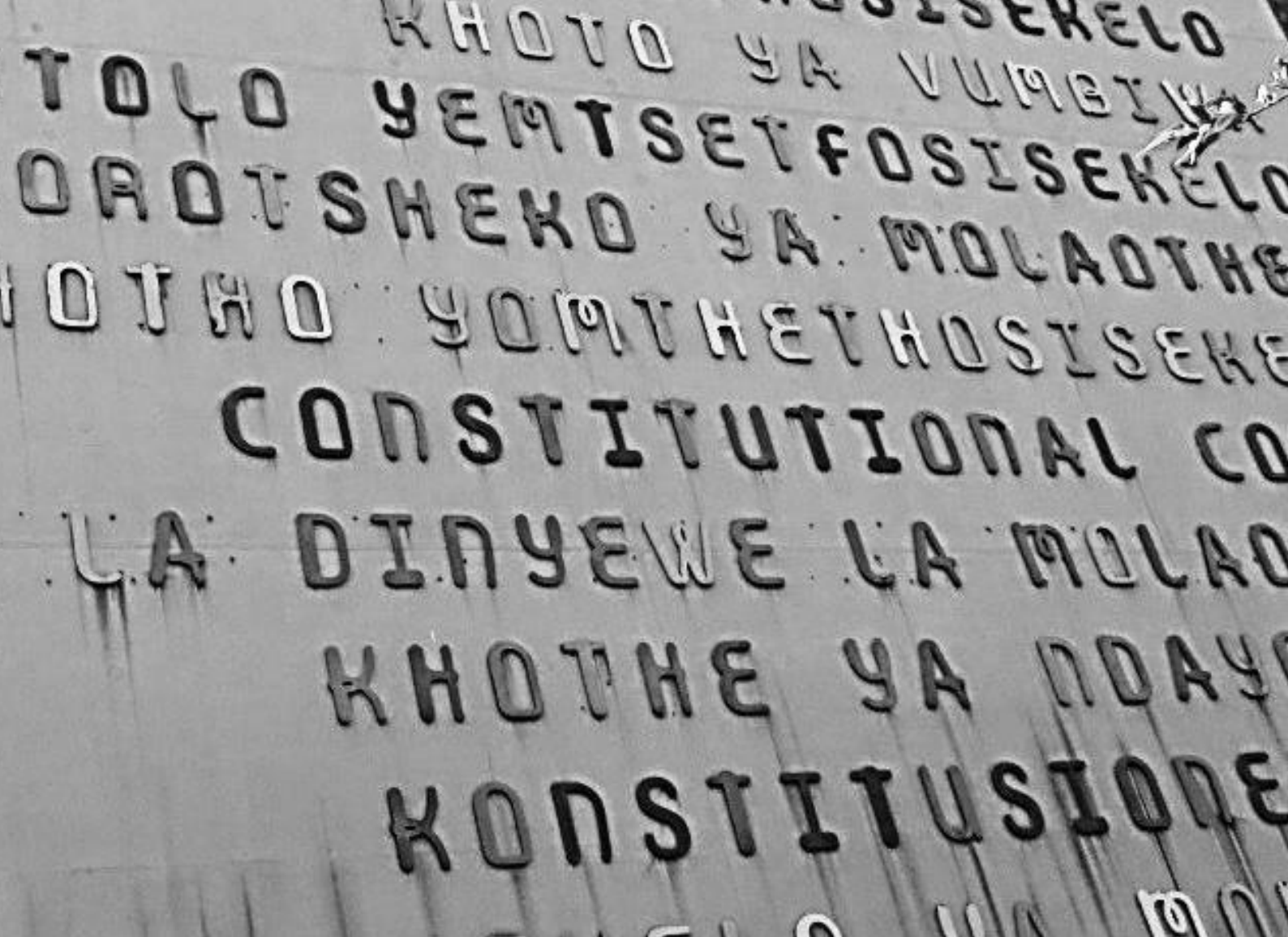
HIGHLIGHT OF THE YEAR

The seamless way in which the new Basic Services team managed to pull together as a group in times of crisis to achieve results for our clients

– Zeenat Sujee

The matter arises from an eviction application by a private landowner against the occupiers of the building. These residents, with the assistance of CALS, successfully brought an application in 2008 which sought to join the City of Johannesburg as a party to the proceedings and declaring that the City has a constitutional duty to provide alternative accommodation to residents who would be rendered homeless through an eviction.

On 4 February 2010, the main application was heard before Judge Spilg. The Judge held that the City has a constitutional and statutory duty to provide satisfactory emergency accommodation to the occupiers of both government



buildings and privately owned property, who would be left homeless in the event of an eviction order being granted. The matter was taken on appeal and heard before the Supreme Court of Appeals on 18 February 2011. The Supreme Court of Appeal confirmed the unconstitutionality of the City's housing policy and ordered the City to provide alternative accommodation to our clients.

The matter was then taken on further appeal to the Constitutional Court, and was heard on 11 August 2011. This appeal similarly dealt with the City's obligations to provide emergency housing to residents evicted at the insistence of a private land-owner. The judgment found that the City's housing policy was unconstitutional as it excluded residents like our clients from consideration for temporary accommodation. Moreover, the judgment held that the City was to provide temporary accommodation to the occupiers of Saratoga Avenue on or before 15 April 2012 – the date on which the residents are to vacate the property.

This judgment is both a landmark legal precedent and the result of years of partnership between CALS and this community. Thanks must go to the string of attorneys, candidate attorneys and researchers who have worked on this case over the years, as well as to the community leaders who have played a seminal role in this victory. The outcome of this case will undoubtedly have an impact on many of our other housing cases, as well as those with which our partner organisations are involved.



GAUTENG HEALTH

For several years, the standard of public health care in Gauteng has deteriorated to a point where we are heading towards a standard of health care bordering on a humanitarian crisis. Medical practitioners have experienced increasing impediments to providing medical services at public hospitals in Gauteng. This deterioration in service provision is particularly evident in Gauteng public hospitals falling under the Wits University's Faculty of Health Sciences.

In March this year, CALS was approached by the Head of the Wits University Medical School on behalf of doctors employed in tertiary academic hospitals, including Chris Hani Baragwanath Hospital, Charlotte Maxeke Johannesburg Hospital, Rahima Moosa, and Helen Joseph. Following a four-year period of engagement with government and the steady deterioration of health care system, it was decided that the University would take legal action against the MEC for Health in Gauteng, the Gauteng Department of Health and the National Department of Health for two reasons.

Firstly, the University constitutes an organ of society that is subject to the provisions of section 27 of the Constitution. However, the University has been forced, by the Gauteng Department of Health, into a situation where it has to breach those obligations because doctors do not have the equipment that they need to practise medicine and to treat patients.

Secondly, as a teaching institution, the University has obligations to its students. It cannot meet these obligations because its doctors cannot teach without the equipment that they need to treat patients and to teach junior doctors. This also means that the University is being forced to be a party to the long-term decline of quality health education, which in turn will lead to the long-term deterioration of public health care in general.

The nature of the deterioration is widespread and involves a lack of access to medicine, a shortage of staff, a failure to manage budgets, a failure to manage hospital equipment and infrastructure and a breakdown of emergency medicine. For the purposes of litigation, we have decided to focus in on the *ad hoc*, inconsistent and deficient supply of equipment, because we have the most on-the-ground evidence of this and because it facilitates our chances of the South Gauteng High Court granting a measured order in our favour. We intend to launch litigation early in 2013.

community engagement

In many instances CALS acts on behalf of rural and urban communities in South Africa. CALS has begun work on drafting a policy for engaging respectfully and professionally with these communities, allowing our staff to facilitate meaningful representation characterised by integrity and respect. It is also necessary to have a clear policy of community engagement to guide CALS attorneys in situations where there is division or conflicting instructions from within the community.

Communities are not homogenous. Any community consists of individuals who have their own power relations, power imbalances, needs and status. CALS seeks to strike a balance between respecting the cohesiveness of the community on the one hand and, on the other hand, ensuring that individuals within the community are represented and understood. Engagement requires an open, active and voluntary approach to dialogue that identifies the current positions of all parties, outlines their objectives and desired outcomes, and discusses and identifies the processes to best achieve them. The parties to engagement may change over time, but engagement itself is a continual process.

Meaningful community engagement facilitates improved benefits and consequential interventions for the community. It also ensures that we maintain our focus on the individual beneficiaries with whom we work. The policy is based on the founding principles of mutual respect, constant communication, confidentiality, transparency, empowerment and the management of expectations. These founding principles reflect our shared thoughts as a basis for guiding the manner in which we engage the communities with whom we work. They will help to guide our work in varying community settings going forward, and reflect what is holistically important to CALS regarding this engagement.



education

The Education Programme at CALS is committed to the realisation of the right to education as guaranteed in section 29 of the Constitution. It does so through impact-oriented research focusing on projects that aim to facilitate improved educational opportunities and quality education for children in South Africa.

The Programme also engages and raises awareness with administrators and other relevant stakeholders regarding their legal obligations, in order to develop education policies and strategies that ensure that the right to education is realised by all people in South Africa regardless of socio-economic standing or geographic location in South Africa. Historical content areas of focus of the Education Programme have included sexual harassment in schools, budgets and infrastructure, school fees and barriers to accessing education in SA. More recently, the Programme has undertaken an in-depth analysis of the implementation of the government's hostel schools policy.

TEXTBOOKS

Concerned with the lack of textbooks supplied to learners in the Limpopo province, CALS represented SECTION27, Hanyani Thomo Secondary School and Tondani Lydia Masiphephethu (the parent of a learner) in this case against the National Department of Basic Education and the Limpopo Department of Education. Textbooks which should have been provided by January 2012 had still not been delivered by May when CALS instituted an urgent application in the North Gauteng High Court. The application called for the Minister of Basic Education and the MEC for the Department of Basic Education in Limpopo, to provide textbooks to all affected schools, and for a 'catch-up' plan to be put in place for learners to include additional classes to recover the time lost. The matter was heard on 14 May 2012.

HIGHLIGHT OF THE YEAR

Collaborating with our partner organisations in the civil society network to build the strength of the Programme; and working with the Gender and Basic Services Programmes to reveal the intersectionality of their concerns.

– Zeenat Sujee

On 17 May, Judge Kollapen handed down judgment holding that the failure of the Departments to provide textbooks to learners throughout Limpopo for almost five months of the academic year is a violation of the right to basic education. He ordered that they deliver textbooks to all affected schools by 15 June at the latest, and that a 'catch-up' plan should be formulated and lodged with the court by 8 June. Approximately 1.7 million learners at over 5 000 schools in Limpopo were affected by the judgment requiring the urgent delivery of textbooks.

Unfortunately, the Department failed to comply with this order. A further court order was granted stipulating an agreement for the textbook delivery date to be extended to 27 June. While the Department confirmed that all schools had been provided with textbooks by September 2012, SECTION27 continued to receive reports from schools which had not yet received textbooks. In addition, the plan the Department developed fails to address the problem sufficiently. There is no dedicated budget; it does not provide for extra tuition time for learners or mention support for teachers.

On 10 September, CALS again approached the North Gauteng High Court to intervene in this crisis. Judge Kollapen handed down judgment confirming the Department's failure to comply with two court orders and imposing a deadline of 12 October for the final delivery of the textbooks for 2012, and a deadline of 15 December for the 2013 textbooks. Concerning the 'catch-up' plan proposed by the Department, Judge Kollapen reiterated the importance of extra tuition time for learners affected by the lack of textbooks and support for teachers. The Court also acknowledged the necessity of bringing this application by ordering the Department to pay half of SECTION27's costs, though it did not grant punitive costs against the Department.

This litigation was initiated out of a concern that many learners' right to a basic education was not being realised due to the textbook shortage. The Department has subsequently filed two affidavits confirming that the delivery of the 2012 and 2013 textbooks had been completed by their respective deadlines. We remain concerned, however, that there is no means of independently verifying whether there are any schools that have not yet been provided with textbooks by the Department.

EDUCATION CONFERENCE

*'Realising basic education as a socio-economic right:
How far have we come and where are we going?'*

From 14 to 15 November 2012, CALS co-hosted a conference on basic education along with our partner organisations the Legal Resources Centre, Equal Education, SECTION27 and the Centre for Child Law. This year's two-day conference, which took place at the Webber Wentzel auditorium, included contributions from members of civil society and government officials. Topics addressed ranged from sexual violence in schools, to educational support materials, assistance for learners with disabilities, and access to basic education. The aims of the conference were to provide an overview of the outcomes of policy, law reform and litigation that has been undertaken; and give a platform for discussions on non-legal initiatives being pursued to advance the right to basic education.

The first day opened with a keynote address by Mr Jay Naidoo. Highlights of the conference include an address by South African Human Rights Commissioner Lindiwe Mokate; and a presentation on improving basic education by Gauteng MEC Barbara Creecy. Key outcomes of the conference include holding similar conferences in each of the nine provinces with a focus on the particular contextual challenges faced by each province; increased community mobilisation on the issue of sexual violence; and building the capacity of school governing bodies.

environment

CALS' Environment Programme works towards making the environmental right contained in section 24 of the Constitution a tangible reality for all who live in South Africa. The Programme adopts as the basic premise of its work that a healthy environment is critical for the development of all people, especially poor and marginalised communities who have limited options in terms of choosing the environment in which they live. The work of the Programme is driven by the need to facilitate access to the processes through which communities can be involved in combating unacceptable environmental degradation.

The main focus on our work relates to ensuring the implementation of ecologically sustainable development and use of natural resources. Much of our work in this area has centred on the extractives industry in South Africa and how to achieve the appropriate balance between the sustainable use of natural resources on the one hand and socio-economic development on the other. We have been involved in projects such as an investigating the impact of coal-mining activities on the communities affected by these activities, intervening as an *amicus curiae* in a case involving the interpretation of the Mineral and Petroleum Resources Development Act, and representing the coalition of civil society organisations seeking to protect the integrity of the Mapungubwe World Heritage Site from the possible threat posed by a colliery being built nearby.

VELE COLLIERY PROJECT

The Mapungubwe Cultural Landscape is an area in northern Limpopo that was home to the first African state. In 2003, the area was declared a World Heritage Site by UNESCO on the basis of its immense archaeological and cultural significance. The cultural landscape also forms the South African core component of the Greater Mapungubwe Transfrontier Conservation Area which is the result of a tri-national agreement between South Africa, Zimbabwe and Botswana. Despite the sensitivity of the area, in February 2010 the Department of Mineral Resources granted mining rights to Limpopo Coal Company to mine for coal a few kilometres to the east of the Mapungubwe National Park. In March 2010, the Department also approved the Environmental Management Plan submitted by Limpopo Coal. This coal mine (Vele Colliery) will utilise both opencast and underground mining methods operating 24 hours a day, 7 days a week, for 30 years.

Litigation has formed a significant part of CALS' approach in challenging the development of a coal mine in an area of such value, not only nationally but internationally as well. On 24 November 2011, CoAL and the Coalition hosted a joint media briefing. Both signed a Memorandum of Understanding with one of the terms being that the Coalition would suspend all the pending legal proceedings based on the outcome of the negotiations. CoAL has agreed to co-operate with the Coalition in setting a benchmark for best practice in preserving the integrity of the greater Mapungubwe area. The negotiation process was envisioned to be a two- phase approach, leading up to the signature of a Memorandum of Agreement.

Although the litigation component of this project has been critical, CALS has seen some progress through the negotiation process to date. CALS' Environment Programme continues to work towards the same aims. The Vele Colliery Project extends far beyond the litigation and negotiation. The Project also involves comprehensive research, documentation, dissemination and advocacy components. Our aim is to use the case as a basis for knowledge-building around the issues involved and engagement between all stakeholders (including mining houses and government). We hope to find practical solutions to the problems posed, and build capacity among communities and public interest organisations whose concern is the protection of sensitive areas from unsustainable mining activities.

EMC INVOLVEMENT

Through the negotiation process, CoAL has suggested that some representatives of the Coalition should form part of the Environmental Management Committee (EMC) so as to have a say in relation to the decisions that are made in that forum. The Coalition members felt uncomfortable with being full members of the EMC as they would not want to be party to it as some of the licenses being monitored by the EMC remain flawed in the Coalition's view. The Coalition therefore opted to hold observer status in the EMC until such a point that the licences were amended.

The EMC is the body established in terms of the various licenses to monitor compliance with the conditions of those licenses. By this stage we have attended a few EMC meetings, the last of which was on 10 – 11 May 2012, when an EMC meeting and site visit was held in the Mapungubwe area. The Coalition sent two representatives, Lerato Thekiso and Karen Orzechowski from CALS. The Coalition was informed that the mine is working 20 hours a day at this stage and is nearly at full production.

Based on the fact that the Coalition holds observer status at the EMC, some of the members of the EMC have expressed their discomfort about the Coalition being privy to the information shared at the EMC. At the EMC meeting, there was a long debate about whether the Coalition should remain on the EMC as observers, particularly given that the Memorandum of Agreement has taken several months to sign. The final decision was that if, by the next EMC meeting in October, no MoA has been signed, the Coalition would be required to leave the EMC.

HIGHLIGHT OF THE YEAR

Becoming the first civil society organisation on an Environmental Management Committee. The coalition has also shown how NGOs can work together, learn from and support one another.

– Lisa Chamberlain

SOUTH-SOUTH LEARNING EXCHANGE

The South-South Learning Exchange is a project implemented by PROCASUR and the Ford Foundation which encourages co-operation and shared learning amongst organisations operating in the Global South. The project was initiated in May 2011 and covers countries in the Andean region

of South America and Southern Africa. The purpose is to develop two 'Learning Routes' in these areas and establish regional online communities of practice where organisations can discuss mutual concerns and shared experiences. There are many common themes in the work of these organisations and much they can learn from one another.

The general objective of the project is to improve access to information, knowledge, technical assistance and networking by ten institutions which are grantees of the Ford Foundation. These organisations are developing national and local action initiatives oriented towards carrying out research, furthering policy dialogue, advocating human and indigenous rights, providing legal counsel in the context of litigation, furthering local development and corporate social responsibility in the critical area of extractive industries.

Lerato Thekiso attended the Learning Route convening held in South Africa and Zimbabwe from the 19 – 31 March 2012. The conference focused on the impact of the extractive industry in Latin America and Southern Africa through critically analysing and comparing case studies in both areas. One of the case studies examined was the Vele Colliery case. Lerato assisted PROCASUR in providing context about the case and facilitating the discussion at the Learning Route, ending with a tour to the Mapungubwe area.

The Southern African Learning Route provided an opportunity for CALS to solidify our existing relationships with like-minded organisations, to reflect on the work that we do and improve on it, and to start thinking about ways to collaborate with organisations that have a similar mandate beyond South Africa's borders. The Learning Route resulted in the drafting of a community engagement policy, which is a document that will guide how CALS engages the communities with whom we work. The document is currently being drafted and once it is finalised, it will be distributed to other organisations.



vele colliery workshops

Alliance Workshop – 9 January

Representatives from CoAL and the Coalition were joined by experts in the field of environmental impact for a workshop to facilitate the negotiation process. The aim of the workshop was to thresh out the detail of exactly how both parties would move forward to achieve the goals as set out in the Memorandum of Understanding.

Several sub-areas of focus have been identified with a champion being appointed for both CoAL and the Coalition in respect of each sub-area. These areas include water, heritage, biodiversity, participation in Environmental Management Committees, communication with State regulators, and overall working towards realising the goals set out in the Memorandum of Understanding. Each set of champions developed a Plan of Action to take those set of issues forward.

Heritage Workshop – 15 May

A heritage workshop was arranged for both the Coalition and CoAL's experts to discuss any heritage-related issues. The meeting was productive and CoAL agreed that their Heritage Impact Assessment and Heritage Management Plan suggested that the Coalition contribute to areas where there were gaps. CoAL also agreed that a multidisciplinary team would be appointed by both CoAL and the Coalition to ensure that management of heritage impacts in the area is done appropriately. The Coalition's heritage experts offered to assist with the drafting of the terms of reference for the multidisciplinary team. We regard the fact that CoAL has agreed to the appointment of this multidisciplinary team as a significant achievement.

General Workshop – 30 July

The Coalition met to discuss the status of the negotiations; the implications of signing the Memorandum of Understanding; and the legal options the Coalition has at this stage. The Coalition is seriously considering the direction it should take and whether to continue with negotiations as the process has taken far longer than anticipated by all parties. The Coalition is considering its legal and other options about the best way forward as no deadlines have been met through this negotiation process.

Ultimately, the project is aimed at identifying gaps in the existing regulatory framework and through the experience gained in the Vele Colliery case, to make practical recommendations for appropriate measures to remedy these gaps. All of this to ensure that that proper account is taken of the environmental context and that authorisation is granted only for truly sustainable mining projects. 2012 was an eventful year for this Project and we have learnt many lessons which can be taken forward in the work of the Environment Programme in this arena.

gender

CALS has a rich history of research and advocacy work in the gender rights arena and has been active in this field for many years. In particular, CALS' work explores the intersection of socio-economic rights issues and gender. The Gender Programme has focused on projects facilitating dialogue and heightened awareness of gender issues among lawyers and activists working within various socio-economic rights sectors. We have also been involved in litigation on issues such as equality between men and women regarding the age thresholds for old age pension benefits and mandatory sentencing for the rape of girl children.

This year, the Programme has continued to interrogate the intersection of socio-economic rights and gender with CALS acting as *amicus curiae* in a case examining the lack of sanitation facilities in schools and its impact on girl learners' rights to health, privacy, dignity and security. The Programme has also maintained its commitment to advocating for gender equality through its submissions on the Women Empowerment and Gender Equality (WEGE) Bill, and the implementation of the UN Convention on the Rights of Persons with Disabilities, as well as by hosting a number of workshops and training sessions.

SANITATION

Along with our partner organisation Lawyers against Abuse, CALS acted as *amicus curiae* in the matter *Equal Education and Others v Minister of Basic Education and Others*. In this case, the applicants – Equal Education and the infrastructure crisis committees of two schools – sought an order compelling the Minister of Basic Education to publish a set of minimum norms and standards for school infrastructure. Establishing these standards places an obligation on the Department of Basic Education to ensure that all schools are provided with adequate facilities delivering services such as water, electricity and sanitation amongst others. A minimum set of norms is necessary in order to advance the right to basic education.

Our *amicus curiae* application focused on the need for decent sanitation in schools, and the effect that access to sanitation has on learners' rights to health, a clean environment, privacy, dignity and security. Our argument centred on the fact a lack of adequate sanitation facilities is not gender neutral in its adverse impacts on learners. Instead, inadequate sanitation impedes girl learners' right to education in a manner that is linked to their sex and gender. They are disproportionately affected by, for example, the increased risk of sexual violence and negative health effects.

The right to freedom and security of the person is guaranteed under section 12 of the Constitution. This is impeded by the absence of adequate sex-specific sanitation in schools. The risk of gender-based violence can be directly linked to the distance women and girls have to travel for water and sanitation. Where schools do not provide adequate sanitation, girl learners have to walk longer

distances in order to find secluded ablution places. When girl learners are forced to travel to such vulnerable, unsecured locations with no privacy, they face a greater risk of sexual violence.

As a result, ensuring that each school provide sanitation and water at an acceptable standard would remove the need for girl learners to walk longer distances and become vulnerable to sexual violence. Similarly, the lack of norms and standards mandating the provision of perimeter security at schools results in increased vulnerability to sexual violence. When girl learners are forced to leave the relative safety of their school buildings, their physical safety is compromised. Access control of schools ensures that, while present at school, girl learners are more likely to be protected from sexual and other violence.

Section 27 of the Constitution provides that everyone has a right to equal access to health care services and reproductive health care. Unhygienic sanitation facilities, or the lack of these facilities, may adversely affect a girl learner's urinary system, and can result in chronic health problems and psychological distress. Related infections could spread and cause further infection to the reproductive system. This leads to complications and a deterioration in reproductive health.

The complications which can result from a lack of adequate sex-specific sanitation have serious and adverse implications on a girl learner's mental health as well. The inadequate sanitary facilities reduce their self-esteem, psychologically affecting the manner in which a girl learner deals with menstruation, in particular, and her overall physical health, more generally. This, in turn, leads to increased rates of absenteeism from school and the avoidance of active participation in schooling and school-related activities. This compromises the quality of a girl learner's education.

Without norms and standards against which to monitor, evaluate and improve the physical conditions under which girl learners are educated, these learners are more likely to receive poor education. Unprepared for life and without basic skills such as literacy and numeracy, these girls' opportunities are limited, with further adverse consequences for their physical well-being. In addition, the psychological impact and adverse self-esteem and self-image that results from such difficulties cannot be overstated.

The case was settled out of court. The Minister of Basic Education agreed to publish draft minimum norms and standards for school infrastructure by 15 January 2013, and the final set of regulations to be made available by 15 May 2013.



gender workshops and

Muslim Marriages Bill

This Bill has been in the Parliamentary pipeline in South Africa for some time now. CALS is working as part of a coalition of NGOs who are mobilising around the enactment of the Muslim Marriages Bill. We hosted a workshop on the issue on 23 August 2012 following which participating organisations prepared and circulated their views.

Sexual Violence in Schools

CALS has facilitated training sessions with officials in the Department of Basic Education on the pervasive issue of sexual violence in schools, and how sensitivity to the issues involved can and should guide disciplinary procedures for implicated educators. We are also, in collaboration with our partner organisations Lawyers against Abuse and SECTION27, in the process of developing a handbook for activists and communities affected by sexual violence in schools. The purpose of this handbook is to assist those affected in understanding what sexual abuse is, and how to navigate their way through the relevant processes.

Gender Responsive Budgeting

In partnership with UN Women, CALS hosted a workshop on Gender Responsive Budgeting (GRB). This was a regional workshop and participants came from various countries in the Southern African Development Community (SADC) region. The workshop focused on the analysis of government budgets in terms of their impact on women and men, girls and boys. More broadly, GRB is a form of gendered policy analysis that goes beyond the description on paper of a particular policy but investigates actual budgets which are allocated to implement gender-specific policies and whether these budgets are spent as planned.

Wits Community Building

As part of our commitment to inter-disciplinary problem-solving, and recognising CALS' unique identity as a university-based organisation, we have been instrumental in setting up a community of practice at Wits. This consists of academics with expertise in gender from the perspectives of sociology, literature studies and politics. These perspectives assist us to ground our legal interventions in the bigger picture.

submissions

Women's Empowerment and Gender Equality Bill

CALS made submissions to the Portfolio Committee on Women, Children and People with Disabilities on various aspects of the Women's Empowerment and Gender Equality (WEGE) Bill. While the submission commended the Government on taking steps to promote gender equality and prevent discrimination against women, it also outlined several issues with the Bill in its current form.

The Bill does not respond to the challenges facing the majority of women in South Africa and does nothing to empower disadvantaged women or advance the goal of substantive equality envisaged in the Constitution. In addition, it is concerning that the Committee did not engage meaningfully in public consultations with women in all provinces in order to provide them an opportunity to raise challenges to the Bill.

CALS was also invited by the Progressive Women of South Africa, in partnership with UN Women, to do a presentation on the Bill. The presentation entailed taking women from various pockets of society through the entire text of the Bill and addressing the implications that it might have in the women's respective contexts.

UN Convention on the Rights of Persons with Disabilities

South Africa ratified the United Nations Convention on the Rights of Persons with Disabilities in November 2007, coming into force in May 2008. The Convention's purpose is to promote and protect the rights of all persons with disabilities. The first Country Report to the UN on how the Convention is being implemented in South Africa was due two years later in May 2010. A Draft Report was prepared in early 2012, and stakeholders were invited to comment on the Report's content before it was submitted.

CALS collaborated with Werksmans Attorneys and the Afrika Tikkun Empowerment Programme for Families of Children with Disabilities to compile a submission on the Draft Report. Our comments focused on the current challenges faced by women and children with disabilities, particularly their difficulty in accessing education and vulnerability to sexual abuse (which was not mentioned at all in the Report). Overall, we found that the Report was not reflective of the lived experiences of persons with disabilities in South Africa. It paints a very positive picture and does not recognise the complex reality of the situation.

rule of law

Rule of Law is the most recent addition to the CALS Programmes, a result of our long-standing tradition of ensuring fundamental human rights are respected and protected by the state. The Programme aims to ensure that the rule of law is upheld as one of the founding values of a democratic South Africa, a theme that cuts across all of CALS' Programmes and intersects with our other areas of work.

Currently, the Programme is primarily working on criminal justice issues, with a focus on the conditions experienced by remand detainees which has led to submissions on the Prevention and Combatting of Torture of Persons Bill. In 2012, we also became involved in the response to the Marikana tragedy, by representing the South African Human Rights Commission at the Marikana Commission of Inquiry, and assisting a community organisation to defend their right to gather. CALS is also a member of a coalition focusing on access to information, the Promotion of Access to Information Act Civil Society Network.

REMAND DETENTION

Accused persons are often placed in detention when awaiting trial, even for minor offences. While this should be the exception rather than the rule, the reality in South Africa is that remand detention is over-used. This leads to overcrowding in prisons and the related problems of gang rape, the spread of diseases like TB and HIV, lack of access to medical care and long periods of isolation. The conditions experienced by remand detainees undermine the idea that a person charged with a crime should be considered innocent until proven guilty. There is also an obligation on the State to provide facilities that minimally impose on an individual's rights while ensuring safe custody. There is much evidence that South Africa is failing to live up to this duty.

CALS' project on remand detention uses a combination of research, advocacy and strategic litigation in an effort to protect the rights of remand detainees. The research component has seen the Programme engaging with stakeholders in the field, as well as visiting a number of prisoners and former remand detainees. This has allowed us to identify gaps in the criminal justice system, with a view to providing short and long-term solutions to some of the difficulties experienced. This will result in the publication of a research report early next year, as well as dissemination workshops to share this information.

With regards to advocacy, CALS made written submissions on the Prevention and Combatting of Torture of Persons Bill to the Portfolio Committee on Justice and Constitutional Development in July. These submissions were based on the high level of assaults committed by correctional officers and wardens on inmates in South African prisons. CALS has further engaged with members of the

Portfolio Committee on Correctional Services on an informal basis regarding legislative reform in this area.

CALS has also collaborated with the Wits Justice Project to further our advocacy efforts and link journalism with the law. This combination has proved to be a useful tool to effect change in the public's negative perceptions of remand detainees. Our strategy included creating awareness of the complex issues influencing remand detention in an attempt to correct the assumptions of guilt and need for retribution against persons accused of crimes. CALS' role has been to advise on the legal content of various media pieces as well as to publish op-eds that create awareness on the plight of remand detainees.

With our partners at the Wits Justice Project, the Treatment Action Campaign and SECTION27, CALS also acted as *amicus curiae* in the case of *Dudley Lee v Minister for Correctional Services*. In this case, Mr Lee sought damages from the Minister after he contracted TB while in detention as a result of the overcrowded prison conditions. The Supreme Court of Appeal had previously rejected Mr Lee's claim and he took the matter on appeal. Our submission to the court provided comparisons with foreign case law. The case was heard by the Constitutional Court on 28 August 2012. The Court's judgment overturned the Supreme Court's ruling and concluded that Mr Lee had proven that he had contracted TB as a result of the Department's negligence. The judgment is a major step in ensuring that prisoners' rights to healthcare and human dignity are respected and protected.

CALS looks forward to fostering new relationships across all sectors involved in remand detention and the criminal justice system. We will continue to work with our partner organisations in the fight to effect the much-needed change in the system, so that the remand detainees' rights are upheld and the rule of law respected.



MARIKANA

CALS is one of many civil society organisations responding to the tragedy of August 2012 which resulted in the deaths of 44 people at Lonmin's Marikana mine. This has so far included acting for women from the Rustenburg community who wished to gather and protest in the area, and representing the South African Human Rights Commission before the Marikana Commission of Inquiry.

In August, the South African Human Rights Commission (SAHRC) received a complaint against National Police Commissioner, Riah Piyege, which called into question her role in the incident in which police forces killed 34 striking mine workers and injured more than 70 others. SAHRC is mandated by section 184 of the Constitution not only to promote respect for human rights, but to investigate and secure redress where these rights have been violated.

In order to avoid an overlap in investigations, SAHRC resolved to participate in the Marikana Commission of Inquiry, which was established on 23 August by President Jacob Zuma to investigate the incidents at Marikana. Since October, CALS has represented SAHRC before the Marikana Commission of Inquiry. Our role here has been twofold. Firstly, we participate as a watching brief by monitoring the proceedings and the evidence presented. Secondly, we represent the public interest by bringing specific evidence forward which other parties may not examine.

The Marikana Commission of Inquiry is currently conducting the first phase of its investigation, which examines the conduct of the South African Police Service in the incident. Our involvement during this phase includes presenting expert evidence on policing and cross-examining police witnesses. This material has the potential not only to influence the Commission's findings, but may ultimately inform SAPS' procedures around the use of force for crowd control to prevent similar tragedies in future. In addition, we hope to confirm that the Commission's processes are conducted fairly, ensuring that human rights are protected.





GATHERINGS: WOMEN OF MARIKANA

In September 2012, CALS assisted the Wonderkop Community Women's Association which represents the women of the Marikana community. CALS' assistance to the Association related to an urgent application in the Mafikeng High Court to protect the women's right to protest in terms of the Regulations of Gatherings Act. Twice in September, local municipalities had turned down their notice to gather, denying the women their rights to assemble and express themselves.

The group wanted to voice their concern over the recent police brutality in Marikana which led to the death of Pauline Masuhlo. They planned to organise a peaceful march in her memory ending at the local police station. CALS was successful in the application and the High Court granted an order setting aside the municipalities' decision to prohibit the march.

The order recognised the women's rights and allowed the protest to proceed on 29 September. The women marched peacefully to the Marikana police station less than 24 hours after we obtained the order.

HIGHLIGHT OF THE YEAR

Visiting the Marikana community and attending the women's march after obtaining an urgent court order recognising their right to assemble.

– Kathleen Hardy

student liaison

As a part of the Wits University community, CALS makes every effort to support students and young lawyers interested in social justice work, through various activities such as internship opportunities, funding partnerships, and workshops. CALS currently partners with the Wits Chapter of Students for Law and Social Justice, and has also been involved in supporting events run by the Law Students Council.

BRAM FISCHER FUND

A portion of the Bram Fischer Fund, administered by the Wits School of Law, is reserved for advancing student work in human rights practice. This year, CALS was able to make use of the funds to support students and recent graduates in our current internship programme, as well as to assist Students for Law and Social Justice (SLSJ). CALS recently adopted a policy to create opportunities for talented young individuals who are committed to social justice and who come from previously disadvantaged sectors of South African society, other parts of Africa, and the Global South.

Given that many people in the Global South cannot afford unpaid internships, the Bram Fischer funds have made it possible for us to realise our goal of providing internships to local young people and therefore to grow the next generation of social justice lawyers. Our interns conduct work in various areas, including researching in support of CALS' advocacy and litigation work; drafting legal opinions; assisting with preparation of court cases; providing input into draft policies and legislation; conducting field research and facilitating community education workshops.

As a national movement of law students engaging and exploring opportunities at the interface of law and social justice, SLSJ is also a natural partner for CALS. Indeed, CALS has supported the Wits chapter of SLSJ since its establishment in several ways. First, CALS has invited the Wits chapter of SLSJ to become more deeply involved in its work by offering SLSJ office space, inviting its leadership to attend CALS' staff meetings, hosting computer literacy workshops run by SLSJ volunteers for CALS' cleaning staff, and considering SLSJ members to intern and volunteer at CALS. We also contribute to SLSJ's work by offering financial support for its seminars, as well as by regularly meeting with SLSJ leadership to provide guidance in developing the Wits chapter.

CONSTITUTIONAL EDUCATION PROJECT

In 2012, CALS partnered with the Constitutional Court Trust on a project running constitutional education workshops for high school learners. The aim of the project is to create an appreciation of the Constitution, its purpose and value in young people in South Africa. The workshops are run on Saturdays by volunteers from the legal profession; including clerks, attorneys and university students.

These weekend workshops are aimed at advancing life skills classes and target learners that would otherwise not be able to visit the Court. Students from Wits and from the University of Johannesburg were recruited to help facilitate these workshops as well as train other facilitators. CALS' role in the constitutional education project was to run a series of training sessions with the Wits School of Law to prepare the students for the workshops.

Since then, more than 25 workshops have been conducted, giving around 1500 learners and 50 educators the opportunity to learn about the Bill of Rights and the Constitutional Court. Learners are introduced to the rights to education, equality, life and freedom and security of the person through small group discussions and a mock court hearing. There has been a highly positive response from the schools which have participated in the workshops thus far.

LAW STUDENTS COUNCIL CAREERS WEEK

The Law Students Council based at the Wits School of Law hosted their annual Careers Week from 12 – 15 March 2012. The event traditionally allows students to meet with staff from law firms and other law-based organisations to learn more about their possible career opportunities. This year, CALS assisted the LSC to promote alternative career paths in the social justice sector for the first time. CALS was able to bring other public interest law organisations such as SECTION27, SERI, Legal Aid and Probono.org to the event. This gave students exposure to different options for completing their articles and beginning their careers in the legal profession.

LAW AND FILM

The Law and Documentary Film Project is a new initiative within CALS which seeks to use the medium of film as an advocacy and empowerment tool. Human rights films can be used for multiple different purposes including mobilising communities, in educational workshops or as evidence in courts. The Project engages a law and film intern with a passion for media and the law. The purpose of the internship is to establish a connection between the two disciplines within CALS and incorporate the use of film into our current Programmes. The Project aims to develop relationships between media and human rights organisations within South Africa, as well as to train other law students with an interest in film and human rights to use this tool.

Students for Law and Social Justice

Students for Law and Social Justice is an organisation comprised of law students from twelve universities across South Africa. It was founded in 2007 in an effort to stimulate debate and discussion amongst students around legal issues pertaining to the law and social justice. One of the fundamental aims of the organisation is to develop a new generation of legal practitioners which share a commitment to using the law as a tool for the realisation of a more socially just and equal society.

In 2011, the National Committee of SLSJ approached a few Wits law students to establish an SLSJ Wits branch. We could only officially start up a Wits branch in 2012 due to formal registration and Constitutional processes we had to go through to be a recognised student body. During this period it was quite difficult to get any work done. Amongst other lecturers and the Law School, we sought support from CALS.

In 2012, once we were officially registered as a student body, while familiarising ourselves with the Wits student body system, the finance system and the practicality of things, we came across a few challenges; we had limited financial assistance, no office space and we needed advice on conceptualising the vision of the Wits branch. Through the assistance of CALS, we were able to overcome these challenges. CALS offered us capital; they offered us office space; and they were willing to speak at our events.

The relationship with CALS is strengthening annually.



— Palesa Madi
Chairperson of Students for Law and Social Justice
Wits Chapter

public interest law gathering

CALS co-hosted this year's Public Interest Law Gathering (PILG) with Lawyers for Human Rights, the Legal Resources Centre, PROBONO.ORG, the Southern African Litigation Centre, SECTION27, the Socio-Economic Rights Institute, Students for Law and Social Justice and the Wits School of Law. This gathering of public interest legal practitioners and organisations, law students, social movement leaders and legal academics took place from 11 – 13 July 2012. The gathering aimed to serve as a focal point for professionals in the field to share and develop knowledge. CALS chaired a panel at PILG, 'Community Clients and Access to Justice'. We also participated in three other panels: 'Environmental Rights Litigation: A status quo assessment and priorities and strategies for future litigation'; 'Business and Human Rights: a focus on extractive industries'; and 'Socio-economic Rights in the Courts'.

The panel 'Community Clients and Access to Justice' saw presentations from CALS' Lerato Thekiso; Brown Matsau from BenchMarks Foundation; and two community leaders from Saratoga Avenue, Trueman Twala and Themba Koketi. Trueman and Themba shared valuable insights about what approach worked for them in the Blue Moonlight case and some of the challenges they faced. Three key areas were addressed as the themes for this panel including principles of community engagement; the strategies that can be used to enable communities to organise; and the practical views of community members and leaders. The panel was well attended and we received very positive feedback from attendees. There have been several requests for the community engagement policy document that CALS is drafting.

Panellists discussing 'Environmental Rights Litigation' reflected on civil society strategies; the status of some cases before the Water Tribunal; and the environmental litigation work that is being done through civil society organisations in South Africa. Group discussion around 'Business and Human Rights' underscored the need for an understanding of consultation that transcends political or property boundaries, and a need to speak in the language of finance to appeal to corporate interests. Finally, the 'Socio-economic Rights in the Courts' panel saw discussion around positive and negative obligations and how there is a jurisprudential disconnection; analysis of the nature and scope of socio-economic rights; the collision between socio-economic rights and private common law; and remedies and enforcement of court decisions, challenges and the practical implications in trying to enforce these remedies.

This year's Public Interest Law Gathering saw many interesting panels and participation from many different sectors. Not only were legal practitioners and academics able to speak on their areas of interest, community members also contributed to the discussion. We look forward to more debates to come when we meet again next year.

financial statements

CENTRE FOR APPLIED LEGAL STUDIES

BALANCE SHEET AT 31 DECEMBER 2012

	Note	2012 R	2011 R
ASSETS		6,037,787	6,316,742
Current assets		6,037,787	6,316,742
Accounts receivable		306,014	30,580
Accrued Income		1,832,602	
Cash and cash equivalents		3,899,171	6,286,162
Total assets		6,037,787	6,316,742
RESERVES AND LIABILITIES		6,037,787	6,316,742
Accumulated funds		6,037,787	6,316,742
General funds		5,996,395	5,378,698
CALS General fund		5,614,363	4,996,666
Capital equipment replacement fund		10,274	10,274
Retrenchment reserve fund		371,758	371,758
Current liabilities		41,392	938,044
Accounts payable		16,423	913,075
Leave pay provision		24,969	24,969
Total reserves and liabilities		6,037,787	6,316,742

CENTRE FOR APPLIED LEGAL STUDIES - FINANCIAL MANAGEMENT REPORTS
For the period 1st January 2012 to 31 December 2012

	Total Actual	INCOME AND EXPENDITURE BY FUND							
		CALS General Admin	Directors Sundry	Atlantic Philanthropies #19123	Ford Foundation #565	Vele Consortium	Raith Foundation	Open Society Foundation 3037	SAJHR
TOTAL INCOME:	4,167,642	284,997	1,556,713	-	-	58,617	1,500,000	470,000	297,315
Donations	2,270,000	-	300,000	-	-	-	1,500,000	470,000	-
Royalties	318,090	-	29,060	-	-	-	-	-	289,030
Sundry Revenue	1,286,271	-	1,227,654	-	-	58,617	-	-	-
Interest	293,282	284,997	-	-	-	-	-	-	8,285
TOTAL EXPENSES:	3,133,253	734,142	918,138	137,569	24	105,077	654,548	440,000	143,755
Human Resources	1,805,472	321,087	435,112	134,508	-	-	551,765	363,000	-
Programme costs	851,904	98,735	483,026	2,298	-	37,671	56,457	29,962	143,755
Administration costs	475,877	475,877	-	-	-	-	-	-	-
Allocations to Admin costs	(0)	(161,557)	-	763	24	67,406	46,326	47,038	-
SURPLUS/(DEFICIT) FOR THE YEAR	1,034,389	(449,145)	638,576	(137,569)	(24)	(46,460)	845,452	30,000	153,560
Refund to Ford	(415,902)			-	(415,902)				
BALANCE OF FUNDS B/FWD 1/1/2012	4,995,876	1,772,700	681,110	137,569	415,926	76,443	1,062,196	-	849,932
BALANCE OF FUNDS AT END OF YEAR	5,614,363	1,323,555	1,319,686	0	-	29,983	1,907,648	30,000	1,003,492

academic activity

CALS is fortunate to have a dual identity as part of the legal profession on the one hand and the academy on the other. This means that our academic staff members are able not only to conduct research but also to participate in teaching at the Wits School of Law and elsewhere. Students benefit greatly from having human rights practitioners as teachers reflecting on their practice.

CALS staff members taught several undergraduate courses at the Wits School of Law. Bonita Meyersfeld lectured an LLB course in Public International Law which provides an African perspective on the relationship between states, individuals and non-state actors or international organisations. Kathleen Hardy taught the core course of Criminal Law to second and third year students. Nyoko Muvangua was a one of the lecturers in Commercial Law, a course designed to provide commerce students with basic legal tools that would enable them to navigate the intersection between law and business.

Bonita Meyersfeld also co-taught LLM courses in Human Rights and the Marketplace with Prof Vincent Nmehielle, and Advanced International Law with Prof Lilian Chenwi. These courses focus on the role of the private sector in influencing the protection or violation of human rights; and provide a deeper analysis into the principles of public international law, focusing on the development of certain principles and understanding the details of specific case law respectively.

This year CALS staff not only honoured their commitment to teach in the School of Law, but showed dedication to interdisciplinary co-operation. Bonita Meyersfeld taught a course in International Humanitarian Law at the Graduate School of Public and Development Management to a class which included members of SAPS, civil society, humanitarian agencies, government officials and academics. Lisa Chamberlain designed and taught a course on Environmental Governance in the School of Geography and Environmental Sciences. The course mainly focused on the idea that access to natural resources is permeated by systemic inequality.

SOUTH AFRICAN JOURNAL ON HUMAN RIGHTS

The South African Journal on Human Rights (SAJHR) was established in 1985 and continues to have its home at CALS, with our Director chairing the Editorial Board. The SAJHR is South Africa's leading public interest law journal published three times a year by CALS and Juta & Co, Cape Town. The journal is dedicated to advancing human rights scholarship and is ranked as the most widely cited South African law journal. This year, the SAJHR has published articles on topics ranging from freedom of expression, reproductive rights, disability, access to information, socio-economic rights and land rights among others.

publications

Meyersfeld, B. C. (2012). *Domestic Violence and International Law* (2nd Edition). Hart Publications: UK.

Meyersfeld, B. C. (2012). 'Invest in Corporations? What are the Obligations of Corporations in relation to investing?' in Christoph Luetge (ed) *Handbook of the Philosophical Foundations of Business Ethics* Springer.

Meyersfeld, B. C. (2012). 'Implementing the Rome Statute in Africa: Potential and problems of the prosecution of gender crimes in Africa in accordance with the Rome Statute' in Kai Ambos and Otilia A. Maunganidze (Eds.) *Power and Prosecution: Challenges and Opportunities for International Criminal Justice in Sub-Saharan Africa* Göttingen Studies in Criminal Law and Justice Volume 24.

Meyersfeld, B. C. (2012). 'Introductory Note to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence' in *Introductory Legal Materials*, American Society of International Law.

Submission to the UN Working Group on Human Rights and Transnational Corporations and other Business Enterprises, Submission By: Professor David Bilchitz (the University of Johannesburg and SAIFAC, South Africa); Juana Kweitel (Conectas Direitos Humanos, Brazil); and Professor Bonita Meyersfeld (the University of the Witwatersrand, South Africa)

SUBMISSIONS

August 2012. Submission to the Portfolio Committee on Women, Children and Persons with Disabilities on the Women's Empowerment and Gender Equality Bill.

July 2012. Submission to the Portfolio Committee on Justice and Constitutional Development on the Prevention and Combating of Torture of Persons Bill.

July 2012. Submission to the Portfolio Committee and Select Committee on Women, Children and Persons with Disabilities on the Implementation of the UN Convention on the Rights of People with Disabilities and Optional Protocol. Joint submission with Afrika Tikkun and Werksmans Attorneys.

June 2012. Submission to the Department of Justice and Constitutional Development on the Discussion Document on the Transformation of the Judicial System and the Role of the Judiciary in the Developmental South African State.

April 2012. Submission to the Department of Higher Education and Training on The Green Paper for Post-School Education and Training Number GN11 of 2012.

Chamberlain, Lisa; and Thekiso, Lerato. 'Exclusive Lekgotla' in the *Business Day*. 8 August 2012.

Chamberlain, Lisa; and Thekiso, Lerato. 'Marikana: Common threads and the true cost of mining' in the *Saturday Star*. 25 August 2012.

Hardy, Kathleen. 'Who is really prejudiced in prison TB case?' in the *Business Day*. 11 July 2012.

Meyersfeld, Bonita. 'Responsible investment: New pension fund rules deserve to be applauded' in the *Business Day*. 8 August 2012.

Meyersfeld, Bonita. 'Yes, NGOs seek publicity and recourse to law' in the *Mail & Guardian*. 23 November 2012.

Meyersfeld, Bonita; Dugard, Jackie; and Naylor, Nicolette. 'Marikana Violence is a sign of things to come' in the *Business Day*. 23 August 2012.

Meyersfeld, Bonita; Gray, Malcolm. 'Why are investors in the mining industry so silent?' in the *Business Day*. 10 September 2012.

conclusion

2012 marks CALS' 34th year promoting human rights in South Africa. While we have come a long way in that time, the country still faces many social challenges from homelessness and poor service delivery, to violence and use of force by police, to accessing education and healthcare. Each of our five Programmes continues to use a combination of research, advocacy and litigation to bring light to these issues and ensure that government and other powerful entities respect and protect human rights.

This year has seen CALS expand with several recent staff appointments including a new Director, Prof Bonita Meyersfeld, who has brought an energy and new strategic direction to the organisation. We have also been joined by a new attorney, Zeenat Sujee; a candidate attorney, Keamogetswe Thobakgale; and researchers Dr Nyoko Muvangua and Robert Krause. We look forward to seeing the organisation progress and grow with their contributions to social justice. CALS' work was also enhanced by an energetic group of interns from the United States, Venezuela and South Africa.

During 2012, our staff members were able to reflect on our organisation's mission for the future. This has generated a vision and strategy document as well as a range of policies for CALS including a dedicated fundraising drive. We ended the year with a clear sense of direction. We would like to thank all the colleagues and other organisations that have supported us and our work over the past year, especially our funding partners without whom none of this would be possible.

