

Socio-Economic Rights Project, CLC, UWC

**SOCIO-ECONOMIC RIGHTS IN SOUTH AFRICA:
PROGRESS AND CHALLENGES: INTRODUCTORY
REMARKS**

Sandy Liebenberg

*Paper presented
at a colloquium 17 - 19 March 2002*

SOCIO-ECONOMIC RIGHTS IN SOUTH AFRICA: PROGRESS AND CHALLENGES: INTRODUCTORY REMARKS

Sandy Liebenberg

My name is Sandy Liebenberg and I am the Project Coordinator of the Socio-Economic Rights Project at the Community Law Centre, the hosts of this event. I also want to introduce you to my brand new colleague at the Socio-Economic Rights Project, Sibonile Khoza, who hails from KZN. The third member of our project is our administrator who, most of you know by now, Gaynor Arie. Taren Pillay who you also have been interacting with was appointed as the organiser for this colloquium.

The Bill of Rights in South Africa's 1996 Constitution has been internationally lauded for its inclusion of an impressive array of justiciable economic and social rights. 2002 is the 5th Anniversary of the adoption of the Constitution. This offers an important opportunity for reflection on the progress that has been made in realising these rights, and the critical challenges that lie ahead.

As a contribution to this process, the Community Law Centre's Socio-Economic Rights Project has been involved in a research project since June last year. The project has entailed commissioning a number of research papers on selected themes relating to the realisation of the socio-economic rights in SA from a range of authors that we believe have both expertise and practical experience in their fields. We have had to be selective in our choice of topics, and have generally tried to focus on topics that can offer fresh insights and perspectives into the dynamics of realising socio-economic rights in the South African context.

We have also been fortunate to have a committed team of reference group members who are themselves leading figures in the enforcement of socio-economic rights in SA. They have given advice on the general direction of the project, and have assisted the authors with comments on early drafts of their papers. We are particularly grateful to reference group members for suggesting the addition of the paper on the political economy of realising socio-economic rights in South Africa. This paper makes an important contribution to grounding the struggle for socio-economic rights in the building of state capacity and civil society activism.

The principles laid down by the Constitutional Court for the interpretation of socio-economic rights in the landmark decision of *Government of South Africa v Grootboom* 2000 (11) BCLR 1169 (CC) are used as a framework for assessing progress and obstacles in the implementation of these rights. As will be noted, certain of the papers also critique various aspects of this judgment, and suggest areas where our jurisprudence could be developed. The authors were also requested to identify key challenges for the future in terms of the implementation and enforcement of socio-economic rights.

We believe that the draft papers to be presented over the next two days are provocative and will stimulate discussion and a lively debate among delegates. As mentioned in earlier circulars they should be viewed very much as work in progress. The discussion and feedback received will be invaluable in the further development and finalisation of the papers. We plan to publish

an accessible summary of the research papers and the key themes emerging from this colloquium in a special edition of our project's quarterly publication, *ESR Review*. In the longer term, our plan is to publish the finalised research papers in book form. We realise that due to time constraints, the discussion and debate may have to be cut shorter than we would ideally have liked. However, we invite you to continue the dialogue with the authors and project team both during and after the colloquium. In the final instance, we hope that the work that has been done on this project will be useful to both public institutions and civil society in their ongoing work to make socio-economic rights meaningful to the millions of people afflicted by poverty in our country. Unfortunately the paper on the implications of the *Grootboom* case for survivors of gender-based violence could not be finalised due to unforeseen circumstances. We hope, however, that the delegates will highlight the gender implications of all papers so that this can be integrated throughout.

We are gratified to have representatives from civil society organisations, academic institutions, the judiciary, legal practice, the three spheres of government, members of parliament and the state institutions supporting constitutional democracy present at this colloquium. We also have three international guest speakers, Judge Pillay of Mauritius, Mr Samuel Amadi of Nigeria and Prof Vivienne Taylor based, at least for the medium term, in New York with the UN Commission on Human Security (they will be introduced to you more fully by the chairs of their respective sessions). Mr Morka was unfortunately unable to attend the colloquium, and Mr Amadi kindly agreed to step into his shoes at the 11th hour. He will thus be replacing Mr Morka on your programme. We have requested these people's input into our programme in order to contextualise our discussions within significant international and regional developments in the area of economic, social and cultural rights. We are also indebted to Charlotte McClain for serving both as a reference group member and agreeing to be a guest presenter on the crucial role of the SA Human Rights Commission in monitoring socio-economic rights. Other international guests present at the colloquium are Mr Kazuo Tase also of the Commission on Human Security, New York, Mr. Warren Krafchik of the International Budget Project based in Washington DC, and Mr. Brice Dickson of the Northern Ireland Human Rights Commission. You are all very welcome. We are pleased to have Alice Brown of the Ford Foundation who are the funders of this project present with us during the next two days.

We have appointed two scribes to take detailed minutes of the proceedings –Lyn Boezak and Llewellyn Titus. In order to make their job easier we request you to introduce yourself briefly prior to any contribution you make. You will have noted the parallel sessions this afternoon and tomorrow morning. This venue will be divided in two and the two sessions will be signposted. Please proceed to the session you have selected which will start promptly on the time indicated on the programme. As we are working to a tight schedule we have requested chairpersons to be strict (bordering on draconian). We would also appreciate delegate's cooperation in being disciplined about returning to sessions after teas and lunch breaks.

We trust that you will find this colloquium stimulating, and that we will all leave inspired with new ideas and energy to carry forward our work in the different areas of socio-economic rights.