

# Friends of Community Law Centre

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Dear Friends,

## Note from the Editor

Welcome to the first issue of the **Friends of CLC** for 2008! A number of events have already happened at the Community Law Centre in the first half of 2008, hence this is a bumper issue!

Firstly, the Centre has had three graduates in March. Jacqui Gallinetti (Children's Rights Project's senior researcher and co-ordinator) graduated with her LLD. Dr Gallinetti's thesis was entitled, *An Assessment of the Significance of the International Labour Organisation's Convention 182 in South Africa with specific reference to the Instrumental Use of Children in the Commission of Offences as a Worst Form of Child Labour*. The Centre's very proud of Jacqui as she wrote her LLD in record-breaking time. Furthermore, her landmark research will be published in a book in the near future. The two other graduates were Valma Hendricks (administrator & marketing manager of the Local Government Project) and Lorenzo Wakefield (assistant researcher of the Gender Project). Valma graduated with a BA, majoring in Women & Gender Studies and History and Lorenzo graduated with a LLB. Lorenzo was also awarded the 'Butterworths Lexis-Nexis Book Prize' for the best LLB dissertation. His research paper was entitled, 'Where does Rape find itself within the Definition of Genocide?'



Dr. Jacqui Gallinetti

Two book launches have also taken place. On 1 April, CSPRI co-launched the booklet *Preventing and combating torture in South Africa – a programme of action under CAT and OPCAT* at the Centre for the Book in Cape Town. The event was well attended and the speakers included Commissioner Leon Wessels (SAHRC), Sean Tait (ISS), Nomfundo Mogapi (CSVR) and Lukas Muntingh (CSPRI). The Local Government Project, in association with Lexis Nexis, launched the *Local Government Law of South Africa* loose-leaf publication, also at the Centre for the Book on 29th May. The Honourable Chief Justice Pius Langa's written keynote address focused on the significance of the constitutionalisation of local government from a democratic and development perspective. The panel discussion centered around debated whether the volume of local government law served as an aid, or barrier, to democracy and development.

It is with sadness that the Centre has had to bid farewell to Mr Sibonile Khoza, project co-ordinator and senior researcher of the Socio-Economic Rights Project, in February. After working at the Centre for six years, Sibonile has taken up the position of Director of Intergovernmental Relations and Constitutional Responsibilities in the Policy Development Unit of the Western Cape Department of the Premier. We wish him everything of the best in his new position.

Yonatan Fessha has handed in his LLD and left the Centre to do research at the University of Utrecht for three months. He will return to Cape Town in September to graduate. We congratulate him on completing his thesis and wish him well in his future endeavours.

Best wishes and please stay in touch,  
Jill Claassen

## Centre News

**Annual Memorial Lecture:** The Dullah Omar Memorial Lecture was in its fifth year running. CLC was honoured to have the University of the Western Cape's Chancellor, Archbishop Emeritus Desmond Tutu as the speaker for the evening. The Archbishop Emeritus spoke on the topic, *The State of Democracy in South Africa*. In his lecture, the Archbishop Emeritus touched on a number of contentious issues in South Africa including, corruption, the arms deal, BEE and affirmative action. This lecture was widely reported on in various newspapers (both print and electronic) and on television. The speech is available on the Centre's website.



Photo take at 5th Dullah Omar Memorial Lecture

**African Commission meeting:** Jamil D. Mujuzi (doctoral researcher) and Annette Christmas (researcher), represented CLC at the 43<sup>rd</sup> Ordinary Session of the African Commission on Human and Peoples' Rights which took place in Ezulwini, Kingdom of Swaziland. During the Commission's public session, CLC made a statement on the situation of human rights in South Africa focusing on South Africa's non-compliance with its international human rights obligations.

**Submission to UN Human Rights Council:** South Africa was on the list of the first 16 countries to be reviewed by the UN Human Rights Council under the Universal Period Review (UPR) system in April 2008. The Council invited submissions from civil society organisations and CLC prepared a submission on South Africa, which was submitted to the Council. The Centre has been referenced a number of times in the UPR summary report of NGO submissions on South Africa. Download the joint submission on the Office of the High Commissioner for Human Rights website.

**CLC Research Meeting:** Under the co-ordination of Prof. de Visser, the Centre now has an in-house research meeting, which meets once a month. This forum was set up so that staff can keep abreast with the research issues of the Centre's five Projects. Vibrant discussion is usually undertaken after presentations are made. Presenters this year have been Yonatan Fessha (ethnic diversity in Ethiopia & South Africa), Helene Combrinck (evaluation of SAPS Domestic Violence training programmes) and Daksha Kassan (The difference between the 2002 and 2007 versions of the Child Justice Bill).

**New faces:** *Nelisa Martin* has joined the Centre as a receptionist. Nelisa has a graduate degree in administration. The Centre welcomes her! *Prof. Kader Asmal* has been appointed as the Law Faculty's Professor Extraordinary, as well as a research fellow with the Community Law Centre. Prof. Asmal had retired from parliament after serving as an MP since our first democratic elections in 1994. His positions held include Minister of Water and Forestry and Minister of Education. The Centre also welcomes two interns: *Brahmani Houston* (CSPRI) and *Leah Cohen* (Local Government Project). Brahmani is a second year law student from the University of San Francisco and will be with CSPRI for approximately three months. She will focus her research on the effects of the Sexual Offences Act on Prisons in South Africa. Before entering Law School, Brahmani worked in media and communications and spent several years volunteering to work with juveniles in detention. Leah will be doing research on the proposed legislative framework for planning and land use management as it applies to local government. She will be with the Local Government Project until August. Before joining CLC, Leah worked for three years on local governance, service delivery and civic engagement with the World Bank in Europe and Central Asia, including one year spent in the Moscow Office assisting implementation of the local governance reforms in rural areas of Russia. Upon completion, she returned to California to work for the City of San Francisco on greening and urban sustainability. She is currently doing a joint degree in law and public policy at Harvard Law School and the John F. Kennedy School of Government, where she focuses on local government law and issues of service delivery.

## New Publications

**Chenwi, L.** 2008. Putting Flesh on the Skeleton: South African Judicial Enforcement of the Right to Adequate Housing of Those Subject to Evictions. *Human Rights Law Review* 8(1): 105-137.

**Combrinck, H & Wakefield, L.** 2008. *At the Crossroads: Linking Strategic Frameworks to Address Gender-Based Violence and HIV/AIDS in Southern Africa*. Bellville: Community Law Centre, UWC.

**Fessha, Y. & Kirkby, C.** A Critical Survey of Subnational Autonomy in African States. *Publius: the Journal of Federalism*, Spring, 38(2): 248-272.

**Kirkby, C; Steytler, N. & Jordan, J.** 2007. Towards a more Cooperative Local Government: The Challenge of District Intergovernmental Forums. *SA Public Law*, 22(1): 143-165.

**Muntingh, L.** 2008 'Preventing and combating torture in South Africa – a programme of action under CAT and OPCAT'. Braamfontein: CSV & CSPRI.

*For other publications, please look at the staff activities in the 2007 Annual Report*

## Project News

**Children's Rights****Brochure of Act**

In order to publicise issues contained in the Children's Act (2005), over 300 000 copies of a pamphlets were prepared and printed in the three languages of the Western Cape Province (English, Afrikaans & isiXhosa). Furthermore, a DVD on the Children's Act was scripted, filmed and produced. It was launched on 25 January 2008 and has already been nominated for an award as best documentary in Africa.

The Project has also been very involved in the advocacy of the Child Justice Bill that is currently being deliberated before the Portfolio Committee on Justice & Constitutional Development. Advocacy has included radio interviews, keeping the Child Justice Alliance members up-to-date with the progress of the Bill's deliberations, as well as giving input at all the parliamentary committee meetings on the Bill. For more information on the progress of the Bill, visit the Child Justice Alliance website.

Senior Researcher Daksha Kassan recently attended a Global Workshop, hosted by Save the Children, on prohibiting all physical and other humiliating punishment of children in Bangkok, Thailand. Daksha delivered a presentation on South African examples of involving children in law reform processes, and the lessons that had been learnt through these processes for further consultations with children. She focused on how the South African Law Reform Commission and civil society organisations had consulted with children on two specific law reform processes which culminated in the drafting of the Child Justice Bill and the recently passed Children's Act (2005). Her presentation gave rise to much debate and discussion, and on the whole, was well-received.

**CSPRI**

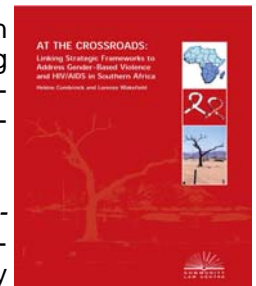
The Project has completed fieldwork, tracking the experiences of prisoners immediately after release. Interviews with 39 prisoners prior to release have been completed and two interviews, with respondents after release, were completed. The findings have been written up.

The South African Human Rights Commission recently established a Section 5 Committee on Torture and CSPRI is representing civil society on the Committee. CSPRI has assisted in developing a national data base on places of detention and the development of a model for a national preventive mechanism under OPCAT.

**Gender**

The Project has started research aimed at building the capacity of members of the South African Police Service to comply with the duties set out in the Domestic Violence Act through evaluating existing training programmes. This project is being done in collaboration with the Saartjie Baartman Centre for Women and Children suffering from violence, Legal Advice and Training Programme.

The Gender project also published a research report entitled '*At the Crossroads: Linking Strategic Frameworks to Address Gender-Based Violence and HIV/AIDS in Southern Africa*'. This research report investigates the extent to which various regional and international HIV/AIDS policy documents address gender-based violence as a cause and a consequence of the high HIV/AIDS prevalence rate in the SADC member states. Brochure



**Cover of At the Crossroads**

**Local Government**

The Project has completed research on the review of local government, currently conducted by the National Department of Provincial and Local Government. Five research papers were produced and discussed at a Roundtable Conference on 5-7 March 2008. The research deals with Powers of Local Government, Accountability in Local Government, Overregulation of Local Government, Intergovernmental Finance and District Municipalities. These are available for download at the Centre's website, as well as a Roundtable Report summarising themes emerging from the debate.



**Authors at the book launch**

As you know, Profs Steytler & de Visser's book had been published in November 2007. The publication is barely six months old, yet it has already been quoted in the opening paragraph of the SCA judgment in *Kungwini Local Municipality v Silver Lakes Home Owners Association and another* delivered on 2 June 08.

## Project News (Cont.)

**Socio-Economic Rights**

The Socio-Economic Rights Project has been accepted as an Organizational Member of the International Network for Economic, Social and Cultural Rights (ESCR-Net) .

Dr Lilian Chenwi attended and made a presentation on Article 5 (interim measures) of the draft optional protocol to the ICESCR) at the Open-Ended Working Group on an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, Fifth Session (Second Part), Geneva, Switzerland, 31 March - 4 April 2008

Siyambonga Heleba has been on a guest research programme at the Norwegian Centre for Human Rights, Oslo for a month. He was finalising his research on assessing the implications of community participation for service delivery, using a City of Cape Town project as a case study. Added to his research, he also gave a presentation at a seminar on the topic: *Implications of public participation for the right of access to adequate housing at local government.*

As you know, the Project intervened in the case of housing and evictions as *amicus curiae* which had been heard at the Constitutional Court last year. Judgment was handed down on 19 February, which represents a victory for the occupiers of so-called 'bad-buildings' in the Inner City of Johannesburg, as well as other poor people faced with evictions for alleged health and safety reasons. The Constitutional Court decided on three issues. It held that it is essential for a municipality to engage meaningfully before evicting people from their homes if they would become homeless after the eviction. The Court also held that while the City has obligations to eliminate unsafe and unhealthy buildings, its constitutional duty to provide access to adequate housing means that potential homelessness must be considered by a city when it decides to evict people from buildings. The Court further found the section in the NBRA (the Act that was used to evict people) that makes it a crime to remain in buildings after an eviction notice by the City, but before any order of court for eviction, to be unconstitutional.



Peruse the 2008 issues of *Article 40, ESR Review, Local Government Bulletin, CSPR eNewsletter & CSPRI '30 Days/ Dae/ Izinsuku'*

[www.communitylawcentre.org.za](http://www.communitylawcentre.org.za)

## Other News

The Law Faculty has an LLD Support Group, which is administered by Prof. Julia Sloth-Nielsen. The purpose of this group is for LLD and full thesis LLM students to improve on their writing and research for their particular thesis. At every meeting a particular student presents either a chapter of his or her thesis or even a paper which he or she would like to publish. Comments and constructive critique is then given on that paper by all the other members of this group, which includes law faculty professors. This is certainly an excellent forum for the improvement of academic research and writing. Hence when you decide to study towards your LLD at UWC, you will know that this Forum exists for you!

The Centre awaits the arrival of this year's University of Pretoria's LLM students in early July. We will introduce you to them in the next Friends of CLC Newsletter

## News about Friends

**Obiokoye Onyinye (2005)** has married Mr Victor Nwaneri on 5 April 2008 in Cape Town, where she also now resides. Pictures to follow in next Newsletter.

**Benyam Mezmur (2005)** has taken part, along with Prof Julia-Sloth Nielsen, in the Third International Policy Conference on the African Child on Child Poverty in Africa (12-13 May 2008) organised by the African Child Policy Forum at the United Nations Conference Centre, Addis Ababa, Ethiopia. The conference was extremely high powered, and very informative. Benyam also attended the 11th Meeting of the African Committee of Experts on the Rights and Welfare of the Child (26th-28 May) and its subsequent pre-session for the consideration of state party reports (29-31 of May) held at the African Union Commission.

## News about Friends (Cont.)

**Yonatan Fessha (2004)** has been awarded the Utrecht fellowship which allows him to spend three months at the University of Utrecht, the Netherlands, pursuing research. During his stay in Utrecht, Yonatan will do research on the relevance of local government in accommodating ethnic diversity and specifically examines the relevance of the territorial structure of local government in designing an institutional response to the challenges of ethnic diversity. He will be hosted by the Institute of Constitutional and Administrative Law.



Yonatan's farewell at an Ethiopian Restaurant

**Rebecca Amollo (2006)** is a visiting researcher at the University of Alberta, Canada. She is currently serving an award sponsored by the Department of Foreign Affairs and International Trade, Government of Canada, through a Graduate Student Exchange Programme. As part of her research, she is currently attending an International Research Internship at the University of Ottawa focusing on community health services and policy research. The project is funded through the Teasdale Corti Global Health Research Partnership Program by the International Development Research Centre, Ottawa on behalf of the Global Health Research Initiative.

**Rino Kamidi (2007)** is doing an internship at the Security Sector Governance (SSG) Programme of the Institute for Security Studies (ISS), Pretoria. He is involved with two projects on women and peace-building in Africa comparative study of Rwanda, Sudan and DRC) and women in the defence forces in SADC countries. The outcomes will be published late this year.

Between 15 October 2007 and 15 December 2007, **Jamil Mujuzi (2005)** was a guest researcher at the Institute for Human Rights, Abo Akademi University in Finland during which period he wrote and finalised three research papers. One is on The Right to Fair Trial in Kenya, which has since been published in the *Malawi Law Journal* and the other two are on life imprisonment in Uganda and South Africa respectively. These two articles will be published in the *African Human Rights Law Journal* and *South African Journal of Criminal Justice*.

**Francesca Dau** is back in Italy at the University of Rome "La Sapienza". She is currently focusing her studies on Government, Institutional and Electoral issues in South Africa and African Countries. She is also the editor of the section "Constitutional News from South Africa", for the Italian Law Review "Nomos. Le attualità del diritto". She is going to London, School of Oriental and African Studies for the period August/September 2008 and will be back at the Centre around January 2009.



Francesca on the right—taken in 2005

**Coel Kirkby** is helping to write a short book on fiscal federalism at the Forum of Federations in Ottawa. Coel has just completed his LLM at McGill University and have two book chapters coming out later this year. One is on the 'politics of recognition' of indigenous peoples in Canada, and the other is on asymmetrical design of constitutions in Africa.

**Patrick M. Eba (2004)** is the head of AIDS and Human Rights Research Unit at the Centre for the Study of AIDS, University of Pretoria.



5th Dullah Omar Memorial Lecture, 27 March 2008

*From all of us at CLC,  
That's all for now!*