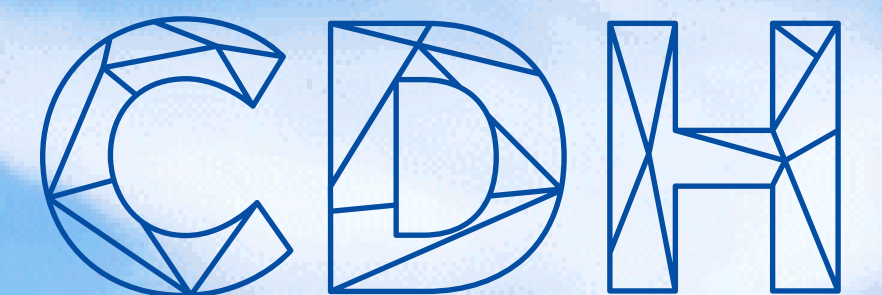


2024

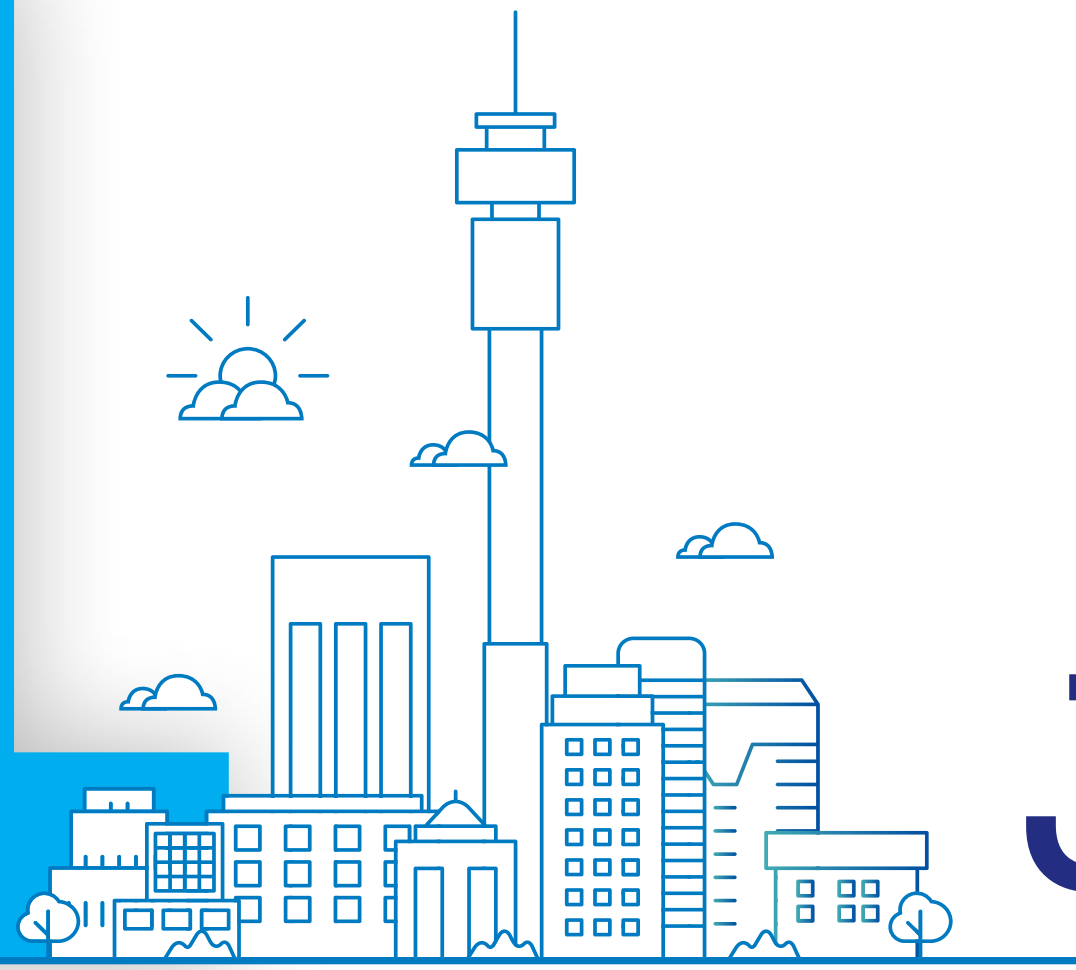
MAKING AN IMPACT



PRO BONO & HUMAN RIGHTS

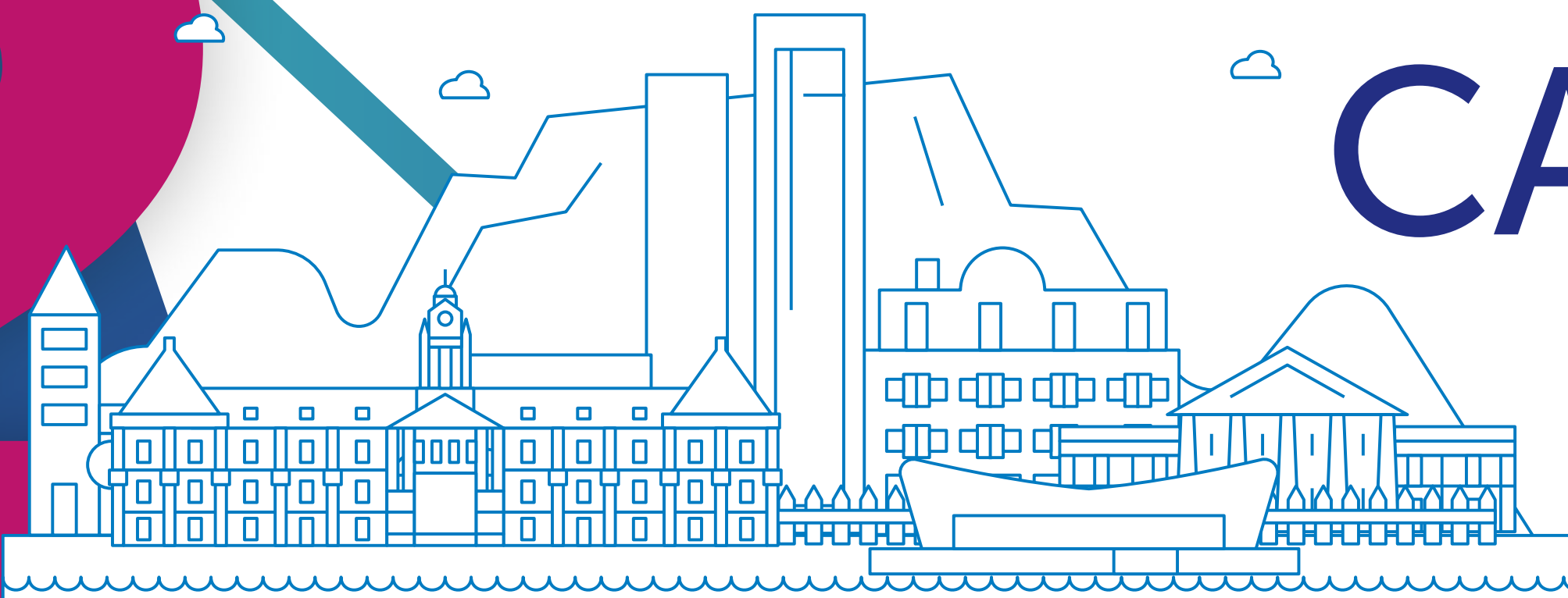


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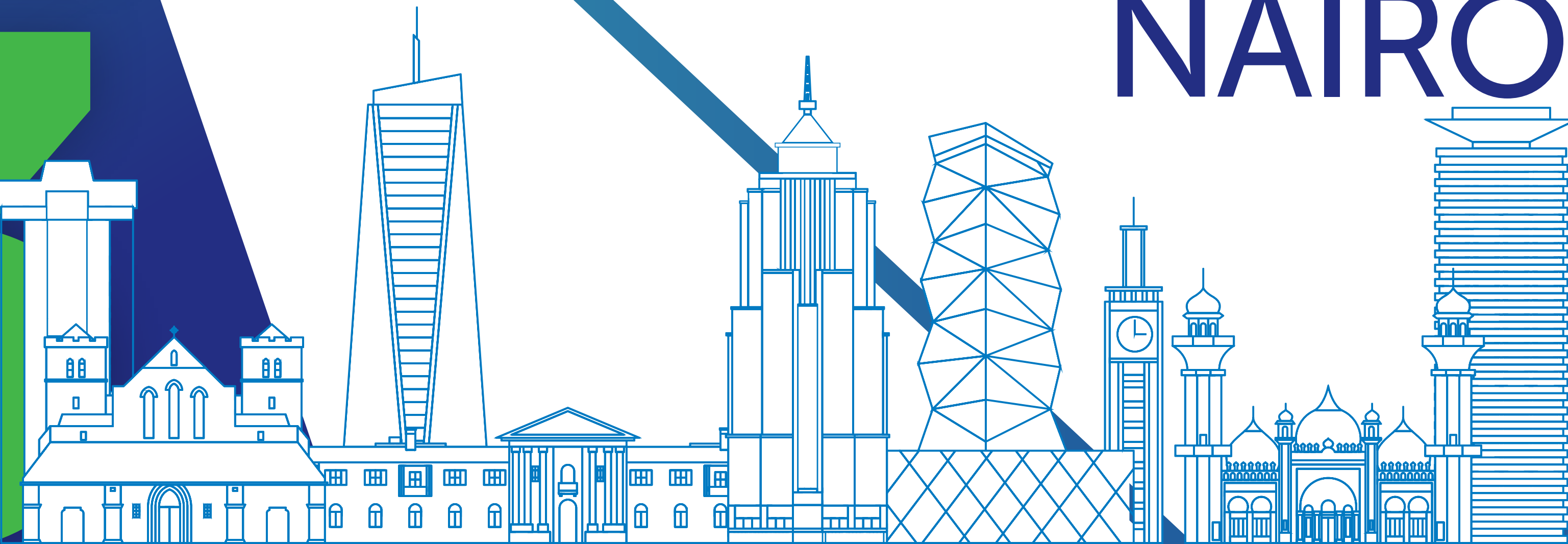
JOHANNESBURG

2



CAPE TOWN

3



NAIROBI



Do your little bit
of good where you
are; it's those little
bits put together
that overwhelm
the world.

ARCHBISHOP DESMOND TUTU

INTRODUCTION

INTRODUCTION

It's that time again where we all pause to reflect on the year behind us – its successes, its challenges, the highs, the lows and all the bits in between.

And on reflection I found myself asking how we should define our successes, and how we should characterise our challenges. Not just in terms of the year in review, but in general. In the context of our practice, should we be defining success solely as a big victory in court or a good settlement, or is the work of a pro bono and human rights practice like ours about more than just winning a legal victory for our clients. What is the special role that a practice like ours plays, not just in a firm like ours, but in our society and in a democracy. And in focusing on our

challenges, how should we define our relationship with them? Do we give in to defeat or should we use challenges as opportunities to rise above and go beyond?

As human rights lawyers, our job is of course to help our clients realise their rights, in particular their human rights. As pro bono lawyers our job is to enable people without the financial means, to have equal access to lawyers and the protections of the legal system. As public interest lawyers engaged in impact litigation our role is also to seek systemic change that positively impacts broader classes of people and to defend constitutional democracy. But, in truth, the beauty of our job is that what we are called upon to do is also so much more – perhaps without us even realising it. At the heart of much of our daily work, is simply affirming



INTRODUCTION

our clients’ (and those in the communities we assist) dignity and their worth as human beings. This we do not just in winning a court case for them, but through the privilege and profound responsibility of listening to their stories and sharing in their struggles, losses and, in many instances, pain. While we can’t guarantee a win, we promise that we will fight for them and their rights. Sometimes we have the opportunity to serve them by just explaining what the law says and how it can or can’t help them. Too often we are the first and perhaps the only people and institutions that have been willing to listen to them properly, to affirm that their stories matter and that they and their rights matter.

Perhaps these are the most important *“little bits of good”* that we can and do offer.

In what follows we share what we consider the most meaningful of our year’s work – the highlights, both large and small, the successes and the challenges – the tapestry that makes up what I believe to be our firm’s unique and meaningful commitment to promoting justice and the social good.

We live in difficult times and as the contents of this newsletter will show, defending the rights of the vulnerable is increasingly challenging. At times this is disheartening. Despite these challenges our Pro Bono & Human Rights Practice (our practice) remained

steadfast in its commitment to our clients, protecting the rule of law and defending constitutional rights and values. I am proud of the resilience and determination of my team. As always, my deep gratitude to them all for their unflinching commitment, and their profound dedication to our clients, the communities we serve and our practice – and for making an impact in the lives of many. And to all our colleagues who have contributed to the firm’s impressive collective pro bono and corporate social responsibility (CSR) contributions during 2024.



**May some
of what
you read
inspire you
all to help us
overwhelm
the world
with good...**

Jacquie Cassette,
Practice Head

INTRODUCTION



TOTAL
CDH PRO BONO CONTRIBUTION

Hours:
10 266hrs 09mins
R-Value:
R37 148 943,64

PRO BONO PRACTICE CONTRIBUTION

Hours:
8 342hrs 24mins
R-Value:
R28 302 845,00



MATTERS



**PUBLICATIONS
& TRAINING**



**CSR/CARING
COMMITTEE**



EVENTS

Restoring hope: The ongoing fight for citizenship rights in South Africa

Public Interest Issue:
Promoting access to the
right to citizenship.

Beneficiaries:
A class of young adults
born and raised in South
Africa struggling to enforce
their right to citizenship.

Hours:

420hrs 24mins

Monetary contribution:

R1 770 655,00



**Value add in
terms of rands
and hours**

In 2010, Parliament passed the South African Citizenship Amendment Act 17 of 2010, which amended the existing grounds of citizenship and introduced new grounds of citizenship.

These amendments opened vital avenues of citizenship for vulnerable children with strong connections to South Africa, including that provided for in terms of section 4(3), which ensures that those born to foreign national parents in South Africa who have resided in the country from birth until the age of majority; and who have had their births duly registered, have a right to apply for and be granted citizenship.

Securing these new avenues of citizenship has, however, been fraught with obstacles, primarily due to the Department of Home Affairs' (DHA) failure to adopt the necessary application forms and regulations that set out the practical steps required for applicants to apply for these grounds of citizenship, and its failure to ensure that officials are aware of these grounds of citizenship and are willing and able to assist applicants.

Over the years, our Johannesburg practice has assisted many individuals who are striving to realise their right to citizenship under section 4(3). Through our experience of assisting these individuals we have witnessed the never-ending obstacles and challenges faced by applicants – with several applicants left in limbo for years due to the failure by the DHA to adjudicate or finalise their applications, with profound consequences for their lives. Affected clients have been unable to access healthcare, open bank accounts, register their businesses or further their education, and often fear they will be arrested because of a lack of documentation. More than this, they face a daily struggle for recognition in the country of their birth. Their resilience is remarkable, but their plight reveals a DHA that has become

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increasingly recalcitrant – either unwilling or unable to fulfil its obligations in processing and adjudicating these forms of citizenship applications. This poses a threat not only to the rights of affected persons, but to the rule of law and the foundations of our constitutional democracy

In June 2023, a set of regulations were finally promulgated, only to be withdrawn by the former Minister of Home Affairs (Minister) shortly thereafter, without any explanation. Accompanying this withdrawal was a notice indicating the intention to issue a new set of regulations. However, it remains unclear if these new regulations, which seek to unlawfully restrict the rights of section 4(3) applicants, have

been properly promulgated. At best, they are being only selectively implemented, leading to considerable uncertainty.

Given these ongoing systemic problems, we are committed to continuing our considerable efforts to ensure the proper recognition and enforcement of the rights of the classes of affected people. We have partnered with Lawyers for Human Rights (LHR) to bring an application in which we address the systemic challenges presented by the ongoing failure of the Minister to create and enforce lawful regulations necessary for implementing section 4(3) of the South African Citizenship Act 88 of 1995, and to ensure the proper implementation of this provision; a situation that has persisted since the section came

into effect in January 2013. The application seeks systemic relief against the Minister and the Director-General of the DHA, including a declaration affirming the unconstitutionality of their conduct, an order declaring various provisions of the regulations the former Minister purported to promulgate unconstitutional, a mandatory order requiring the issuance of a directive to give effect to section 4(3) pending the promulgation of compliant regulations, and associated supervisory measures to ensure adherence to constitutional standards.

This case represents a pivotal intervention, one that we hope will bring clarity and strengthen the legal framework surrounding citizenship rights in South Africa.

How state maladministration and delays deny justice

Public Interest Issue:

Addressing maladministration, corruption and inaction by the DHA in processing asylum seeker visa applications and related legal proceedings.

Beneficiaries:

Individual applicant seeking to secure his right to asylum.



Hours:

315hrs 45mins

Monetary contribution:

R1 063 685,00

In a case that illustrates the devastating impact that maladministration, corruption and bureaucratic delays can have on people's rights and lives, a client's quest for justice has been severely hampered by multiple failures of the DHA over decades.

Our client, who is an asylum seeker from the Democratic Republic of Congo (DRC), fled the DRC in 2003 after suffering persecution at the hands of the former Government, led by Joseph Kabila, and sought asylum in South Africa. His application for asylum was rejected by the Refugee Status Determination Officer (RSDO) tasked with determining his application in 2006. Our client lodged an appeal against this decision with the then Refugee Appeals Board (RAB). Unbeknown to our client, this appeal was dismissed by the RAB in a ruling

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purportedly handed down in 2009. Our client, however, was never advised that his appeal had been dismissed or given a copy of the ruling. This, despite him going to the Refugee Reception Centre (RRO) (which was responsible for providing him with the ruling) every few months to renew his asylum seeker permit for almost 10 years after the date of the ruling.

In January 2019, when routinely attending the RRO to renew his asylum seeker permit as he had been doing for the 13 years since he lodged his appeal, he was summarily detained and held in custody by officials at the RRO without being given an adequate explanation. The officials who detained him sought a bribe, which he

was unable and unwilling to pay. He spent four days in prison, but with the help of an attorney was released by an order of court. Soon thereafter our client contracted tuberculosis, likely because of his imprisonment. It took him many months to recover.

It was only after we agreed to assist him pro bono and submitted an application in terms of the Promotion of Access to Information Act 2 of 2000 on his behalf that we received a copy of the RAB's decision.

Concerned that the RAB's decision was unlawful for various reasons, we helped him to launch a review application in court to challenge the RAB's decision.

Regrettably, we have faced significant obstacles in progressing this court application because of the DHA's failure to comply with the rules of court. Not only did the DHA file its answering papers four months late, but it also then took almost two years to file its heads of argument (which are required to be filed before a case can be set down for hearing), leaving our client in a frustrating state of uncertainty and denying him timely access to justice.



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The consequences of these delays are serious. Again, because of failures by the DHA our client was unable to renew his asylum seeker visa in the interim, despite our interventions. This visa is crucial as it constitutes proof that an asylum seeker is in the country lawfully. Without it our client faced a continued threat of arrest and detention. It was only through court intervention that he managed to secure a renewal of his visa, providing some much-needed protection.

The state's conduct in this case reflects a troubling pattern: maladministration that results in breaches of rights and ongoing inaction from state authorities that not only delays legal cases but also jeopardizes the rights and well-being of those who rely on timely judicial action.

The unnecessarily protracted nature of these proceedings forced our client to bring an application before the court to compel the DHA to meet its legal and procedural responsibilities, a step that should never have been necessary. Despite the court's clear orders, the DHA repeatedly failed to comply with this order, without valid explanation.

This led to another court application to strike out its defence entirely, underscoring the DHA's serious failure to comply with its heightened obligations as a state entity to act responsibly, fairly and ethically when litigating.

Eventually, under continued pressure and the threat of having its defence struck out, the DHA partially complied with the court's orders – albeit very belatedly. The impact of these delays has been substantial, delaying our client's fight for justice and placing a significant emotional and psychological burden on him and his family.

As the case moves toward resolution, with the court granting our client leave to set the main application down for hearing and ensuring the renewal of his visa pending the finalisation of his court case, this experience serves as a reminder of the dangers of state inaction and lack of accountability. When bureaucracy stalls and falters, it impacts lives, endangers futures, and ultimately undermines our legal system and the justice it is meant to ensure. State authorities must be held to account to prevent such failures going forward, ensuring that everyone has meaningful access to justice.

Recognition and a restoration of dignity at last



Hours:

29hrs 45mins

Monetary contribution:

R74 600

Public Interest Issue:

Giving effect to and promoting the right to citizenship and the right to dignity.

Beneficiaries:

Assisting an undocumented South African to secure access to medication and finally obtain his identify document and recognition of his citizenship.

Our client, a South African citizen, was born on a farm in Beja, Limpopo, located outside Louis Trichardt, in the early 1970s.

He was born at home and was not taken to hospital after his birth. His circumstances were further compounded by the passing of his mother a year after he was born, and his father four years after that. Due to these circumstances, our client's birth was never registered, and he was also never vaccinated as a child. Like so

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many other South Africans, because his birth was not registered, he has remained undocumented all his life.

After the death of his parents, he was taken in by a colleague of his parents and attended a school on the farm but was, due to circumstances beyond his control, never able to study beyond Grade 4. When he turned 18, our client worked on a citrus farm until the age of 25, after which he came to Johannesburg to work for building contractors and waited at traffic intersections looking for casual work.

One day, in 1998, while at a traffic intersection our client met Mr and Ms R – who were looking for someone to help in their home as a gardener

and odd-jobber. On this day, a lifelong relationship between our client and the Rs was formed, and he has been tending the Rs garden ever since – and residing on their property.

Over the years the Rs attempted to assist our client to get documented but were unsuccessful every time. Matters took a turn when in March 2023 our client went to a government clinic to collect his monthly dose of medication for his chronic condition and was suddenly refused the medication because *“he did not have an ID”*. This was a clinic that our client had routinely been collecting his medication from for almost eight years. The refusal to continue to provide him with medication

occurred as part of a wave of xenophobic protests in various parts of the country, in which protestors gathered outside hospitals and clinics (including the clinic in question) forcibly seeking to deny *“foreigners”* access to basic services. Given the dire consequences that the denial of access to medication would have on his health and the ensuing threat to his life, he (assisted by the Rs) reached out to our practice for assistance.

We had to assist our client with two very important issues: first, the most urgent, to help him get access again to vital medication for his chronic condition, and second, to assist him to apply to have his birth registered and to obtain an ID – both

of which were necessary for ensuring that going forward he would finally be recognised as a South African.



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After extensive correspondence between our practice and City of Johannesburg Health Department officials, and unpleasant and upsetting visits to the relevant clinic, we were able to compel the clinic to eventually give our client access to his medication again. As part of our engagements with the Department of Health we also ensured that it took steps to discipline the clinic staff who were responsible for unlawfully denying our client continued access to his medication, and who it seems had sided with the protesters seeking to unlawfully deny people access to the clinic. Beyond this we were able to assist our client further by arranging

with the Department of Health for him to collect his monthly medication from a health facility that is much closer to his residence and had his patient file transferred to this facility. Our client has now been collecting his medication from this facility for over a year without any difficulty.

In tandem, we assisted our client to apply to have his birth registered and to apply for his ID at the DHA. Again, after what has been an arduous journey, which involved gathering evidence, including tracing and locating of our client's relatives and a number of gruelling interviews and interrogations of our client by DHA officials, it gave us a great sense of fulfilment when the DHA

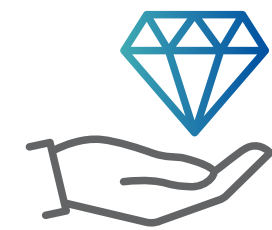
finally confirmed that it was satisfied that he is indeed a South African and entitled to a South African identity document. Our client was issued his ID document in November. The significance of this for our client cannot be underestimated. Now in his early 50s, our client has spent most of his adult life seeking documentation and to be recognised by his country of birth as its citizen. Finally, his fight for recognition and a sense of belonging is over. It has been a pleasure and privilege to assist him on this important personal journey and to have contributed to the restoration of his dignity.

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This matter highlights the plight of many adult South Africans who remain undocumented. It also highlights the very real danger presented by the increasing xenophobia besetting our country and its potential to tear at the fabric of our society, with a devastating impact not just on the lives of foreign nationals, but on South Africans.

I am so grateful to CDH for all the assistance it has offered me and for helping me to eventually obtain documentation. I am so content and overjoyed because now, for the very first time in my life, I feel as though I am someone and that I belong. For years I've always felt this deep-seated feeling of emptiness within me because of lack of documentation and recognition but now I feel so complete. I feel that I have now been recognised as an existing human being and this feeling is indescribable. I am very grateful to CDH.

FEEDBACK FROM OUR CLIENT
(TRANSLATED FROM ISIZULU)



Hours:

140hrs 18mins

Monetary contribution:

R493 670,00

The fight to protect and give effect to Ekurhuleni families' rights to housing and dignity continues

Public Interest Issue:

Assisting an international network of human rights defenders to make vital submissions on the importance of effective remedies for the breach of socio-economic rights in a case of the prolonged breach of the right to access to housing and to dignity for informal settlement dwellers.

Beneficiaries:

Informal settlement dwellers of Ekurhuleni.

In August 2023 the Gauteng Division of the High Court, Pretoria (High Court) delivered a judgment in the contempt application in the matter of *Thubakgale v Ekurhuleni Metro Municipality* (Case No 39603/2015) [29/08/2023] where it had to consider whether the applicants (the residents) could be granted constitutional damages on the basis of the respondent's (the Municipality) failure to comply with a court order directing it to provide the residents with houses in terms of section 26 of the Constitution.

The fundamental question in these proceedings was what effective remedy should be granted by courts to litigants who have demonstrated that the state has not only failed to realise the fundamental right of access to housing but has conducted itself in such a way that one can only reasonably conclude that it refuses to realise this right. The question was whether such litigants are entitled to constitutional damages for this breach or whether they are entitled to an alternative remedy.

At the time of hearing this application, the Municipality had still not complied with an order handed down by the High Court in 2015 by Teffo J ordering it to build the applicants houses (as amended by the Supreme

Court of Appeal (SCA) in 2017). It is this order that the residents sought to enforce in this application by way of contempt proceedings. In the alternative, the residents sought an order declaring that the Municipality be liable to compensate them for breaches of their rights under section 26 of the Constitution.

The court granted the order as sought by the residents – holding the Municipality in contempt for its failure to discharge a positive obligation under the Constitution and ordering that it, among other things, provide the residents with houses as per the 2015 Teffo J order. Importantly, the court held that in the event that the residents were not provided with the houses by 15 December 2023 they were

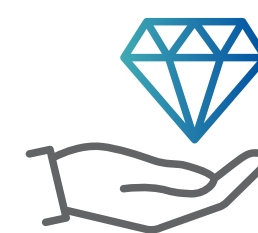
granted leave to re-enrol the matter before the presiding judge/judges and to seek such further orders that may then be appropriate including, but not limited to, an order for such constitutional damages that the court could then assess as payable, and an order holding the Municipality in contempt of its obligations to take all the administrative and further steps necessary to ensure that the residents be provided with the houses by no later than 15 December 2023.

The Municipality has since appealed certain parts of the order and the application for leave to appeal was heard by the full bench on 5 July 2024. The majority granted the Municipality leave to

appeal to the SCA with the dissenting judge holding that the Municipality had failed to adhere to the aspects of the order, which the Municipality had not appealed, displaying bad faith and disregard for a court order. The residents have launched a cross-appeal seeking constitutional damages. Given that the Municipality failed to comply with the part of the order that required it to build the houses by 15 December 2023 (a part of the order which the Municipality did not appeal) the residents (over and above the SCA cross-appeal) have also since launched a High Court application (in the same court and under the same case number) seeking a contempt of court order

and constitutional damages against the Municipality for its failure to deliver the houses as ordered.

We will continue assisting our client (ESCR-Net) to intervene in these further pending proceedings where appropriate as an amicus curia to continue to highlight the importance and appropriateness of constitutional damages in this matter as a form of enhancing access to justice in socio-economic rights matters.



Hours:

26hrs 46mins

Monetary contribution:

R71,595

**The arduous but
resolute fight to achieve
a harm-free, dignified
and enabling schooling
environment for all
finally pays off**

Public Interest Issue:

Promoting and protecting the right to basic education by ensuring that the Department of Basic Education in Gauteng honours its constitutional and common law obligations towards learners to achieve a harm-free, dignified, and enabling schooling environment for all.

Beneficiaries:

Learners of the under resourced Geluksdal Secondary School in Brakpan township, Benoni.

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Research has long revealed that learners who feel safe at school are more likely to focus on their schoolwork and perform well academically, while those who feel unsafe at school are most likely to experience depression, anxiety, and stress – and they may also be more likely to miss school and have a harder time performing well.

Learners have a right to have their basic needs met, including physical, social, and emotional safety, before they can effectively engage in academic learning. When they grapple with issues such as hunger, bullying or trauma, their brains are not biologically ready to handle advanced, higher-order learning. Similarly, an unsafe

environment negatively impacts learners' mental health. A feeling of being unsafe is therefore a significant barrier to learning, which then leads to a decline in both academic achievement and overall well-being – dimming the futures of those impacted.

This is one of the main reasons why – for the sake of the safety of learners at Geluksdal Secondary School (school), and to help ensure that no further learners experience harm or death at our schools because of the failure of our education authorities to adhere to their constitutional and statutory duties to ensure a safe learning environment – we have relentlessly pursued litigation and other means

over the last three years to ensure that the Gauteng Department of Education and the Department of Basic Education (the departments) attend to infrastructural, safety and security related defects that compromised the safety of more than 1,000 learners at the school. Pursuant to a court order granted in our clients' favour and against the departments, and two inspections in loco later, it gives us great relief to know that the safety and infrastructure issues at the school have been sufficiently addressed, finally ensuring that eventually (and in the long term) Geluksdal is a safe and enabling environments for all its learners.

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Our clients in this matter were the parents and siblings of a Grade 12 learner, who was tragically electrocuted in her mobile classroom on 30 January 2017 at the school and who died as a result. In conjunction with assisting them to launch an application to force the departments to attend to the safety and infrastructural challenges at the school that led to their loved one's death, we also helped our clients to claim damages from the Departments for the loss suffered by them as a result of the death of the learner. The damages claim has also been successfully resolved by way of a generous settlement. The family has expressed a sense of relief and gratitude and will now use the funds received through the settlement to invest in the further education of their surviving children and siblings of the deceased.

“As the family we are so thankful to CDH. When our daughter passed away, we were so devastated and did not have an idea how we were going to pick up the pieces and move on – we had such a strong sense of devastation. When CDH came on board we started to have a glimmer of hope ... When the matter was finally settled it was such a lifeline for our family. We are so grateful. Even though we will never get the life of our beloved daughter back we take comfort and huge gratitude on the fact that, through the funds received from the settlement of the matter, the futures of our surviving children are taken care of as we have invested the funds for the furtherance of their education. We are eternally grateful to CDH and may its work long continue. Thank you CDH.”

FEEDBACK FROM ONE OF OUR CLIENTS
(TRANSLATED FROM ISIZULU)

Protecting established international law principles



Hours:

303hrs

Monetary contribution:

R1 078 375,00

Public Interest Issue:
Protecting and promoting the rights of asylum seekers fleeing inhumane treatment from their countries of origin.

Beneficiaries:
Foreign nationals who are eligible to apply for asylum in South Africa.

Asylum seekers, refugees and other displaced people are among the most vulnerable members of any society. While they are the bearers of human rights under our Constitution, they face increasing threats because of recent legislative amendments that have sought to limit their rights as well as through the imposition of increasingly repressive state policies and practices. Moreover, they have little to no socio-economic or political power in our society through which to make their voices heard. Which is why we are assisting Amnesty International, the Global Strategic Litigation Council for Refugee Rights and the International Detention Coalition to intervene as amici curiae in High Court litigation challenging some of the recent amendments to the Refugees Act 130 of 1998 (Refugees Act) and its regulations that are negatively impacting asylum seekers' ability to apply for asylum.

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The application was launched in the Cape Town high court by the Scalabrini Centre of Cape Town and its trustees (applicants), represented by LHR, in April 2024.

In the application the applicants challenge the constitutional validity of sections 4(1)(f), 4(1)(h), 4(1)(i) and 21(1B) of the Act; and sections 8(1)(c)(i), 8(2), 8(3) and 8(4) of its accompanying regulations which they aver restrict the rights of asylum seekers to seek asylum contrary to fundamental principles of international law.

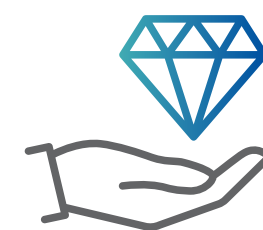
The challenged provisions empower the DHA to bar asylum seekers who have not complied with aspects of South Africa's immigration laws (for example by not being in possession of a transit visa or presenting themselves at a

refugee reception office within the 5 days provided for in a transit visa, or by entering the country other than through an official border) from applying for asylum and being granted asylum, even if they have a reasonable fear of persecution if returned to their home country. Although these challenged provisions operate in different ways, their central feature and effect is to make a foreign national's ability to seek asylum and refugee status (under the Refugees Act) subordinate to and dependent on their perceived compliance with the South African Immigration Act 13 of 2002. They permit foreign nationals with very strong claims to asylum to be arrested and returned to their home countries without being entitled to apply for asylum because they delayed or erred

in how and when to apply for asylum. The applicants argue this is unlawful as an individual's right to asylum should be determined on the merits of their claim alone – and not on their ability to navigate the bureaucratic complexities of South African immigration law. The applicants submit further that since the enforcement of these challenged provisions there has been almost a 90% decline in new asylum applications and that new asylum seekers are in practice being arrested, detained and denied the right to asylum. The applicants contend that this is unlawful and unjustifiably infringes the right of non-refoulment enshrined in customary international law and the Refugees Act.

One of the core mandates of all of the organisations we are working with on this matter is to work to ensure justice for asylum seekers and refugees as well as to work for the progressive development of laws and policies affecting refugees, migrants and the displaced. They seek to share some of their regional and international law expertise that we believe will be of importance in assisting the court to arrive at an appropriate decision in this matter.

Seeking justice for the families of victims of apartheid era atrocities



Hours:

524hrs

Monetary contribution:

R1 494 450,33

Public Interest Issue:

Promoting accountability
for apartheid atrocities.

Beneficiaries:

Victims/families of victims
of apartheid atrocities.

Our Dispute Resolution practice continues to represent the families of victims of apartheid atrocities in their quest for justice and accountability, including the families of Fort Calata, Matthew Goniwe, Sicelo Mhlauli and Sparrow Mkonto (the Cradock Four).

On 2 September 2024, the inquest into the Cradock Four's murders was set to start in the Gqeberha High Court before the Honourable Madam Justice Nomatamsanqa Beshe. This followed the decision by former Minister of Justice Ronald Lamola, on 5 January 2024, to re-open the inquest, almost 40 years after the assassination of the Cradock Four at the hands of the apartheid regime on 27 June 1985.

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The legal teams for former state officials who are struggling to have their legal fees paid by the state, as well as the legal team for Mbulelo Goniwe, the nephew of the late Matthew Goniwe, said that they intended to bring an application to compel Legal Aid South Africa and/or the state to pay their legal costs.

Under those circumstances, the inquest was postponed to June 2025.

As part of our support for the broader project, on 10 October 2024, CDH again hosted an event on behalf of the Foundation for Human Rights (FHR) entitled, Strengthening Legal Efforts in Pursuing the Truth and Reconciliation Commission (TRC) Cases.

The event brought together various law firms and partner organisations to engage in a meaningful discussion about the current challenges surrounding cases in which family members of victims of some of the most heinous and well documented apartheid atrocities investigated by the TRC, have sought to have perpetrators (who were not granted amnesty) prosecuted. Sadly, because of a complex set of factors, few of these prosecutions have taken place, leaving victims' families with no sense of justice. CDH has dedicated significant resources to assist with several such cases, including the Cradock Four case. The diverse perspectives shared during the meeting

underscored the significance of collaboration in addressing the complex issues faced in the unfinished business of the TRC programme.

The meeting focused on a progress report from the FHR, which has spent considerable resources in seeking to bring justice for the victims of apartheid atrocities' families; the challenges faced by most attorneys assisting the FHR; and potential strategies moving forward.

Throughout the session, it became evident that many attorneys working with the FHR were encountering similar issues and challenges. These challenges ranged from difficulties in working with members of the National Prosecuting Authority (NPA)

to broader issues such as the state's failure to address TRC cases and administrative hurdles like missing dockets and delays in re-opening inquests. Discussions centred on how to improve communication and collaboration with the NPA.

A key takeaway from the meeting was the commitment among stakeholders to work closely together and find connections between the TRC cases, and never to lose sight of the overarching aim to ensure that justice is not a distant ideal but a lived reality for all.

The event was followed by a dinner with the victims' families and survivors of the TRC cases to foster stronger relationships between all the parties involved in bringing these TRC cases to justice.

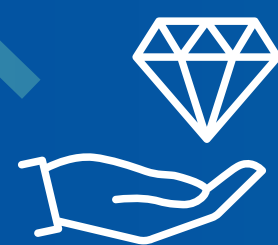
ProBono.org webinar training series

Public Interest Issue:

Training for legal practitioners who provide legal services to vulnerable groups.

Beneficiaries:

Legal practitioners in South Africa, including paralegals in community advice offices across the country.



Hours:

70hrs

Monetary contribution:

R308,140

THIS IS A VIDEO

In collaboration with ProBono.org, we have launched a webinar training series aimed at enhancing the knowledge and skills of legal practitioners. Recognising the crucial role that trained legal professionals play in advocating for the rights of vulnerable communities, we are dedicated to providing comprehensive education and insights into the complexities of South Africa's legal framework.

Our training series began with providing participants with an understanding of the legal landscape governing refugee rights and protections. The session explored the rights of refugees and individuals seeking asylum. This foundational knowledge is pivotal for those working directly with refugee populations, enabling them to better navigate the legal intricacies involved.

One of the critical topics covered during the series was birth registration for children born to one or more foreign national parents. This aspect of law is crucial, as it addresses the rights of children who often face numerous barriers due to their nationality. We aimed to equip legal practitioners with the necessary tools to assist families in ensuring that their children's birth rights are protected.

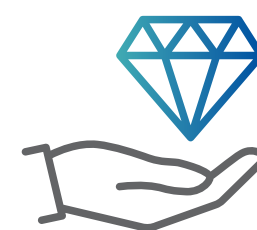
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Another webinar focused on the judicial review process surrounding decisions made during the asylum adjudication process. Participants learned how to effectively challenge unfavourable decisions, understanding the procedural requirements and legal grounds for seeking a review. This knowledge not only enhances the skills of legal practitioners but also reinforces the oversight mechanisms in place to protect the rights of asylum seekers.

We ended off the series by delving into the key pathways to South African citizenship outlined in sections 2(2), 2(3), and 4(3) of the South African Citizenship Act 88 of 1995. The session looked at the legal requirements and processes involved in citizenship rights, empowering practitioners to guide their clients towards securing legal recognition and stability in South Africa.



Promoting awareness: Training on the Domestic Violence Act



Public Interest Issue:

Raising awareness in order to combat domestic violence and provide individuals with the knowledge to secure protection orders.

Beneficiaries:

Individuals affected by domestic violence.

Hours:

80hrs 24mins

Monetary contribution:

R282 600,00

Our practice recently hosted a comprehensive training session on the Domestic Violence Act 116 of 1998 (Domestic Violence Act) for a large corporate client. This initiative was particularly timely, as it coincided with the 16 Days of Activism Against Gender-Based Violence Campaign, which raises awareness about the critical issue of domestic violence and emphasises the importance of creating safe environments for all.

During the training, we explored the key components of the Domestic Violence Act, including definitions of domestic violence, legal protections available to survivors, and the various support mechanisms in place.

We covered important topics such as:

The definition and scope of domestic violence:

Understanding what constitutes domestic violence, including physical, emotional, financial, and psychological abuse.

Protection orders:

How individuals can obtain protection orders to safeguard themselves and their children from abusive partners.

The responsibilities of law enforcement:

The obligations of police officers to assist and protect survivors of domestic violence.

These conversations are vital for fostering a culture of awareness and accountability within the workplace and beyond.

The release of the Effective Remedies in Socio-Economic Rights Litigation report

On 15 October 2024 a report providing insights into a collaborative workshop held in December 2023 and organised by the public interest law centre Section27, CDH and Professor Sandra Liebenberg, the H.F. Oppenheimer Chair in Human Rights Law at the University of Stellenbosch was published. The workshop primarily aimed to address remedies for socio-economic rights

violations and improve effectiveness of court orders in socio-economic rights matters, including the rights to basic education, access to healthcare, housing and social security. The workshop brought together a diverse array of participants, including academics, researchers, attorneys, advocates and judges. The discussions highlighted several issues of critical concern and proposed actionable solutions for enhancing compliance and accountability in socio-economic rights litigation.



ACCESS THE
REPORT HERE

HYPERLINK
TO COME



Family house task team and panel discussion



Hours:

395hrs 42mins

Monetary contribution:

R1 426 780,00

Public Interest Issue:

Seeking a solution to the family house dilemma.

Beneficiaries:

Ordinary Gauteng townships residents who are affected by the family house phenomenon.

To find a solution to the 'family house' crisis in the Gauteng province, in 2020, a 12-member task team was established to develop a draft policy framework for the family house.

The project was a collaboration between the Gauteng Provincial Department of Human Settlements (Department), ProBono.Org, the University of Birmingham, the University of the Witwatersrand and CDH, the only major law firm involved in this significant initiative.

The task team comprised of legal practitioners, academics and civil society members and was, amongst other things, tasked with:

- Preparing a report proposing a policy framework on the family house, to be included in the Department's Annual Performance Plan and tabled at the convening of Gauteng's Provincial Legislature.
- Developing a legal definition of the family house.
- Developing a policy framework and/or legislative reform to achieve legal recognition of the family house within the realm, principles and values of the Constitution.

However, due to a decision by the Department to withdraw from the initiative in 2021, the task team was required to regroup and remains determined in finding a sustainable long-term legal reform solution to

the family house challenge. Like many things, the task team's progress was impacted by the COVID-19 pandemic, however, it resumed work in the latter part of 2023 and that work, which for the most part entails research, is now very much in progress.

Our practice has been involved with this project since its inception. As part of enhancing the project and the task team's work, on 1 October 2024 the Pro Bono practice in collaboration with the task team and the Legal Resources Centre (LRC) hosted a panel discussion on the family house phenomenon to explore and chart a way forward in advancing a case for law reform to address the gaps between our current black-letter-law property regime and

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on-the-ground popular norms and practices. The purpose of the gathering (which was the first of what we hope will be a series) was to begin a discussion on creative and pragmatic ways of advocating for urgently needed legal reform to cater for appropriate recognition of the family house and to work out the most appropriate next steps for the task team.

The high-level expert panellists, consisting of Prof. Maxim Bolt (Oxford University), Tshenolo Tshoaedi-Buthelezi (Executive Director, CAOSA), Dr Rosalie Kingwill (Independent Researcher), and Wilmien Wicomb (Co-Head, Land Reform Programme LRC) (with Gift Xaba, Senior Associate, CDH as a

moderator) reflected on the genesis of the family house phenomenon, considered recent developments and offered practical advice regarding the way forward in the quest for legal reform. Judge Stuart Wilson gave a thought-provoking keynote address that set the tone for the discussion.

About the 'family house'

Houses in historically Black townships (overwhelmingly former rental properties) over the years came to be known as 'family houses'. This was partly because of circumstances which caused residents to live in the houses according to Black African kinship-based residence norms and customs. But it was also because apartheid laws denied Black people the

right to own urban property, while regulating residence through permits that listed all family members and relatives as occupants.

When the new democratic dispensation came into effect, the South African Government enacted a series of overlapping processes through which rented and quasi-owned family houses in Black townships would become private property. This meant registering individual owners who came forward on the basis of permits listing multiple family members. These permits were either converted or upgraded to title deeds, but the process through which this was done has now proved to be problematic – as available data and heightened

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levels of litigation show that it was susceptible to misrepresentation.

Decades later, an increasing number of title holders are passing away often without a last will and testament, which means that their estates must be wound up through intestate succession law.

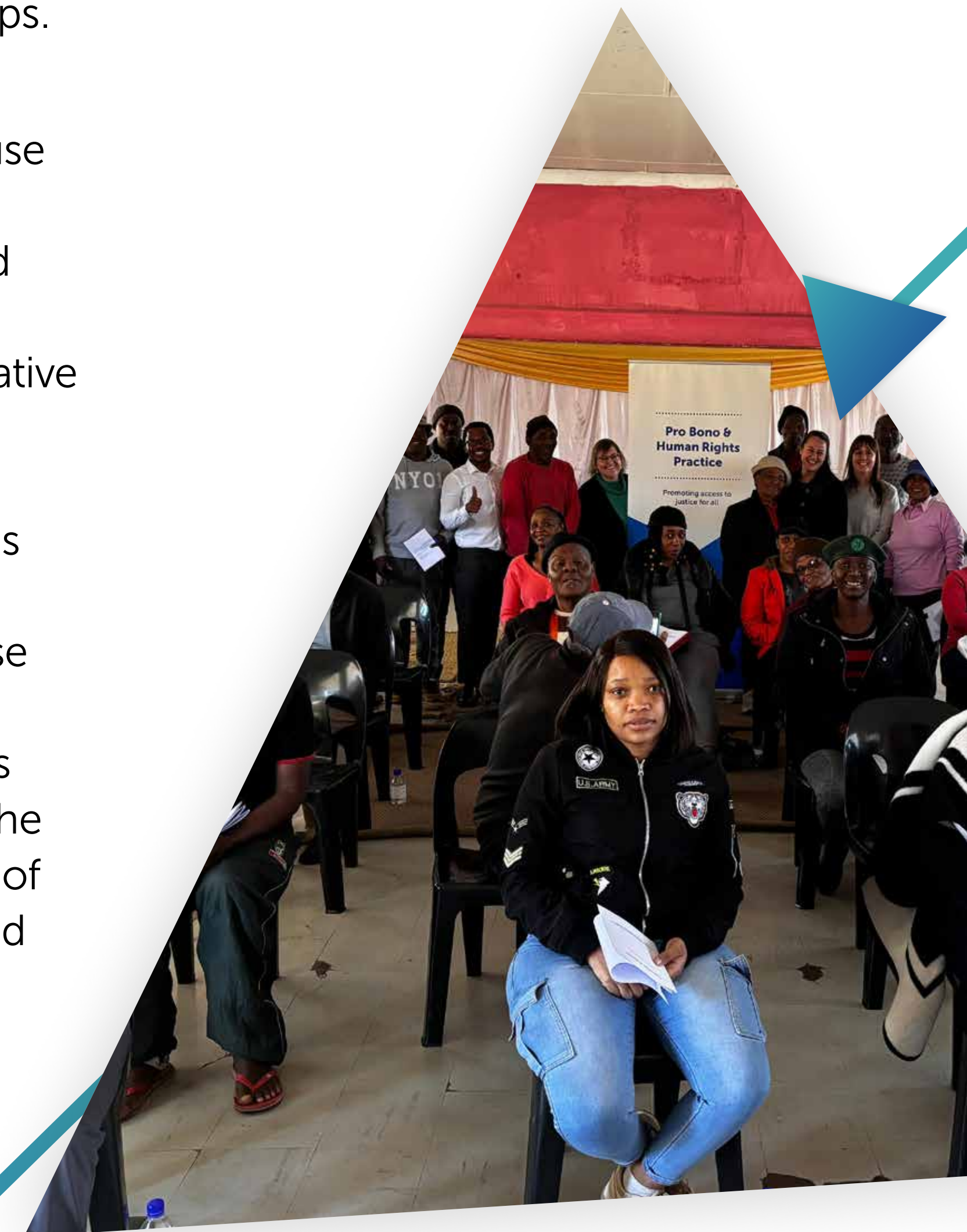
Disputes over the legitimate ownership of these houses have become frequent – exacerbated by limited knowledge in property (family house) management. The formalities involved in reporting deaths at the Master of the High Court (Master) has become a cause of intense disagreements amongst surviving family members or beneficiaries, who become locked in long and

complicated (family) disputes about who the rightful beneficiaries of the estate are. This in turn creates a massive backlog for the Master's office in the winding up of deceased estates. The process often takes years and has been rendered susceptible to acts of misrepresentation and fraud – which often results in the estate and the family home being inherited by people who are not the rightful beneficiaries in terms of the law and intestate succession.

All these challenges reveal the huge gap between popular understandings of property (family house) and the legal frameworks of individualised property ownership, land registration and intestate

succession – which has created what is now a clear housing crisis in townships.

As part of the work that we do for the family house project, our Pro Bono, Real Estate and Trust and Estates practices have intensified their collaborative Property Management Education initiative (established in 2023). This has included a particular focus on the family house and the housing crisis in Johannesburg townships that is partly caused by the lack of legal recognition of the family house, coupled



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with residents' lack of information about property management and maintenance, the law of intestate succession provisions and a lack of understanding of their obligations to the City Council, amongst others, to pay rates and taxes.

One of the 2024 outreach workshops was held on 15 August 2024 in Moletsane, Soweto. The area, like many other townships in Soweto, has numerous residents and property owners grappling with issues relating to property (family house) management and issues of succession, which has gradually over the years created a housing crisis in the area and the province at large.

Our collaborative community outreach workshop on the day, which was one of a series of sessions in the Soweto region, was aimed at educating residents on how to best manage their properties/the family houses, which will in turn enable families to maintain and pass over this generational wealth to generations to come. We hope that through educating communities, initiatives like these will in turn aid in alleviating the property/family house crisis in affected areas. Some of our real estate and pro bono practitioners presented on property management, issues relating to transfer of title and the family house phenomenon and its relationship with the law, while our Trusts and Estates practice presented on wills, succession and related issues.

The area, like many other townships in Soweto, has numerous residents and property owners grappling with issues relating to property (family house) management and issues of succession, which has gradually over the years created a housing crisis in the area and the province at large.

A workshop on the legitimacy of judicial lawmaking

THIS IS A VIDEO

On 5 and 6 December 2024 we hosted a workshop with the Centre for Law and Society (Centre) at the University of Cape Town (UCT) on the topic of the role of courts in developing the law by way of public interest law litigation. The workshop formed part of an international research project into public interest litigation, comparing South Africa, the Netherlands, India and the US. The workshop was organised and curated by Nurina Ally, Director of the Centre, Prof. Rob van Gestel of Tilburg University, the Netherlands, and Prof. Elbert de Jong of Utrecht University, the Netherlands.

Until relatively recently, public interest litigation was a rare phenomenon in most member states of the European Union (EU). In the Netherlands, Belgium, Germany and France, for example, there was a strong belief in the primacy of parliamentary legislature and class actions were mostly reserved for the protection of the collective interests of consumers. Now, as a response to the legislature's failure to properly deal with growing complex societal issues, individuals and NGOs have started to approach the courts to defend the rule of law, protect vulnerable public interests and overcome government failures.

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However, critics argue that in hearing these cases courts are risking overstepping the boundaries of their powers, thereby putting at risk their legitimate functioning in society. Conversely, some argue that courts play a vital role in offering legal protection and upholding the rule of law in relation to a failing government and in resolving important society issues. Profs Van Gestel and De Jong have undertaken this research project and arranged workshops in the jurisdictions mentioned to grapple with these issues and to consider the way forward for public interest litigation in EU states.

This South African workshop brought together 20 researchers, litigators,

civil society organisations and judges for an intense engagement on the legitimacy of judicial law making in public interest litigation. Central to the workshop was the question: What arguments, methods and strategies do South African courts use to justify their decisions in public interest litigation cases? A working paper, with insight from other jurisdictions, was distributed to the participants prior to the workshop, providing an overview of core concepts and a background to the project. Two weeks before the interactive workshop, participants received a questionnaire that was used as a basis for structuring the discussion and substantive engagement.

Some of the workshop's aims included to:

- Stimulate engagement and reflections on public interest litigation in South Africa and the legitimacy of judicial lawmaking, in light of comparative insights from other jurisdictions.
- Learn lessons for public interest litigation in South Africa, and other jurisdictions.
- Contribute to comparative research on public interest litigation and the legitimacy of judicial lawmaking.
- Build collaborative networks and partnerships between researchers at Tilburg University, Utrecht University and South African institutions.

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The discussions were robust and intelligent as participants shared insights into what unfolds in practice pursuing public interest litigation in South Africa. We were able to provide the researchers with clarity in relation to important considerations and issues around pursuing public interest litigation in our jurisdiction, including how our courts view the question of *locus standi* when bringing a matter to court, how amicus curiae

are joined to proceedings and meant to serve the court in its decision-making process, and how our courts hand down progressive and impactful judgments while still respecting the separation of powers. The discussion reminded participants how impressive and progressive our Constitution and associated legislation are, and just how impactful our justice system could be in upholding our democracy if properly implemented.

Our practice is honoured to have helped host this important meeting of minds. We look forward to working further with the Centre and Profs van Gestel and De Yong on this research initiative.

SAHRC CDH Women's Day Dialogue

Public Interest Issue:

Empower aspirant women legal professionals by providing them with insights, role models and guidance to navigate challenges and opportunities in a predominantly male-dominated legal field.

Beneficiaries:

Young law students.

On 7 August 2024, the South African Human Rights Commission (SAHRC), in partnership with our firm, successfully hosted the Lawyers under 25 Women's Day Dialogue.

This insightful event aimed to foster meaningful dialogue between aspiring legal professionals and accomplished young practitioners in the legal field. Bringing together students from various universities across Gauteng, the all-female panel shared their unique journeys,



addressing the challenges and opportunities that accompany a legal career.

The event featured inspiring insights from several accomplished legal professionals, including Elgene Roos, a Senior Associate in our practice, who shared her journey from the public interest sector to the corporate realm, sparking curiosity about diverse legal career paths. Katekani Mashamba, a Senior Associate in CDH's Dispute Resolution practice, encouraged young women to balance work and studies for success in the corporate sector. Brigadier Nelisa Mbatha, the Head of Legal Support at the South African Police Services, highlighted the importance of thorough research and the courage to explore niche areas of law.

Khuselwa Dyantyi from Section27 recounted her inspiring transition from a receptionist to an attorney, emphasising the power of passion and perseverance in the legal profession.

Jabulile Mbanjwa, Chairperson of the Black Lawyers Association Student Chapter at the University of Witwatersrand, concluded the session with heartfelt remarks, expressing gratitude for the insights shared.

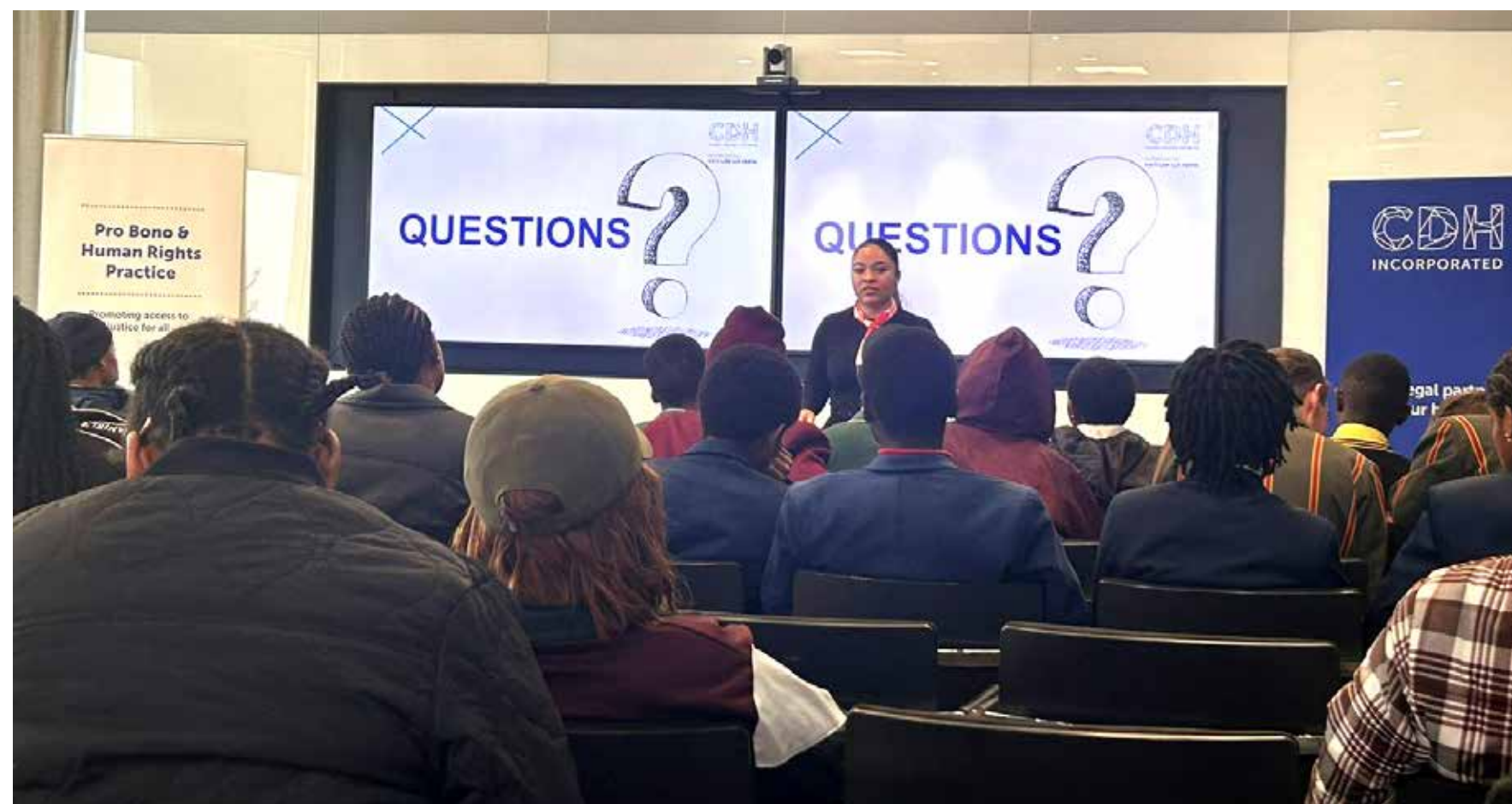
SHE APTLY QUOTED
ISAAC NEWTON,
SAYING,

**If I have seen
further, it is by
standing on
the shoulders
of giants,**

AND ACKNOWLEDGING THE
PANELLISTS AS ESTEEMED WOMEN
PRACTITIONERS FROM WHOM FUTURE
LEGAL PROFESSIONALS CAN DRAW
INSPIRATION.

This event not only highlighted the achievements of young women in law but also provided a platform for the next generation to connect, learn and thrive in their future careers.

Supporting the National Schools Moot Court Competition



Annually, hundreds of high school learners participate in the National Schools Moot Court Competition (Competition). The Competition is a joint initiative by the Department of Basic Education, the Department of Justice and Constitutional Development, the SAHRC, and the University of Pretoria that first began in 2011.

CDH has been assisting with the Competition since 2014 in various capacities. This year CDH provided training to learners and assisted with the adjudication of the national rounds of the Competition.

On 31 August, Shandr  Smith, then an Associate in our Competition Law practice (and a previous finalist of the Competition) in collaboration with the Pro Bono & Human Rights practice, provided training to the learners participating in the 2024 Gauteng rounds, giving them guidance and tips on how to prepare for their oral submissions ahead of the provincial rounds of the Competition, which took place on 7 September 2024.

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CDH was assisted by the Wits Moot Society which ran individual coaching sessions with the learners.

A number of CDH's associates were part of adjudicating the preliminary national rounds held at the University of Pretoria on 26–27 September, while the Pro Bono Practice Head, Jacquie Cassette, formed part of the panel of adjudicators for the finals held at the Constitutional Court on Sunday, 29 September.

The 2024 Competition focused on the right to education and equality and, specifically, access to technology and whether the state and/or schools have a duty to provide access to technology in schools.

The eight finalists came from Thaba Chweu Boarding School (Mpumalanga), Kimberley Technical High School (Northern Cape), Ndabankulu High School (Eastern Cape) and Hoërskool Vanderbijlpark (Gauteng). As usual the standard was exceptionally high with all the learners who participated in the final round excelling. Ultimately the combined team from Ndabankulu High School and Hoërskool Vanderbijlpark won the Competition. Ofentse Masango from Hoërskool Vanderbijlpark won the best oralist award.



Our Build a Library initiative broadens its footprint



Having completed the refurbishment of the library at Letare Secondary School in Jabulani, Soweto in early 2024, we adopted Ekuthuleni Combined School in Diepkloof, Soweto as the next beneficiary school in our Build A Library Project. In commemoration of Mandela Day on 18 July 2024, CDHers, led by our Practice, launched the first phase of a project to refurbish and replenish the school’s library according to the school’s needs. In further collaboration with colleagues from AON South Africa, CDHers came out in their numbers to paint not only the school’s library structure but the entire school to officially

Public Interest Issue:

Promoting the right to basic education, increasing access to literature and encouraging literacy.

Beneficiaries:

Learners of the under-resourced Ekuthuleni Combined School in Diepkloof, Soweto.



Hours:
97hrs 42mins
Monetary contribution:
R317 090,00

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kick off the project. Our goal is to assist Ekuthuleni Combined School to set up a revamped, stocked and fully functioning library by March 2025.

CDHers were welcomed with songs by some of the junior pupils. The school prepared our programme for the day and what followed was a morning filled with outstanding performances from the pupils and enthusiasm from the CDHers. The students' performances ranged from reading aloud by the Grade 1s, 2s and 3s, traditional songs and dancing, and unforgettable choral performances by the school choir. As a further token of their appreciation to CDH, one talented learner in Grade 9 prepared an impressive drawing of the late President Nelson Mandela. The day was indeed a well spent 67 minutes (and then

some!) and an inspiring way to launch this significant phase of the initiative.

Our long-term goal is to grow the Build a Library initiative incrementally, one school at a time. Going forward we would like to focus on primary schools as research shows that it's in this early stage that many learners get left behind.

We are now implementing the second phase of the project where we will raise funds and gather furniture, books and other collectables to fully stock up Ekuthuleni Combined School's library in the first quarter of 2025. Our practice is grateful to the CDHers who participated, as well as our colleagues from AON South Africa, for supporting this initiative.

Having completed the refurbishment of the library of Letare Secondary School and leaving it among the most resourced libraries in area, the school's principal has had this to say:

CLICK HERE TO LISTEN



Book iBhoni, CDH and the Mail & Guardian join forces again to make a difference

Reading is fundamental to every child's education and life as it helps them make sense of the world around them, develops their imagination and creativity, and improves their vocabulary.



Hours:

64hrs 24mins

Monetary contribution:

R171 070,00

Public Interest Issue:

Promoting the right to basic education, increasing access to literature and encouraging literacy.

Beneficiaries:

Bethany Primary School (Klipspruit, Soweto) and The Soweto Book Café (Zondi, Soweto)

It also enhances their ability to articulate themselves, as well as their ability to focus and concentrate. Even though every child should have access to books, this is most certainly not the case, especially in our country.

South Africa is often referenced as having one of the most unequal school systems in the world. On the one hand there are functional, well-managed and funded schools. On the other, making up the overwhelming majority, schools are inadequately funded and severely under resourced. If this issue is not sufficiently and promptly addressed, it has the potential to severely affect and comprise children's futures in unimaginable ways.

Making for a sobering read, the recent Progress in International Reading Literacy Study (PIRLS) indicated that more than 80% of South Africa's Grade 4 pupils – who are on average

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9 or 10 years old – cannot read for meaning. Plainly, this means they can't answer basic questions about or draw inferences from a text they're reading. This worrying revelation should be a source of concern for all South Africans.

This is one of the many reasons that, over the years, our practice has heightened its role to assist disadvantaged learners in underserved communities, helping to give effect to and enforce their constitutionally enshrined right to quality basic education in terms of section 29 of the Constitution.

Accordingly, our interest in and commitment to the right to basic education is not solely based on the

litigation work that we do to give effect to learner's rights to education but is also centred on the groundwork that we do to boost literacy levels among South Africa's children, particularly in townships areas. Our practice does this by partnering with and empowering grassroots-level organisations that do laudable literacy promotion work within their communities.

On 23 March 2024 and in commemoration of the Human Rights month, CDH and the Mail & Guardian (M&G) joined forces to once again support Book iBhoni in its annual Tour de Libraries initiative in Soweto – a cycling event that aims to promote literacy and raise awareness about the importance of reading.

Once again this year's initiative (hosted by Book iBhoni) saw a substantial number of books and educational games and puzzles donated to Bethany Primary School (Klipspruit, Soweto) and the Soweto Book Café (Zondi, Soweto). One of the main aims of Book iBhoni and this initiative is to help create safe and resourced spaces for reading in communities.

As has been the case over the years, the 2024 leg of the Tour de Libraries initiative was a great success, and we sincerely thank everyone that supported and participated. Your efforts continue to make a much-needed difference!

The South African public schooling system faces various challenges – many of which are systemic.

But if we all pull in the same direction and play our part, we will go a long way in our quest for a prosperous future for all.



The Caring Committee (Committee), which officially convened in May 2024, was established to provide a platform for CDHers to meaningfully contribute to local outreach initiatives (i.e. corporate social responsibility initiatives) with the ultimate objective of bettering the lives of people within our communities.

The Committee has allowed CDHers the opportunity to propose, and take ownership of, new community outreach initiatives to support numerous worthy recipients. The more formalised structure helped to organically grow interest, awareness and support for the firm's various CSR initiatives.

During the year the Committee rolled out a number of initiatives including:

- **The walking shoes project**
- **Career guidance expo**
- **Jordan House bingo**
- **A gender-based violence awareness campaign**

The firm's candidate attorneys also ran a Santa shoebox initiative, CANSA Shavathon and a casual day event.

The walking shoes project

Public Interest Issue:

Providing school shoes to underprivileged learners

Beneficiaries:

190 learners from Bekekayo Primary Farm School, Dominican School for the Deaf, Hope School and Emdeni Secondary School.

The Committee drove an initiative to provide school shoes to underprivileged children at four disadvantaged schools in Gauteng. The Committee did this by raising funds through reaching out to the firm for donations and by hosting a walking event.

The Committee procured the shoes from MyWalk, which manufactures cost-effective school shoes by recycling single-use hospital equipment such as PVC drip bags, oxygen masks and associated tubing.





Career guidance expo

Public Interest Issue:

To address the lack of information about study opportunities available to pupils in underserved communities; providing a platform that ignites interest in higher education and informs students about various career paths. By providing access to professionals and resources, the initiative aimed to empower students to make informed decisions about their futures.

Beneficiaries:

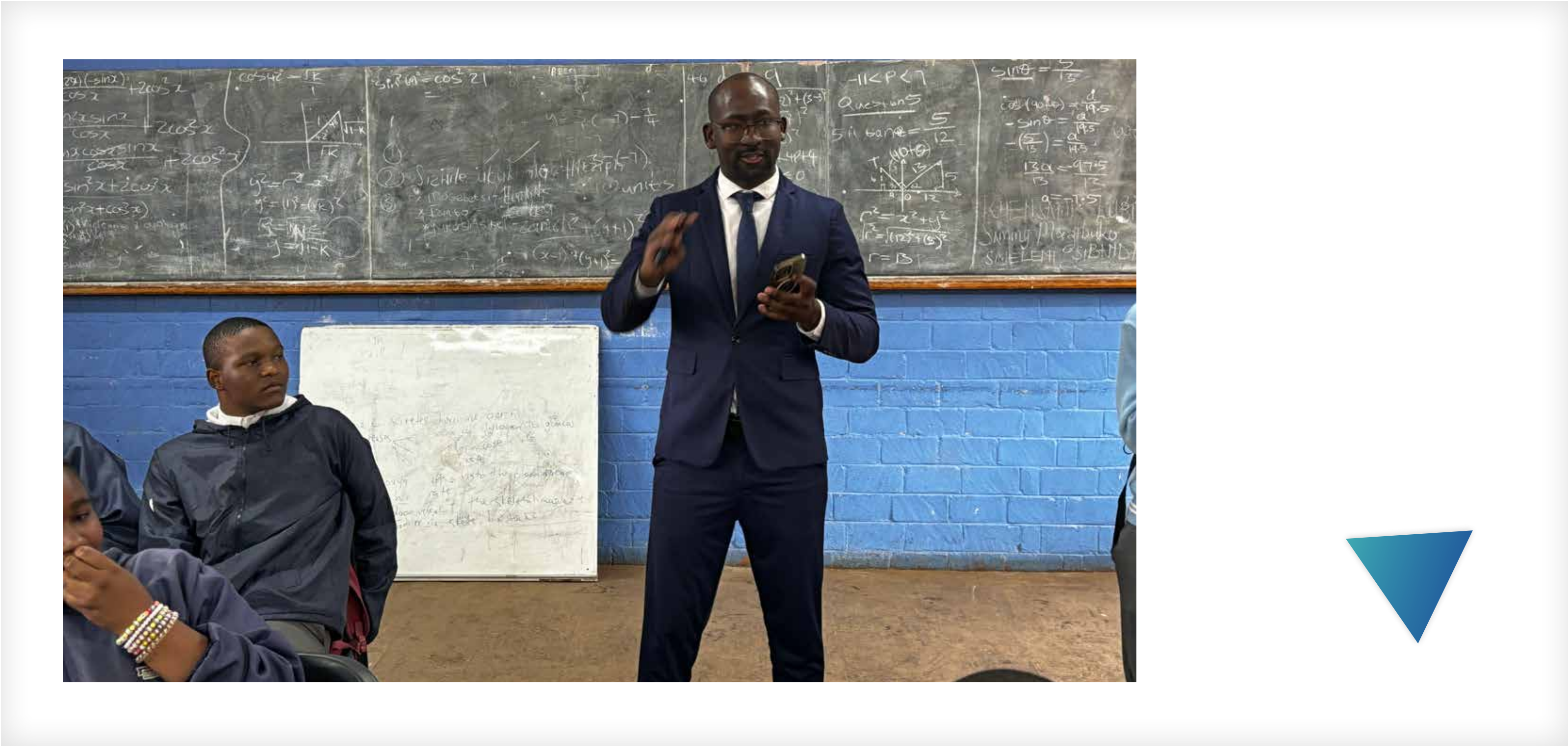
Approximately 190 pupils benefited from personal guidance and practical advice on applying to higher education institutions, while the school received prospectuses from various universities for the 2025 academic year.

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/CSR/CARING COMMITTEE

On 16 October 2024, the Committee hosted a career guidance expo at Letare Secondary School in Jabulani, Soweto, aimed at empowering Grade 11 and 12 pupils with valuable insights into diverse career paths. The event brought together a vibrant group of professionals and scholars from fields such as law, economics, finance, biology, information technology, engineering and marketing, who shared their personal journeys and the impact of education on their success. The expo featured engaging introductions from

dedicated volunteers and concluded with a motivational speech by Lonwabo Harmony, inspiring students to pursue their dreams with confidence.

The next phase of the initiative will focus on assisting current Grade 11 pupils with their university applications, ensuring they are well-prepared for their educational journeys.



Jordan House bingo

Public Interest Issue:

To raise awareness of the challenges faced by the elderly (including elder abuse, neglect, disability, homelessness and loneliness) and to raise funds to better the quality of life/living conditions at Jordan House, which is largely dependent on government subsidies.

Beneficiaries:

Residents of the Jordan House old age home.

The Committee arranged a bingo evening in order to raise funds for the Jordan House old age home, a non-profit organisation that provides subsidised lodging and care services to the elderly. The home currently accommodates 69 residents. The funds raised will be used to upgrade their cooking facilities. Both CDHers and Jordan House residents attended and played bingo.



Gender-based violence awareness campaign

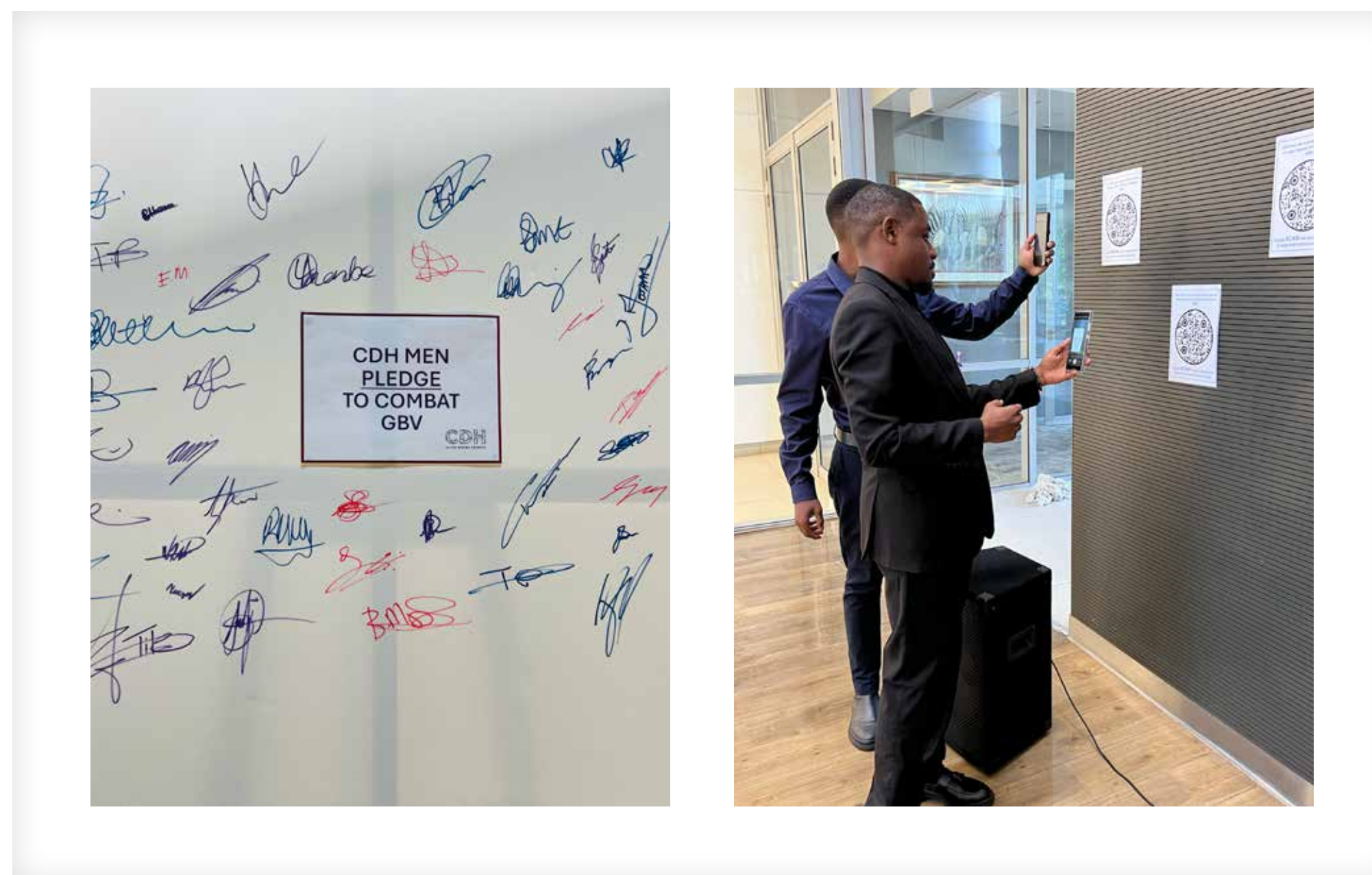
Public Interest Issue:

To raise awareness about gender-based violence, encourage conversations around gender-based violence, and support survivors of rape and abuse.

Beneficiaries:

Champions for Change

As part of 16 Days of Activism Against Gender-Based Violence, the Committee raised funds for Champions of Change, an organisation that offers assistance to survivors of rape and abuse. The funds will go towards toiletry comfort bags for survivors of rape and abuse.



The Committee also initiated the voluntary signing of a prevention of a gender-based violence pledge (launched by the office of the Presidency during Women's Month in 2024) by male CDHers.

Lastly, to create awareness around gender-based violence, the Committee will be recording a podcast series on men's mental health and gender-based violence in an attempt to create awareness and encourage men to engage in the 'uncomfortable' conversations related to gender-based violence.

Casual Day

Public Interest Issue:
Supporting schools and organisations in the disability sector.

Beneficiaries:
Nine provincial associations of persons with disabilities and five nationwide programmes and projects that encompass workplace access and entrepreneurship, universal design and access, and gender-based violence awareness and training.

Casual Day is the National Council of and for Persons with Disabilities' flagship awareness and fundraising project. Casual Day is a widely celebrated national campaign that occurs annually in South Africa and took place on Friday, 6 September in 2024.

The public's contribution of R20 for a Casual Day sticker entitles them to express their individual interpretation of the yearly theme through their outfits, showing their support for the full inclusion and equity of people with disabilities.

CDH contributed by selling stickers and hosting an event at our Johannesburg office.

The proceeds of the donations are channelled to people with disabilities at schools, homes and workshops represented by the participating beneficiary organisations. The project also supports disability units at 11 universities, the South African Police Service and the South African National Defence Force.



Santa Shoebox

Public Interest Issue:

To raise awareness of the disparities faced by children in underprivileged households and help prepare essential items for each child to curb these disparities.

Beneficiaries:

Through the pledges made by the staff members of CDH, we were able to prepare 161 boxes, which were given to 161 children in different parts of the country.



Santa Shoebox is an initiative that aims to raise funds/donations to provide shoeboxes containing fun and essential items such as clothes, educational supplies and toiletries to children from underprivileged households across South Africa.

CANSA Shavathon

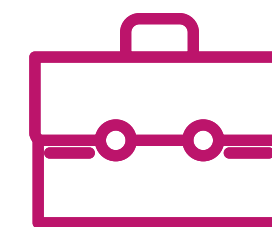
Public Interest Issue:
To raise awareness
and funds for cancer
support and research.

Beneficiaries:
Cancer Association of
South Africa (CANSA)
and the cancer patients
it supports.

The annual CANSA Shavathon is a heartwarming event where people come together to show their support for cancer patients and to support CANSA to continue its life-saving work in cancer education, screening and support. Participants shave or spray their hair in bold, vibrant colours or wear wigs to stand in solidarity with those who lose their hair during cancer treatment.



This year's CANSA Shavathon event at CDH's Johannesburg office, which took place on 7 March 2024, included a bake sale in addition to the haircuts and hair spraying.

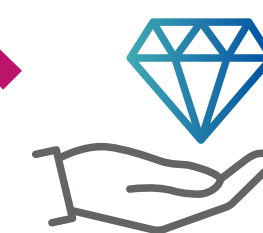


MATTERS



CSR & EVENTS

A fight for delictual and constitutional damages



Hours:

263hrs 42mins

Monetary contribution:

R781 415,00

Public Interest Issue:

Promoting access to justice and state accountability for gender-based violence victims and their families

Beneficiaries:

Mother and son of a women raped, sexually assaulted and murdered by a known criminal; and survivors of gender-based violence.

The scourge of gender-based violence and femicide (GBVF) continues to run rampant in South Africa.

Our Cape Town practice dedicates significant resources to contributing to the fight against GBVF and does so in a number of ways.

We not only drive strategic and impact litigation in the interests of our clients and in the public interest but also engage several of our partner organisations to pursue further ways and means to hold the Government and state institutions and offices to account for their constitutional obligations owed to the public in ensuring our country is safe for all.

One of the litigious matters run by our practice under this theme seeks to hold the Minister of Police and the

South African Police Service (SAPS) to account for the failure to protect a woman under clear – and preventable – threat of GBVF.

On the evening of 8 January 2018, D was abducted by her former boyfriend, Vusi Mjoli, with whom she had been in an abusive relationship. The abuse took almost all forms: verbal, financial, physical and sexual, and was violent and ever-present in nature. Like many victims of GBVF, D became isolated from her friends and family, and reliant upon Mjoli. On the night of the abduction, assisted by his friends, Mjoli took D to his home where he held her overnight and brutally attacked and raped her throughout the night. When he left his home the

next morning, D was able to escape – covered in nothing but a piece of cloth – and ran to the nearest SAPS station, which was just 2km from Mjoli's home. She reported the case and was then taken to her mother's home to recover.

Mjoli was a known, violent criminal who terrorised his local community of Senaoane, Soweto. He had over many years been arrested for various crimes, including assault and drug-related charges. He was not only feared by his local community but was well-known by the SAPS officials at the nearest station, given how often he was arrested (but then promptly released).

D's case docket was allocated to a SAPS official, and that official interviewed D at her mother's home and arranged

for a medical assessment, and a medico-legal report was prepared by 11 January 2018. However, instead of promptly effecting an arrest on Mjoli, the SAPS official instead advised D that she (the official) would be attending a course in Cape Town for two weeks, and – shockingly – that D should find Mjoli herself and once she did, D should call SAPS to effect the arrest. This, notwithstanding that the officer had all necessary information and evidence at her disposal to effect the arrest, and notwithstanding the grave threat that Mjoli posed to D and to the women and others in his local community.

D, understandably terrified of Mjoli, did not trace him, and he remained a free man.

Out of fear for her life, D withdrew the charges and, in a written statement setting out her reasons for doing so, explained that she feared that if Mjoli knew she was pursuing charges against him, that he would find her and kill her.

Two years later, he did just that. Mjoli remained free to access D (and others) and in February 2020 he found D and beat and kicked her to death. He kept her lifeless, beaten body under his bed for three days, and it was only when a neighbour saw him digging a shallow grave for her body and reported this to SAPS, that SAPS eventually effected an arrest. Finally, Mjoli faced prosecution, and in a scathing judgment handed down in the in the

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Pretoria High Court by Mabesele J in November 2020, Mjoli was convicted of his crimes against D.

There is no question that had SAPS complied with its constitutional obligation to effect an arrest in the circumstances, and had the prosecuting authority in turn properly prosecuted this known criminal, Mjoli would not have been able to reach D and take her life. This is a gross failure of statutory and constitutional obligations, and one that is particularly offensive in the context of our country's ongoing fight to combat GBVF.

Our practice represents D's mother and son in their damages claims against state authorities for their harm suffered as a consequence

of state failures to uphold their obligations owed to D, her family and the broader community. Their claims are twofold: for both delictual and constitutional damages.

Constitutional damages is a curious and complex claim in our law. The arbitration ruling in the Life Esidimeni, arbitration proceedings between the families of mental healthcare users affected by the Gauteng Mental Marathon Project, the National Minister of Health and others, and the case of Komape and Others v Minister of Basic Education and Others [2020] (2) SA 347 (SCA), demonstrate that an award of constitutional damages is an exceptionally high bar to meet. A litigant must exhaust all other possible claims for damages and also demonstrate that the extent of

the breach of constitutional duty and the economic realities of our country, warrant a successful claim for constitutional damages.

In constructing this claim on behalf of D's mother and son, our practice has drawn on local judicial comment in these cases and that of foreign jurisdictions, and has constructed a constitutional damages claim that seeks payment of a sum of money not only to the plaintiffs, but also in favour of a local women's shelter so that it is able to increase its capacity to protect and support women who find themselves in a similar position to D. If successful, it will be the first of its nature and context in our jurisprudence.

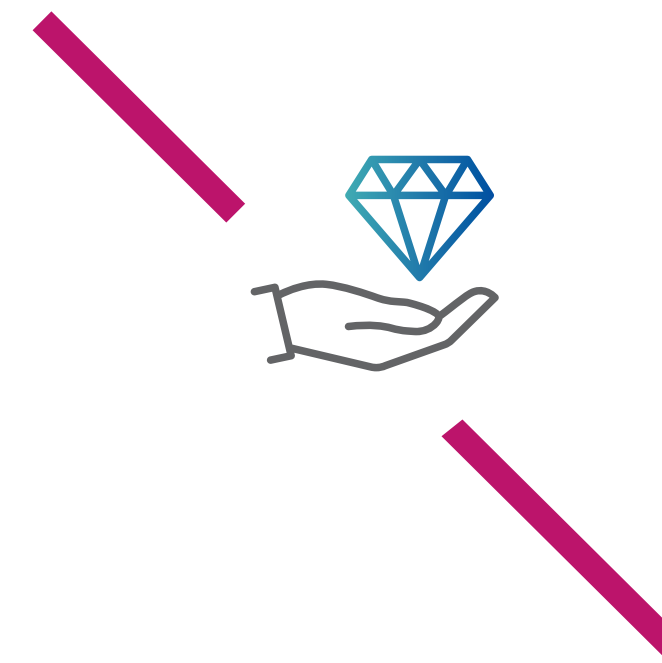
Our hope is that an award of constitutional damages will not only bring our clients some relief, but will also serve to make the local community that much safer for women under threat of GBVF.

(Soundbite requested)

**CLICK HERE
TO LISTEN**



A balancing of rights for survivors of sexual abuse: Intervention in a constitutional challenge to sections 154 and 335A of the Criminal Procedure Act



Hours:

125hrs 12mins

Monetary contribution:

R327 565,00

Public Interest Issue:

Ensuring that national legislation, policies and practices in the context of sexual abuse are brought in line with the Constitution.

Beneficiaries:

Women, who are primarily the survivors of sexual violence.

The Women's Legal Centre represents a rape survivor who has instituted a challenge to the constitutionality of section 154(2)(b) read with subsections 153(3)(a) and (b) and 154(5) of the Criminal Procedure Act 51 of 1977 (CPA).

The thrust of her application is that, read together, these sections are invalid to the extent that they criminalise the publication of the identity of an accused before the accused has pleaded to charges related to rape or other sexual offences. The applicant contends that the sections violate her right to freedom of expression

(section 16 of the Constitution) and constitute indirect discrimination against women (section 9 of the Constitution), who are predominantly the victims of sexual violence. She argues that the provisions are irrational and run contrary to activism against GBVF.

Our practice represents a global public interest organisation which we recently successfully joined as *amicus curiae* to these proceedings. The organisation advocates for justice through accountability for human rights abuses and does so under three core programmes. Each of its programmes aims to fight systemic injustice against vulnerable communities, which includes but is not limited to women and girls, democracy defenders, LGBTQ+ persons and minorities. Its work in

South Africa has been aimed at advancing gender equality, combatting violence against women and ending child marriage. The organisation works to fight injustice against women through strategic litigation to reform discriminatory laws and increase accountability for gender-based abuse.

The organisation's intervention as *amicus curiae* in these proceedings aims to bring to the court's attention the broader implications of the provisions in question for gender-based violence activism and seeks to provide the court with crucial context on contemporary anti-sexual violence activism and how it emphasises speaking out about one's experiences with sexual violence.

**It aims to do
so under three
main themes:**

Firstly, anchored in the relevant constitutional law rights, particularly the right to freedom of expression, equality and dignity, the organisation will provide the court with crucial context on contemporary forms of activism against gender-based abuse and violence in South Africa and the importance of these forms of activism in challenging societal norms and advocating for change. It will show that anti-GBVF activists work towards a dual objective: firstly, the creation of supportive communities for survivors of gender and sexual-based violence, and secondly, advocacy for systemic change and genuine accountability for perpetrators of such acts.

Secondly, it intends to illustrate to the court the considerable backlash this form of activism has faced and will demonstrate the broader implications of upholding laws that may be vulnerable to abuse or wielded as weapons against survivors of sexual and gender-based violence. In particular, how such laws violate the rights of women, undermine efforts to address gender-based violence and have a chilling effect on survivors and activists.

Finally, it will provide the court with relevant international law and practice from foreign jurisdictions that have addressed

the legal backlash against this form of activism and will show that various mechanisms can be used to safeguard survivors without resorting to criminalisation and suppression, thereby upholding the right to freedom of expression. This contribution will be derived from various sources of international law such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the African Charter on Human and People's Rights, reports of the United Nations (UN) Special Rapporteur, and UN General Assembly resolutions.

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The main applicant came before the Western Cape High Court in early 2024 seeking leave to amend her relief to include a challenge to the constitutionality of section 335A of the CPA in that it does not permit the person against whom the sexual offence was committed to (i) publicise information that may reveal her own identity or (ii) authorise any third party to do so; and criminalises the publication of such information by the survivor of the sexual offence or anyone authorised by such person to do so.

The main applicant's relief in her amendment application was entirely successful. The parties – including the organisation, whom our practice successfully joined as *amicus curiae* to the proceedings at the same hearing – have also been granted leave to deliver further affidavits based upon the amended relief.

The matter will proceed in 2025, and the organisation and our practice are committed to giving voice to these important issues in order to challenge national legislation, policies and practices with a view to bring them in line with our Constitution and its ideals.

Protecting and promoting parental rights: A challenging case of adoption and state failure

Public Interest Issue:

Balancing the rights of a biological mother (for whom we act) and those of the adoptive parents, while keeping the best interests of the child paramount, and holding the Department of Social Development and related institutions to account for their failure to follow due process in engaging a biological mother in adoption proceedings.

Beneficiaries:

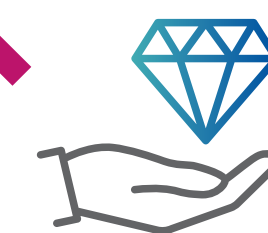
A biological mother whose intention was never to give her child up for adoption.

Hours:

233hrs 06mins

Monetary contribution:

R653 615,00



This is a matter that brings into sharp focus not only the importance of workable laws that give proper effect to the rights of those they are intended to support and protect, but also of state institutions that are capable of and capacitated to implement these laws.

Our client gave birth to her son, Baby A, in February 2020. However, in the months preceding her baby's birth, she had fallen on particularly hard times personally and professionally, and her ability to properly care for Baby A and give him the life she wanted to, was at risk. One month after Baby A was born,

she had to make one of the most difficult decisions any mother could make: only as a result of the very difficult personal and professional circumstances that rendered her unable to properly care for Baby A, she decided to place him in a baby saver box at the Tree of Hope, an organisation created to help desperate mothers in our client's position. Having done some research on baby saver boxes and how they operate, she understood that her baby would be safely in the care of the Department of Social Development (DSD) and would enter the foster care system not long after being placed in the baby saver box. She intended to prioritise rectifying her circumstances such that, the moment she

was able to, she would remove Baby A from the foster care system and return him to her care. It took a great deal of effort and courage for her to find the strength to take this step, but she found some peace believing that she would soon be reunited with her son.

Our client placed Baby A in the baby saver box at Tree of Hope in March 2020. When Baby A was placed in the baby saver box, she received an information sheet advising that should she change her mind and wish to be reunited with her child, she had a period of 60 days to return to Tree of Hope and notify them accordingly. From Tree of Hope, her child was placed in the care of Child Welfare and the DSD, which ultimately placed him in the foster care system.

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Our client never intended to give her baby up for adoption. Therefore, our client was sure to engage with the DSD offices as soon as she could. Within the window period, she verbally informed a DSD official that she did not intend to give her baby up for adoption and that she wished to make contact with Baby A as often as she could or at least be kept abreast of his well-being and movements until they could be reunited. Over the remainder of 2020 and until 2023, our client made several attempts to engage the DSD offices to keep track of her baby's movements and well-being and to explore the possibility of visitation while he was in foster care. However, she consistently experienced great

difficulty getting in touch with any officials at these offices, and in getting any helpful updates and information when she was eventually able to speak with someone over the phone or in person. She was never able to visit Baby A, nor did she learn of his movements between the Child Welfare and DSD offices.

Eventually, in May 2024 – more than four years after she placed Baby A in the baby saver box – she was able to meet with DSD officials after persistent engagement to determine where her child was and how he was growing and developing. It was in this meeting that she was informed her baby had been adopted, without her involvement and consent, in a closed adoption in November

2022. She was devastated. She tried to determine how this could have happened when she verbally communicated to the Tree of Hope officials that she did not intend to give Baby A up for adoption within the window period, and that DSD officials had her contact information but did not inform her that her baby was to be adopted. The officials' only response was that to their minds they'd done everything "*by the book*".

Baby A's mother approached our practice for assistance to determine what, if anything could be done in the circumstances to reunite her with her child. We got to work engaging the three DSD offices that had become involved in Baby A's foster

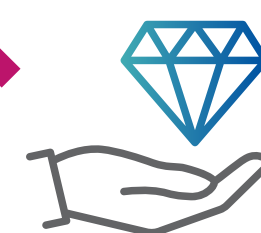
care and ultimate adoption, and sought to retrieve the contents of their files to determine how this had come to be. However, the closed nature of the adoption proceedings and the access limitations put in place by the Children’s Act 38 of 2005 (Children’s Act) resulted in this engagement process being fruitless. We also wrote to the presiding officer of the relevant Children’s Court to obtain the contents of the court file in the foster and adoption proceedings in order to advise our client of her rights and available next steps. It was when attending at the relevant court to retrieve the file’s contents that we learned that the court records reflect the adoption as having taken

place in November 2021, and not 2022, as advised by DSD officials in the May 2024 meeting.

We continue our engagements with the court’s presiding officer to obtain the full contents of the court file. Only then will we be best placed to fully advise our client of her rights and available recourse, though we at this stage begin our preparations of an application in terms of section 66 of the Children’s Act to explore the possibility of our client having some form of agreed access to Baby A. We will continue to grapple with this difficult case in 2025 and beyond as we do our best to strike the balance between the rights

of our client, the rights of the adoptive parents, and holding the DSD to account for any failures in the context of the foster and adoption proceedings, against, what must ultimately inform the outcome of this heartbreaking situation: the best interests of Baby A.

The relationship between economic challenges and exposure to abuse and state failures



Hours:

322hrs

Monetary contribution:

R816 690,00

Public Interest Issue:

Promoting and protecting the rights of transgender persons and minors to be free from all forms of violence; holding state officials and departments accountable for their duties owed to vulnerable groups of society.

Beneficiaries:

18-year-old transgender woman and a 15-year-old girl.

The link between the economic and political state of our country and the resultant increased vulnerability of women and girls exposed to sexual violence, is undeniable.

SAPS' crime data for the 2024/2025 financial year revealed an overall increase in crimes against women and children, with an increase specifically in rape cases for the period. Worryingly, in the three months between April and June 2024, 91 rapes occurred at educational institutions. Additionally, murders of women, attempted murders

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of women and assault with the intent to cause grievous bodily harm against women all showed an increase when compared to the preceding period. With a diminishing quality in leadership and depleting financial reserves, there is a growing contingent of inadequately trained state personnel who are susceptible to corruption and influence and who have an improper understanding of the laws and policies regulating their office, all resulting in continued harm to vulnerable members of society. Two matters run by our practice grapple with this frightening reality.

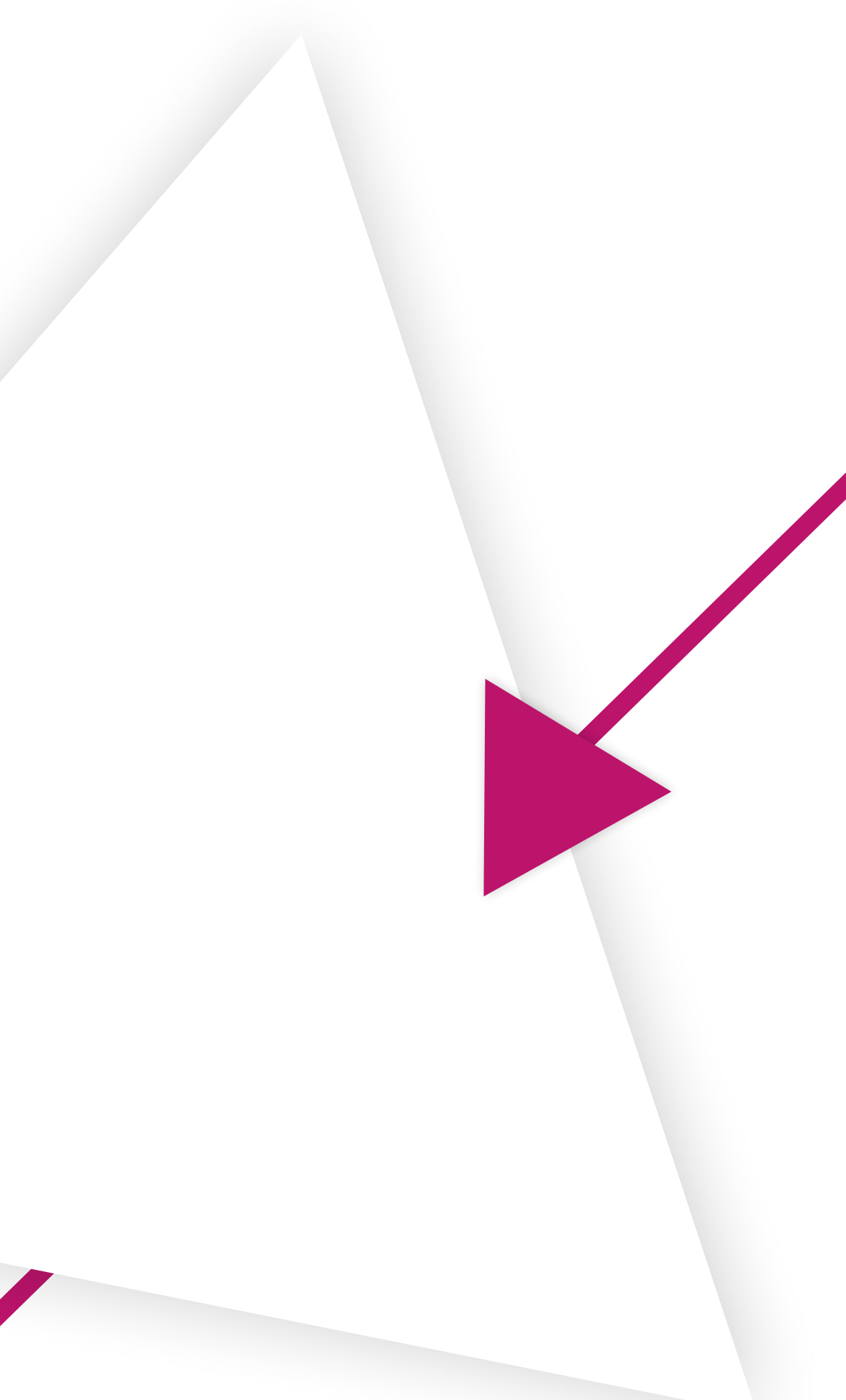
The first concerns SAPS' failure to adhere to its own policy on the detention of transgender persons, and, in

contravention thereof, placing a transgender teenage girl in a holding cell with three men. SAPS policy prescribes that all transgender persons must be detained in separate detention facilities at the police station where they are arrested, and if a separate detention facility is not available there, then the individual must be transported to and detained at a facility within the cluster with an available cell. These are the lengths to which SAPS' own policy requires its officials to go to properly protect detained transgender persons.

Our client was arrested following a family dispute and physical altercation – a common occurrence for our client, who lives with a family that refuses to accept her sexual identity and which

takes every opportunity to pick a fight with her, calling on the police to remove their “*problem child*” from the home.

On the night in question when our client was arrested, as many as six other cells – some completely empty – were available. On arrival at the station, our client announced to SAPS officials that she was transgender and identified as female. SAPS officials chose to ignore this and elected to place our client in a cell with three other cis-heterosexual men, resulting in a night that would lead to one of the most profoundly traumatic experiences of her life – our client was raped and sexually abused by two of the three men in the cell while in SAPS custody.



Not only did SAPS officials not adhere to their policy intended to protect a vulnerable person, but her civil proceedings for damages against the Minister of Police (Minister) for his vicarious liability went ignored by his office for nearly three years. There having been no substantive engagement in the matter whatsoever from the Minister's office, and we prepared an application for default judgment on our client's behalf.

Since our practice first set our client's application for default judgment down for hearing in February 2022, the Minister's office has taken every possible step to derail and delay justice for our client. Most recently, the Minister has appealed

the High Court judgment dismissing his application to condone the delay of three years in delivering his plea, and, to our client's great disappointment and prejudice, was recently successful. Despite this development in the proceedings, we are more committed than ever to stay the course with our client and fight for her justice. Her own dire financial circumstances have kept her shackled to a home in which her identity is denied and in which she is not welcome. The state's improper application of its own policy and flagrant disregard of the court's rules exposed her to profound trauma that is being compounded by these delays. We are determined that these economic and state

failures be redressed, and we will work hard to see justice served for our client.

The second matter spotlighting this heartbreaking social dynamic concerns a minor girl who was groomed and repeatedly raped by a man befriended by her parents. In this case, a mother, father and their children found themselves struggling to make ends meet in our worsening economic climate, and became more and more reliant on a (now former) family friend who is a man of far greater financial means and who offered the family much needed support. However, this support came with a devastating price tag, and it is one of the young girls in the family who has paid the price for her family's hardship:

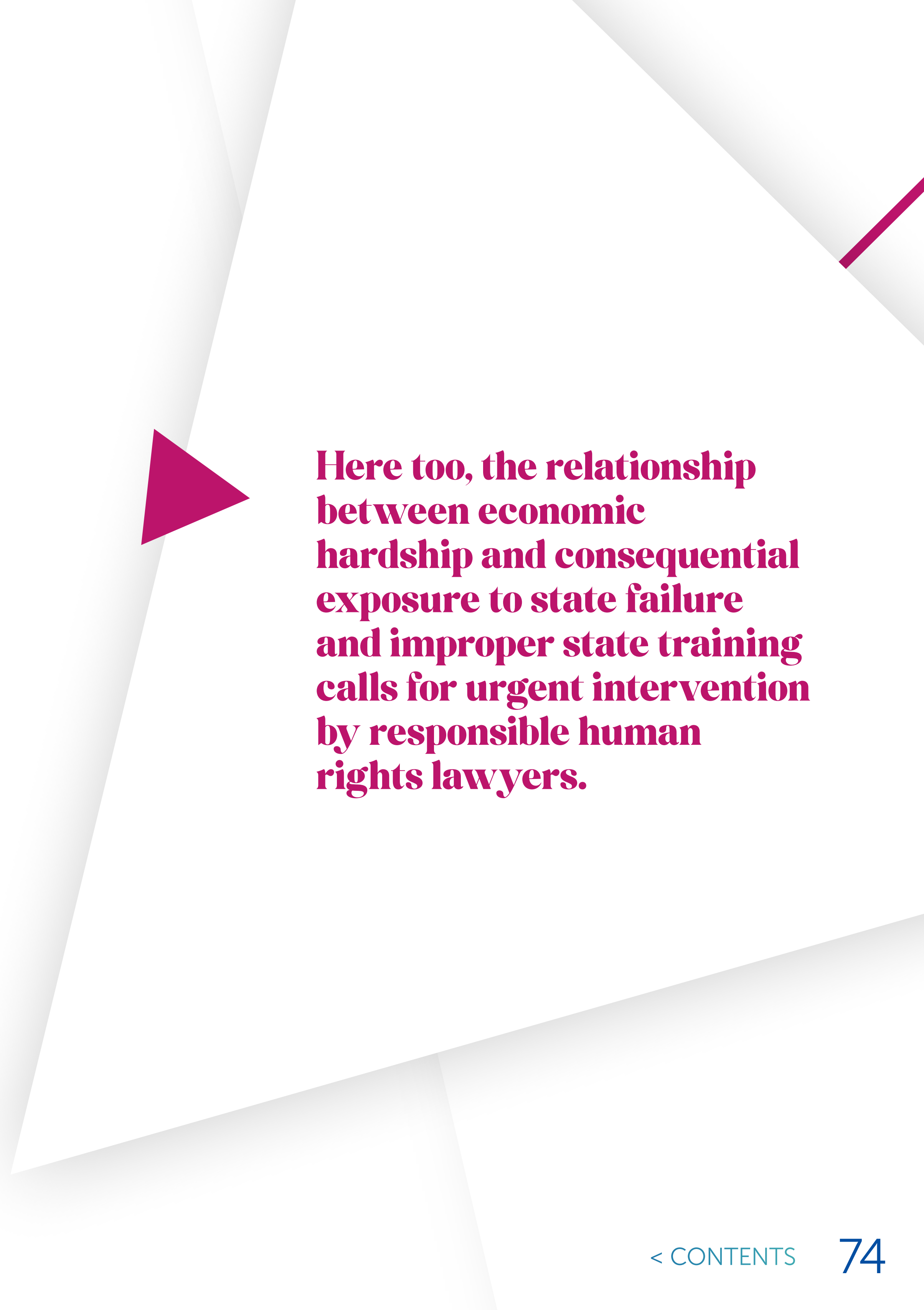
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years of grooming, sexual abuse and rape.

This devastating dynamic silently creeps through countless communities across our country. Families, desperate to survive one month to the next, are at the mercy of those with comparatively endless means who can effectively name the price for their financial support, and all too often set their sights on the most innocent of all. It is an awareness of this far-reaching injustice that has led our practice to not only prepare civil proceedings against the man in question, but to also interrogate the prosecuting authority's handling of the criminal charges laid against the man. It has been found

that, notwithstanding its heightened obligations in the context of sexual abuse cases involving minors, the prosecuting authority has not only failed to prosecute these charges, but worse, has failed to properly interrogate the unique circumstances of the minor girl within the context of her family and communal dynamics, and the unique and devastating effects of sexual abuse, particularly on minors.

Our practice is working hard to leave no stone unturned in fighting for the young girl's criminal and civil justice, and to hold the various state role players to their constitutional obligations owed to her and others similarly placed.



Here too, the relationship between economic hardship and consequential exposure to state failure and improper state training calls for urgent intervention by responsible human rights lawyers.

Supporting Justice Desk Africa on Freedom Day and beyond

Public Interest Issue:

Youth empowerment through education and psychosocial support.

Beneficiaries:

Youth supported through Justice Desk Africa's Mbokodo and iNtsika yeThemba programmes.

Justice Desk Africa aims to empower young people from the underserved communities of Khayelitsha, Nyanga, Gugulethu, Langa and Bonteheuwel in the broader Cape Town area.

Our practice was honoured to support the Justice Desk's Mbokodo and iNtsika yeThemba programmes in honour of Freedom Day in April 2024.

Justice Desk Africa aims to empower the youth through education and advocacy in a holistic manner, with an emphasis on human rights education, children's rights education and GBV related support and does so through two key programmes.

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The Mbokodo Programme equips young girls who are survivors of rape and GBV from underserved township communities with the tools and skills to become powerful women leaders who support other women and girls to access their rights and freedoms in their communities. The programme works with girls between the ages of 13 and 18 to help them lead their own positive change and form a network of girls and women supporting one another through empowerment workshops, advocacy initiatives, self-defence workshops, and mental health support and trauma counselling.

The iNtsika yeThemba (Pillars of Hope) Programme equips and empowers young boys and men from high-crime and underserved communities with few positive male role models to become women’s rights defenders and champions. Through mentorship and outdoor adventure-based education, Ntsika yeThemba re-defines and builds positive ideas and actions of masculinity. The programme works with boys between the ages of 13 and 18 and educates and equips them to be human rights activists and defenders.

We were proud to make a generous donation toward the counselling services provided under both programmes in

April 2024. Our practice has also committed to exploring similar support around the same time in 2025 and 2026, with the intention of providing longer-term support of the invaluable counselling services provided under these programmes, to help beneficiaries receive the kind of support and healing they need. We commend Justice Desk Africa for its important work in these communities and look forward to exploring and supporting it further.

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Tore's Foundation Youth Day event

Public Interest Issue:

Youth empowerment through education and debate.

Beneficiaries:

The various (and ever-growing list) of Western Cape high schools supported under the Tore's Foundation programmes.

Tore's Foundation's mission is to create citizens who are critically engaged and active within their communities.

They focus on the youth – typically high school students – seeding and growing debating skills, independent thinking and democratic values. It aims to give the participating learners the self-confidence and tools needed to express their views, first within their schools and then ultimately within their wider communities.

The foundation's programmes include year-round after-school

debating coaching sessions that culminate in debating competitions, assistance with higher education applications, and annual summer and winter camps where learners from the various schools supported by the foundation come together at a location outside Cape Town to debate, integrate and learn about the history, politics and societal issues of our country. Tore's Foundation places an emphasis on social impact, with many of the debate motions having a matter of social impact at their core.

The programmes require learners to consider, research and articulate arguments concerning topical issues and current affairs, inspiring

and empowering them to participate politically and transform their communities – thereby expanding their outlook and encouraging the learners’ interest and involvement in democracy and its institutions.

Throughout 2024 Brigitta Mangale of our Cape Town practice had the pleasure of judging Tore’s Foundation debates and sharing words of motivation and encouragement to the learners at various events. In June 2024, Brigitta was invited to judge the interschools Youth Big Debate Day hosted at Heathfield High School, and in which two motions were debated: First, *“The house believes that*

South African youth should be more actively involved in policy-making processes” and second, *“This house believes that the legacy of the 1976 Soweto uprising is adequately honoured in contemporary South African education”*.

The debate day showcased the students’ exemplary debating skills, acquired through their participation in the Tore’s Foundations’ programmes throughout the year. It was an inspirational day which clearly showed that our next generation of leaders will be made up of an intelligent, skilled cohort of those dedicated to social justice and meaningful transformation.

**Our practice
looks forward to
supporting the
Tore’s Foundation
and its learners in
2025 and beyond.**

Cape Town office testing GRIT's ChatGBV chatbot for Mandela Day

Public Interest Issue:

Support to those who have survived or who are under threat of gender-based violence.

Beneficiaries:

Survivors and those at risk of gender-based violence.

The Cape Town practice elected to support Gender Rights in Tech (GRIT) in honour of Mandela Day 2024.

GRIT is a leading non-profit organisation in the anti-gender-based violence space that uses innovative tech solutions to improve access to support and justice for survivors and those under threat of GBV.

GRIT has developed a groundbreaking app, ChatGBV, that itself supports survivors and those under threat of GBV through innovative AI technology. ChatGBV includes an AI-powered chatbot – affectionately named Zuzi – that simplifies access to crucial information and resources and provides assistance for users navigating the justice system. Importantly, Zuzi allows users to ask questions about the laws intended to protect them in simple, everyday language, and in their home language. The intention is to give real meaning to the right to access to justice – our laws are meant to not only reach those they are intended to support and protect, but to be properly understood by them.

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Through Zuzi, women – the predominant audience for ChatGBV, given our country’s GBV statistics – can ask questions about what conduct constitutes sexual abuse, what to do if they have been sexually abused, what their rights are and where to go for help. The app goes a long way toward making women at risk of or who have experienced GBV feel supported, protected and understood.

At this stage of ChatGBV’s development, Zuzi is undergoing thorough and extensive user testing to develop her language and responses and to ensure the accuracy and reliability of the bot. Therefore, as a contribution to their 67

minutes of service in honour of Mandela Day, the entire professional staff complement of the Cape Town office was called to provide support for GRIT, ChatGBV and Zuzi in two ways: CDHers could test Zuzi for legal compliance by asking her questions and checking the legal accuracy of her responses. Some of the questions posed by the office included, What is domestic violence? How and where can I apply for a protection order? How long do I have to come to court after I have been sexually abused? If Zuzi returned answers that were even slightly incorrect, these details were logged on a bug sheet and returned to the GRIT team to address the issue.

In addition or in the alternative to legal compliance testing, the Cape Town office was also invited to make these donations in favour of GRIT:

R67–R167:

Contributed to Zuzi’s development and empowered survivors seeking legal guidance.

R670:

Sponsored a week’s worth of essential transportation to court for five survivors, removing a significant barrier to justice.

R1,670:

Supported 20+ survivors with trauma support and granted access to legal support for survivors through the app, making a tangible difference in their lives.

In order to maximise our support offered to GRIT and to the development of ChatGBV, testing and donations were open to the Cape Town office not just on Mandela Day, but from 18 to 31 July 2024. We are proud to have supported GRIT and look forward to doing so again in the near future.

Women's month event in collaboration with GRIT: Unpacking the laws surrounding revenge porn

Public Interest Issue:

Assessment of the laws governing tech-facilitated gender-based violence (aka “revenge porn”) and the criminal justice system’s response.

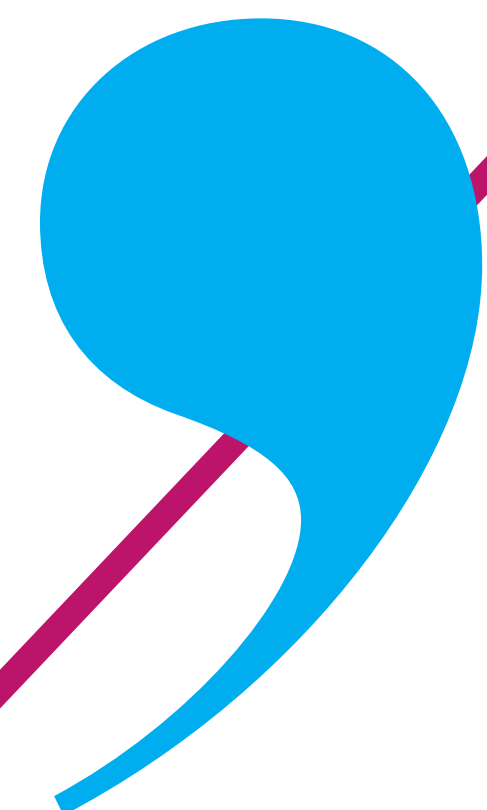
Beneficiaries:

Survivors and those at risk of revenge porn.



TECHNOLOGY-FACILITATED GENDER-BASED
VIOLENCE (TFGBV) IS:

“[A]ny act that is committed, assisted, aggravated or amplified by the use of information communication technologies or other digital tools which results in or is likely to result in physical, sexual, psychological, social, political or economic harm or other infringements of rights and freedoms.”



This broad definition of TFGBV allows it to take many forms in practice, including blackmail by threatening to publish sexual information, photos or videos; sharing intimate photos without consent; publishing private personal information; cyberbullying; and online gender and sexual harassment.

As the understanding of what constitutes TFGBV is broad and nuanced, the remedies available to those who have experienced TFGBV are equally complex. Many of the remedies currently available to survivors are scuppered by the time, costs and complexity involved in the criminal or civil court proceedings that may be pursued, by which time a victim's reputation and dignity may be irrevocably destroyed.

Victims of revenge porn may bring civil litigation suits against their perpetrators. However, the difficulty with this course of action is that it imposes a financial and emotional burden on the survivor herself, as lawsuits are extremely costly and time-consuming, not to

mention that it brings additional public attention to the intimate material forming the subject of the TFGBV. While criminal proceedings may also be pursued, there is no guarantee that the prosecuting authority will be able to determine the identity of a perpetrator who posts images anonymously, for example, and may be faced with other significant evidentiary challenges when determining whether to prosecute a case of TGBV given its complex nature. Even if either avenue of litigious recourse is successful, in instances where sensitive material was posted online, it is notoriously difficult to ensure that it is deleted forever and not reposted by other internet users, and there

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is therefore often the potential for court proceedings to result in hollow victories for victims.

In September 2024 our practice hosted an event in collaboration with GRIT to grapple with the challenges raised in the context of TFGBV. We hosted a panel discussion that aimed to create a platform for knowledge-sharing to overcome these challenges and heard from lawyers, a Da Vinci cybersecurity expert, the Meta Africa safety and security lead, as well as a representative of the Director of Public Prosecutions. The panel's construction and contributions made for an interesting and robust discussion on whether the

laws regulating TFGBV are sufficient, whether tech companies hold some responsibility for TFGBV, and whether the prosecuting authority is properly equipped to respond to charges rooted in TFGBV.

The event created a space for all in attendance to learn more about TFGBV and how to better equip ourselves to face the challenges it poses. The space was rich with knowledge-sharing, newly formed networks and planned collaboration, and demonstrated the importance of discussing these issues that predominantly affect women.

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Unpacking the National Council on Gender-Based Violence and Femicide Act in honour of 16 Days of Activism Against Gender-Based Violence

Public Interest Issue:
Developing a comprehensive road map to challenge the gaps in the National Council on Gender-Based Violence and Femicide Act 9 of 2024.

Beneficiaries:
Survivors of and those under threat of gender-based violence.



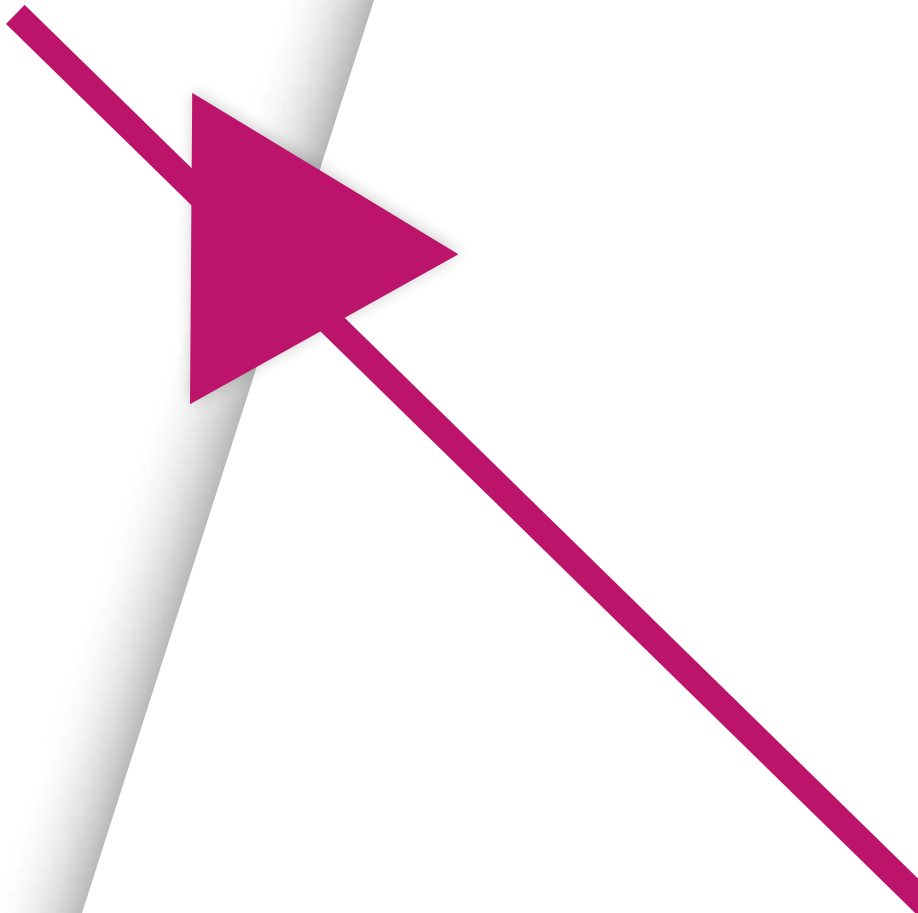
On 4 December 2024, our practice held a roundtable discussion on the National Council on Gender-Based Violence and Femicide Act 9 of 2024 (Act) in partnership with the #NotFitForPurpose Campaign, the Initiative for Strategic Litigation in Africa and Lawyers for Human Rights. The event was held in honour of 16 Days of Activism Against Gender-Based Violence and focused on achieving tangible outcomes from the discussion.

The National Council on Gender-Based Violence and Femicide Bill (Bill) was first introduced in 2021 and resurfaced in 2022 just before the second Presidential Summit on GBVF. It was opened for public submissions in May and June of 2023, and deliberated and passed by the National Assembly in September and October 2023 respectively.

Most of the feedback from the public submissions highlighted the lack of adequate and clear funding for the National Council on Gender-Based Violence and Femicide (Council) being established to enable effective functioning; that the Council was not being given power to ensure accountability; and that the proposed structure and mandate of the Council, as it stood, was insufficient to effectively tackle the systemic, deep-rooted issues that underpin GBVF. Gaps were also identified in the public participation process itself, including the limited time given to the public to respond to the bill, lack of awareness about the public participation process by the Department of Women, Youth and Persons

with Disabilities, and that the call for submissions was not disseminated widely to allow different stakeholders such as civil society organisations, experts and academics to engage in making submissions.

Notwithstanding the glaring and significant issues with the Bill, it was deliberated and passed in March 2024, and signed into law by the President in May 2024. While the Act was intended to provide a robust framework to combat GBVF, several critical elements from the National Strategic Plan on Gender-Based Violence and Femicide (intended to underpin the Act) were omitted, weakening the Council’s capacity to achieve its intended goals.



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These critical omissions have resulted in a framework that appears underpowered and incapable of meeting the comprehensive goals laid out in the National Strategic Plan. Without strong accountability mechanisms, provincial and local government involvement, adequate funding, and high-level political leadership, the Act risks falling short of its mandate to effectively combat GBVF in South Africa.

The roundtable discussion on 4 December 2024 confronted these issues head on. The event was opened by our practice, and a representative from Lawyers for Human

Rights then took guests through the key provisions and critical gaps of the Act. Thereafter, a panel discussion – made up of lawyers, medical professionals, activists and community mobilisers – shared their views on the deficiencies of the Act, informed by their areas of expertise. The third part of the sessions was where guests could really sink their teeth into the issues. Participants were invited to join one of three break-away groups to answer the following questions: What must be done? How must it be done? Who must do it?

The three breakaway groups focused on:

- **Negotiations with Government:**
Amendments to the Act
- **Litigation:**
Constitutional challenge to the Act
- **Mobilisation:**
Engagements with stakeholders

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As all organisers were aligned that the discussion should produce a tangible outcome, detailed notes were taken from each breakaway group's discussions, and a joint meeting report was prepared by 10 December 2024, which was also the last day of the 16 Days of Activism Against Gender-Based Violence. The meeting report clearly sets out the problems created by the Act and the gaps it fails to fill despite the guidance provided by the National Strategic Plan, and, importantly, sets out action items under the three discussion headings. The

event organisers' intention is to widely circulate the meeting report and, in early 2025, address all three key areas of action to ensure the Act in its current form is reformed with urgency. The organisers intend to do so either through engagements with Government, a constitutional challenge to the Act, or both. To leave the Act in its current form would be a grave disservice and injustice to those who fought for it to be enacted, and to those it is meant to serve and protect.

**Our practice
looks forward
to taking this
challenge
forward in
2025 with
our partner
organisations.**

NAIROBI



Empowering lives, communities and enterprises

As we reflect on 2024,
the Nairobi office is proud
to highlight the impact of
our pro bono work.



Our commitment to giving back remains central to our practice, as we continue to offer legal support to organisations, social enterprises and individuals whose missions align with our values of positive social impact. This year, we had the privilege of contributing to a range of initiatives that are making a difference in our community and beyond.

In support of our longstanding relationship with Trust Law, we drafted a legal guide to simplify Kenya's complex legislative landscape for not-for-profit organisations (NPO), enabling them to focus more effectively on their core missions. NPOs, constrained by limited resources, face challenges navigating intricate regulatory requirements. By

streamlining these processes, the guide, launched on 22 November 2024, aims to enhance governance and compliance, allowing NPOs to allocate more resources towards their beneficiaries.

Our Corporate & Commercial team offered legal support to Zuhura Solutions, a social impact company aiming to drive innovation in sustainable food systems in Kenya, by drafting a shareholders' agreement, updating its articles of association, preparing a written resolution to adopt the amended articles, and assisting with the necessary filings at the Company Registry.

The team also had the opportunity to support the Electric Mobility Association

of Kenya, which is focused on transforming the country's transportation landscape through the promotion of electric mobility solutions. The team drafted the entity's constitution, providing the legal foundation for its governance and ensuring its continued growth in the e-mobility sector.

The Tax team was also proud to support an equity and venture capital association in their submissions to the parliamentary select committee on the Finance Bill, 2024 and other relevant tax policy legislation. The team's contributions helped ensure that the voices of private equity and venture capital sector players were heard in key policymaking discussions, advocating for a

legislative environment that supports the growth of these critical sectors.

In collaboration with Trust Law, the Dispute Resolution practice provided legal support to media practitioners in producing in-depth articles, case studies and research focused on media freedom. The team guided journalists through multiple stages of the content creation process, including reviewing story pitches, drafts, and final submissions. The process was designed to identify potential liabilities and advise on risk mitigation strategies, ensuring that journalists are empowered to create legally sound content.

The Wellness Tribe Kenya turned to the Intellectual

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Property team for assistance in protecting their brand. The team successfully secured the legal registration of their trademarks, ensuring the safeguarding of their intellectual property. Additionally, they reviewed the organisation's revenue share agreement to establish fair and protective terms for all parties involved.

Our Real Estate Law team assisted an individual client with the legal process involved in transferring land donated for the construction of a church. The department ensured that all legal requirements were met, facilitating the church's growth and enabling it to better serve its community.

The firm also hosted a Women's Day event on International Women's Day, providing a platform to discuss the various challenges women face in the corporate sector. The event featured insightful discussions on topics such as gender bias, work-life balance and career progression, alongside practical strategies to address these issues. By fostering an open dialogue, we reinforced the firm's commitment to promoting gender equity and empowering women in the workplace.

In December, we ended the year with a heartwarming event at The Nest, a children's home in Limuru which hosts children whose parents



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are in conflict with the law. Embracing the festive spirit, the team brought joy and cheer by sharing gifts, spreading smiles and supporting the home's efforts to create a brighter future for the children. This celebration reflected our firm's dedication to giving back to the community and brought the magic of Christmas to those in need.

As we look back on our pro bono efforts in 2024, the Nairobi office is proud to have made a meaningful difference in the lives of individuals and organisations. Whether it was providing legal assistance to social enterprises, advocating for communities or supporting emerging leaders, we remain committed to using our expertise to foster positive change and contribute to the greater good.



We look forward to continuing our pro bono work in the coming year and are grateful for the opportunity to serve our community and contribute to lasting, positive change.

CONCLUSION

As we look back on the year that has passed, we are honoured as we reflect on the positive and meaningful contributions we've made to the lives of deserving individuals, the support we have provided to several vulnerable groups in both South Africa and Kenya, and the impact we are making through strategic litigation, training and collaboration.

In 2025 and the years that follow, we hope to expand our support and impact to Namibia through engagements with personnel in our firm's newly established office in that region.

We, the Pro Bono & Human Rights practice, thank you for taking the time to read and engage with this newsletter, and we thank you even more for your continued support of our practice. Our goals are achieved not only through each member of our practice's continued and fierce determination to best serve our clients, but also through collaboration and support in several ways. We look forward to building on the success of 2024 in 2025 and to doing so with your support as we play our part as responsible lawyers and citizens.