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COMMUNITY  
LAW CENTRE

ANNUAL REPORT  
2012

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Project Heads:

Mr Edmund Foley (Children's Rights Project)

Dr. Lukas Muntingh (Civil Society Prison Reform Initiative)

Professor Jaap de Visser (Multi-Level Government Initiative)

Ms. Samantha Waterhouse (Parliamentary Programme)

Dr. Ebenezer Durojaye (Socio-Economic Rights Project)

## **STAFF**

**Director:** Prof. Nico Steytler

**Children's Rights Project:** Edmund Foley (Project head), Lorenzo Wakefield (researcher), Nkatha Murungi (doctoral researcher), Maria Assim (doctoral researcher), Crystal Erskine (administrator)

**Civil Society Prison Reform Initiative:** Dr Lukas Muntingh (Project head), Clare Ballard (researcher), Gwaenaelle Dereymaeker (researcher), Aquinaldo Mandlate (doctoral researcher), Berber Hettinga (doctoral researcher)

**Multi-Level Government Initiative** Prof. Jaap de Visser (Project head), Derek Powell (senior researcher), Annette May (researcher), Phindile Ntliziywana (researcher), Zemelak Ayele (doctoral researcher), Conrad Bosire (doctoral researcher), Tinashe Chigwata (doctoral researcher), Christian Chofor Che (doctoral researcher), Valma Hendricks (administrator)

**Socio-Economic Rights Project:** Dr. Ebenezer Durojaye (Project head), Gladys Mirugi-Mukundi (doctoral researcher), Ncimezile Mbanjo (doctoral researcher), Nicholas Orago (doctoral researcher), Keathélia Sapto (administrator)

**Parliamentary Programme:** Samantha Waterhouse (Project Head), Tumelo Kgosimmele (researcher until June 2012)

**Financial Management:** Virginia Brookes (financial manager), Nadia Cassiem (bookkeeper)

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### **RESEARCH FELLOWS**

Prof Julia Sloth-Nielsen

Dr Jacqui Gallinetti

Dr Christopher Mbazira

Dr Yonatan Fessha

Dr Jamil Mujuzi

Ms Helen Kruuse (Until December 2012)

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## Director's Overview

This Annual Report records the considerable growth in activities and impact during 2012. As you will read in the forthcoming pages, we achieved demonstrable impact on South African law and policy and continued to play an increasingly international role, leaving a footprint in a large number of African countries.

High quality academic research is the basis for our policy engagement, our teaching and our networking for change over the last five years. Centre staff produced the following peer-reviewed articles and major research reports:

Publications	2008	2009	2010	2011	2012
Books		1	1	1	-
Peer-reviewed chapters	15	10	6	8	7
Peer-reviewed articles	22	21	6	19	9
Research reports	9	14	17	13	13

As a Centre, we are determined to influence the course of law reform, policy and practice. Very often, we succeed. For example, CSPRI set out a number of years ago to ensure that South Africa complies with its international obligations under the Convention against Torture (CAT), including adopting legislation to give effect thereto. The introduction of the Prevention and Combating of Torture Bill in 2012 bears testimony to CSPRI's efforts.

The Socio-Economic Rights Project (SERP) has been a relentless advocate for South Africa's ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR), a move that would make it operative in South Africa. After many years of campaigning, there has been significant progress; Cabinet has decided in favour of such ratification in late 2012. On the continent, SERP's Dr Ebenezer Durajaye was involved in the drafting of the very first General Comment on article 14 of the African Women's Protocol for the African Commission on Human and Peoples' Rights, directly influencing the development of a continent-wide approach to the right to health and reproductive rights.

The impact of our research can also be seen in many of the Resolutions of the 53th National Conference of the African National Congress, held in December 2012, relating to provinces and local government. They include: the review of provincial and local powers and functions; the critique of the single public service; the appointment of a presidential commission to review provinces; a differentiated model for local government; limiting district municipalities to weak local municipalities; the separation of the executive and legislative arms of the municipal council; the role definitions of the council office bearers; the reversal of the decision on a single

election for all spheres of government; and the South African Local Government Association having full-time officer bearers. All these resolutions bear marks of the research (including commissioned research) conducted by the Centre, through the Multi-Level Government Initiative.

With its enormous experience in law reform, the Children's Rights Project's expertise is highly sought after by international institutions concerned with children's rights in Africa. The CRP has already imprinted its mark on the African child rights system by supporting the work of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC). Moreover, the Chairperson of our Board of Trustees and Dean of the Law Faculty, Prof Julia Sloth-Nielsen was appointed a member of the African Committee of Experts on the Rights and Welfare of the Child. Dr Benyam Mezmur, a former doctoral researcher and current research fellow, was not only appointed chairperson of the this Committee, but was also recently elected by the UN General Assembly to the UN Committee on the Rights of the Child (2012).

2012 was the final year of a prestigious programme, supported by the European Union around the use of international human rights norms as a tool for the better realisation of the human rights in South Africa. The Programme centred around promoting the implementation of international human rights law and constitutional rights, strengthening parliamentary oversight in respect of implementation of human rights and strengthening the opportunities and capacity of civil society organisations to interact with Parliament. The Programme was very successful in bringing communities to Parliament to engage with a number of parliamentary committees. This was done on the basis of a number of major campaigns, run in collaboration with the Centre's projects. At the conclusion of the contract period in September 2012, the Centre received a glowing external evaluation for this very effective and innovative programme. With this, the Parliamentary Programme has firmly entrenched itself in the parliamentary scene and will continue its activities on a lesser scale in 2013, with advocacy focusing on women and children.

Over the past years, postgraduate teaching has taken on an increasingly important role in the work of the Centre. In 2012, the Masters programme on multi-level government, which commenced in 2010, enhanced its throughput rate by ensuring that seven masters students were set to graduate in March 2013. In September, Zemelak Ayele obtained a doctoral degree on the basis of his study into local government in Ethiopia. Better throughput results can be expected as a result of the doctoral colloquium programme presented by the Centre and the Law Faculty. Instituted at the end of 2011, three colloquia were held in 2012.

The work of the Centre is done by a group of dedicated staff members that all have a remarkable work ethic, integrity and a sense of community. In 2012, the Centre celebrated a number of notable personal achievements. Prof Nico Steytler was awarded the South African Research Chair in Multilevel Government, Law and

Policy, after the Centre had been awarded the right to host the Chair. This is also a recognition of the Centre's work in multi-level government. Prof Steytler was also awarded an honorary doctorate by the University of Fribourg in Switzerland for his work on multilevel government and human rights.

Lukas Muntingh graduated with a Phd and was also promoted to Associate Professor, testimony to his undisputed standing in the prison reform sector and his leadership of CSPRI.

The finances of the Centre have remained remarkably stable over the past five years. In 2008, the year of the Global Financial Crisis, the Centre raised R10,6 million. The recession in South Africa, the USA and Europe, had an immediate but not a significant impact in 2009 as our revenue declined by R1 million. In the subsequent years it recovered and exceeded earlier levels: 2010 (R11.5m); 2011 (R11.5m). In 2012, our revenue grew to R12.4m. Under the expert hand of Mrs Virginia Brookes, the Centre has managed the large budget with care and prudence. It has maintained a sound financial system; apart from the overall audit of the University's books, three quarters of the Centre's donor agreements were externally audited and all received clean audits. Mrs Brookes was promoted to Chief Operations Manager to lead our efforts towards administrative excellence.

Prof Julia Sloth-Nielsen assumed the position of Chairperson of the Board of Trustees. She took the baton from Prof. Christie who had chaired the Board since the Centre's inception, first as Archbishop Desmond Tutu's representative and then as elected Chair. Prof. Christie remained a Board and Management Committee Member, thus enabling the Centre to continue to benefit from his guidance to and enthusiasm for the work that we do.

The Centre had to bid farewell to Lorenzo Wakefield who resigned at the end of 2012. The Centre is indebted to his many years of dedication as an advocate for the rights of the vulnerable, a role he will no doubt continue to play as a researcher in Parliament. Jill Claassen accepted a position in the University Library. She ended her decade long tenure with the Centre, having been able to manage the Centre's library, develop our online presence and assist researchers with unrivalled enthusiasm and skill. On a positive note, after 17 years the Centre received a second permanent position; Jaap de Visser was given such a position but only after he was promoted to a full professor, having been for a number of years on one year contracts.

On a very sad note, the Centre mourned the loss of Prof Tobias van Reenen. As an erstwhile member of the Centre's Management Committee and as a member of the Faculty of Law he has made an immense contribution to the Centre's pursuit of the realisation of human rights.

The end of 2012 also saw my directorship coming to an end after 18 years at the helm. Having been awarded the SARChI Chair, I vacated the position at the end of December. I would thus like to use this opportunity to express my gratitude to the Centre, the Faculty and the University to have been able to lead this institution during the unfolding of constitutional democracy in South Africa. It was indeed a privilege to work over the years with very talented and hardworking researchers and administrators who were united in their passion and commitment of realising the mission of the Centre – advancing human rights and democracy in South Africa and further afield.

Prof Jaap de Visser has been appointed as the new director for the next five years. Jaap, who started his post-graduate studies in 1998 in the Centre, brings a vital renewal of energy, innovation and enthusiasm that will not only ensure the continuation of the Centre under a difficult financial climate, but will also take the Centre to greater heights in its quest to realise its mission.

Prof Nico Steytler  
(Director 1994- 2012)

### **Incoming director's statement**

It is an immense honour for me to assume the position of director of the Community Law Centre. While the task is big and the challenges many, I am comforted by the fact that my predecessor built a very strong and ambitious organisation. Steytler's immense imprint on the status of the Community Law Centre as one of South Africa's premier research organisations on human rights and governance is undisputed. In 1994, he took over the reins from the Centre's founding director, the late Adv Dullah Omar and never ceased to grow the centre's output and profile. In attracting the South African Research Chairs Initiative (SARChI) Chair to the Centre, he not only enhanced the Centre's profile but also ensured that we remain able to draw on his wisdom, even after stepping down from the directorship.

During my five-year tenure, the Centre will continue to strive to make a visible impact on law and policy, grow its footprint in Africa, increase its postgraduate output, increase the academic profile of its staff and improve its financial sustainability and internal operations. There is no doubt that the outstanding qualities of our staff and doctoral researchers and the energy and passion for their work will ensure that we succeed.

Prof Jaap de Visser  
Incoming director

## **MULTI-LEVEL GOVERNMENT INITIATIVE**

The Multi-Level Government Initiative (MLGI) was established more than 20 years ago as a project on local government. It now brings together a leading team of South-based experts working on multi-level government. MLGI supports governments, donors, scholars and civil society organisations to research, design and implement systems of multi-level government that promote peace, socio-economic development and the rule of law in Africa. It does this by offering high quality applied research, policy and technical expertise, and advanced academic teaching.

The major highlight of 2012 was the National Research Foundation's decision to award the South African Research Chair on Multi-Level Government, Law and Policy to Prof Nico Steytler. This award, which comes with a 5-year research grant, bears testimony to the work done by the Centre in the area of multi-level government. The location of the Research Chair in the Centre and in MLGI will add tremendous impetus to the work of the Centre and the Project.

MLGI's work in 2012 took place in a context where the debate about multi-level government is intensifying in South Africa and on the rest of the continent. The failures in the provincial and local spheres of government in South Africa are ever apparent and the African National Congress is openly questioning multi-level government. At the same time, opposition parties celebrate and assert local and provincial discretion. As far as the rest of the continent is concerned, there is considerable interest in multi-level government. Examples of recent additions to the list of African countries that are opting for multi-level government are Kenya, South Sudan and Zimbabwe. MLGI brings an analytical, non-partisan perspective into these debates and does this based on evidence and steeped in a thorough understanding of both the benefits and dangers of multi-level government.

### **Research**

The Project saw a number of research projects coming to fruition. Nico Steytler and Jaap de Visser produced a major update to *Local Government Law of South Africa*. This book is increasingly being cited by the courts and is the only loose-leaf comprehensive text book on local government law in the country.

Furthermore, the Project (co-)prepared research papers on a range of topics. Annette May produced a research paper on the right to sanitation and a chapter on environmental health services as part of local government's obligations to deliver services. Jaap de Visser co-authored, in collaboration with Urban LandMark, a research paper on intergovernmental relations surrounding land use planning. Phindile Ntliziywana and Jaap de Visser collaborated with the School of Government by contributing a chapter to a research paper on the professionalisation of local government for the Department of Cooperative Governance and Traditional Affairs.



Nico Steytler, Jaap de Visser and Robert Williams (who was a visiting professor in 2011) finalised a paper on the law and practice surrounding unfunded mandates in South Africa, United States and Australia.

### **Barometers**

With the assistance of guest researchers Kathryn Staples (Michigan Law School) and Stella Gilliland (Lewis & Clark College), the Project produced the third edition of the Service Delivery Protest Barometers, which analyse trends in community protests in South Africa. The Barometers are widely quoted and continue to significant media attention. This work will be expanded to analyse trends in areas such as audit outcomes and provincial take-overs of municipalities. This type of work signifies a move towards a more interdisciplinary approach to research.

### **Conferences and roundtables**

MLGI staff hosted or participated in approximately fourteen seminars, round tables and conferences. For example, Nico Steytler, Jaap de Visser and Yonatan Fessha presented a joint paper on the use of ethnicity in Boundaries at the International Association of Centres for Federal Studies conference in Rome. A roundtable on law reform and planning, hosted in collaboration with Urban LandMark, SA Cities Network and the Department of Rural Development had a major impact on the legislation on planning currently before Parliament and under construction in the provinces. Outside South African borders, the Project has increasingly participated in and informed law and policy making in other countries. A prestigious United States Institute of Peace (USIP) grant was secured to develop a framework for implementing devolution in Kenya. This project will be carried in collaboration with Professor Yash Gai's Katiba Institute in Nairobi and will see scholars work together with Kenyan scholars and practitioners. The MLGI supported organised local government in Zimbabwe to participate in the current constitution making process in that country and also participated in a Conference of the Zimbabwean Law Society around Zimbabwe's constitution making process.

### **Research outputs**

2012 saw MLGI working on approximately 20 articles and book chapters for publication. A few examples:

- Nico Steytler and Derek Powell finalised a book chapter on the impact of the global financial crisis on decentralisation in South Africa;
- Jaap de Visser produced a book chapter on the developmental use of municipal property taxation;
- Derek Powell produced a book chapter on local government policy reform in South Africa;
- Annette May produced a chapter on environmental health services;
- Zemelak Ayele and Jaap de Visser prepared a paper on the marginalisation of internal migrants in Ethiopian cities;

- Phindile Ntliziywana's published an article on the Supreme Court of Appeal's *Makana* judgment; and
- Nico Steytler and Jaap de Visser wrote a chapter on local government for the *International Encyclopedia of Constitutional Law*.

### **Policy engagement**

MLGI engaged with policy and legal issues surrounding multi-level government both in South Africa and abroad. Some of this engagement took place in the form of providing advice to governments. Various legal opinions and advisory papers were produced for various organs of state, assisting them in interpreting critical provisions surrounding service delivery. Annette May advised the Drakenstein Municipal Council on 'Tenure Security and Basic Service Provision on Farms'. Jaap de Visser, Phindile Ntliziywana and Annette May assisted Greater Tubatse Municipality on the development of their policies on council oversight, public participation and other good governance documents. Derek Powell was invited by the Ministry of Cooperative Governance to present on the two-tier system of local government at a closed session of government officials. This presentation and earlier work on this issue undertaken by the Project had a significant impact on the resolutions of the 2012 ANC policy conference. Phindile Ntliziywana, with the support of the doctoral researchers in the Project, produced monthly summaries of local government-related case law for a practitioner's website, hosted by the Development Bank of Southern Africa.

The Project also entered into an important agreement with the City of Cape Town to assist the City in the development and drafting of by-laws, thereby paving the way for a long term relationship with the City around urban law making.

Four editions of the *Local Government Bulletin* were produced and disseminated to all municipalities and civil society organisations active in local government. All in all, the Project produced some 20 opinion pieces and *Bulletin* articles on various topical issues relating to multi-level government. Examples of topics included: the new urban legislation in Kenya, planning laws in Gauteng and Western Cape, the National Treasury's competence framework for municipal managers, the African Charter on Democracy, Elections and Governance etc. An article and editorial in which Derek Powell and Jaap de Visser expressed a firm position against the introduction of a single election for all three spheres was endorsed as a resolution by the South African Local Government Association and significantly contributed to the ANC policy conference resolution not to change the election cycles.

Furthermore, the Project continued to participate actively in the Good Governance Learning Network (GGLN), a network for civil society organisations working in the area of local governance in South Africa. For example, Annette May assisted the GGLN in the development of their annual State of Local Government Report and Derek Powell presented to the network on the future of provincial government.

**Postgraduate teaching**

Zemelak Ayele concluded his doctoral study on local government in Ethiopia and graduated with a doctoral degree. Dr Ayele has since joined MLGI as a post-doctoral researcher.

The Masters Programme on Multi-Level Government was offered for the fourth consecutive year. This year, the Programme started taking a multi-disciplinary character and made use of various guest lecturers, such as CLC-alumnus and City Manager of Drakenstein Johann Mettler, Isandla's Director Mirjam van Donk, Urban LandMark's Stephen Berisford and Fazela Mohamed, Parliament's Registrar of Members' Interests. MLGI supported four students with bursaries. Three students were deployed with the South African Local Government Association for internships. Over 40 applications were received for the 2013 intake and twelve students were selected.

Nico Steytler and Jaap de Visser taught the doctoral students of Ethiopia's Center for Federal Studies under an agreement with Addis Ababa University.

## **CIVIL SOCIETY PRISON REFORM INITIATIVE**

The Civil Society Prison Reform Initiative (CSPRI) was established in 2003. Initially, it was a joint project of CLC and NICRO, but in 2005 it moved to CLC. It was established to address the knowledge gap around prison reform in South Africa. To this end CSPRI embarked on an assertive research programme targeting the nature of policy development, the effectiveness of civilian oversight institutions, corruption and law reform. Ten years on some achievements can be noted in the manner in which the Project utilises research, advocacy and litigation to promote transparency, accountability and civilian oversight.

In the past ten years CSPRI has expanded in staff size as well as its reach and scope. In 2012 CSPRI employed three full time researchers and one part-time researcher, and was active in South Africa and in Burundi, Mozambique, Malawi, Zimbabwe and Zambia. The scope of the work has also grown to include strong foci on pre-trial justice and the prevention and eradication of torture in Africa.

In the course of ten years CSPRI has produced, amongst others, research on policy development, anti-corruption measures, sentencing reform, prison overcrowding, pre-trial detention, oversight over the prison system, offender reintegration, HIV/Aids in the prison system, children in prison, and the prevention and eradication of torture.

There is little doubt civilian oversight over the prison system has improved, especially at parliamentary level. This development recognises that the nexus between governance and human rights in the criminal justice system is central to promoting the values underpinning the Constitution.

A particular highlight concerns prisoners' right to vote. Following an amendment to the electoral laws of South Africa in the run-up to the 2004 general elections that would have seen sentenced prisoners (serving a sentence without the option of a fine) removed from the voters' roll, CSPRI decided to litigate against the amendment. Using NICRO as the applicant, the matter went to the Constitutional Court where it succeeded and the amendment was declared unconstitutional. There have subsequently been no challenges to prisoners' rights to vote and the matter appears to have been settled.

At the level of advocacy, CSPRI actively engaged with Parliament from its inception, especially the Portfolio Committee on Correctional Services, and the Judicial Inspectorate for Correctional Services, the statutory oversight structure for the prison system. From the outset it was evident that this type of engagement was sorely needed and productive relationships were established with both institutions. By inserting quality research and analysis into the work of the Portfolio Committee, the Committee grew in confidence and stature. From a nearly dormant committee it has

become one of the most active committees of Parliament. Since it was established CSPRI has made numerous written and oral submissions to a number of Portfolio Committees related to draft legislation, expert submissions, policy developments, departmental annual reports, strategic planning and budget votes. Parliament became the key arena for strengthening oversight over the criminal justice system and the prison system in particular.

## **Promoting transparency and accountability through public engagement**

### **Submissions**

In 2012 CSPRI made a number of submissions to Parliament. The various issues addressed during the course of the year included the Department of Correctional Services Annual Report, Strategic Plan and Budget. Various submissions were also made on the Prevention and Combating of Torture of Persons Bill. This legislation was long overdue given that the South African government ratified the UN Convention against Torture in 1998 which requires, most notably, the criminalisation of torture in domestic law. Furthermore, CSPRI made extensive submissions on the effectiveness and legislative competence of the Judicial Inspectorate of Correctional Services and presented a number of issues in a written submission to the Commission of Inquiry into policing in Khayelitsha.

### **Supporting JICS**

In 2012 CSPRI published a national survey on children in South African prisons. The survey was undertaken to update a 1997 report published by the Community Law Centre on children in prison. The research for the 2012 report was prompted by notable developments in law, policy and practice relating to the treatment of children in the criminal justice system. A key finding of the 2012 report was that there were great inconsistencies in how children are treated. At some prisons there were good services in place as required by the Correctional Services Act, but this was not the case at all prisons where children were detained. In response to the report, the Office of the Inspecting Judge approached CSPRI and there is now a three-year agreement in place to develop a monitoring system to assess conditions of detention and the treatment of children and young adults in the prison system.

### **Media work**

Using the media as a means to provide the public with quality information is an important aspect of advocacy work. Moreover, in recent years the media has become increasingly assertive in holding government accountable and drawing attention to the rights of vulnerable persons. CSPRI has used the media effectively to provide quality comment on current affairs and developments related to the prison system in South Africa.

## **Newsletters**

CSPRI compiles two monthly newsletters, 30 Days/Dae/Izinsuku and the Africa Pretrial Justice Monitor (APJM). The former is a round-up of notable media reporting on prison issues throughout the continent, and the APJM documents current stories on pretrial justice issues in Africa. Both newsletters are distributed to over one thousand subscribers every month and then posted on the CSPRI's website. In addition, CSPRI sends out a bi-monthly newsletter that deals with a particular subject in detail. During 2012 the topics covered were: changes in the parole regime, medical parole and redress for victims of torture.

## **Preventing and eradicating torture**

CSPRI is a partner to the Article 5 Initiative, an international three-year collaboration funded by the European Union. The project derives its name from the two articles in the African Charter and the Universal Declaration of Human Rights establishing the right of all persons to be free from torture. A5I is working towards the prevention and eradication of torture in six post-conflict African states, being Burundi, Kenya, Mozambique, Rwanda, Uganda and South Africa. The other partners are the University of Cape Town, University of Bristol and the African Policing Civilian Oversight Forum. A5I has also entered into a memorandum of understanding with the African Commission on Human and Peoples' Rights to facilitate the aims of the project. The project's aim is to develop a 'package' of practical, context-specific tools and guidelines, which will be used by relevant mechanisms of the African human rights system and national actors in order to strengthen the implementation of standards aimed at preventing and eradicating torture and other ill-treatment in Africa. In 2012 the first round of consultations in these countries were completed with the assistance of our in-country partners. CSPRI facilitated the consultations in Mozambique and Burundi. These consultations demonstrated the value of creating opportunities for dialogue between the state, civil society and national human rights institutions. Sharing knowledge and views around the prevention and eradication of torture facilitated the development of common priorities.

## **Linking PTJ and preventing ill treatment**

CSPRI's Promoting Pre-trial Justice in Africa (PPJA) project dovetails closely with the work conducted for the Article 5 Initiative. Pre-trial detainees are at risk of torture because the incentives and opportunities for torture are most prevalent during the investigation stage of the criminal justice process. Pretrial detainees are entirely in the power of detaining authorities, who often perceive torture and other forms of ill-treatment as the easiest and fastest way to obtain information or extract a confession.

The practice of torture during pretrial detention is supported by systemic factors, such as:

- arbitrary arrests;
- the popularisation of a “tough on crime” approach to criminal justice;
- prosecutions which rely on confessions for success;
- poorly trained and paid law enforcement officials;
- criminal justice systems undermined by bribery and corruption;
- lack of access to legal assistance for detainees;
- lack of oversight mechanisms over places of detention;
- patterns of minority discrimination within countries;
- political conflict; and
- notions of “revenge”.

PPJA collects and organises information on combating systemic factors such as these in pre-trial justice in Africa. It makes this available and accessible to a broad audience of stakeholders in a manner that can inform decision-making and improve practice, thereby promoting pre-trial justice in Africa. The project encompasses a repository for research, international legal instruments, case law and news relevant to pre-trial justice (in the form of a website), as well as a participatory forum, and a quarterly newsletter. The project has the higher aim of conducting meta-analyses on available research to uncover best-practices and replicable solutions to common pre-trial problems.

## **SOCIO ECONOMIC-RIGHTS PROJECT**

The Socio-Economic Rights Project (SERP) of the Community Law Centre was formed in 1997 with the aim of promoting the effective implementation, monitoring and enforcement of the socio-economic rights enshrined in what was then the Interim Constitution. SERP was actively involved in a broad-based civil society campaign to ensure the inclusion of socio-economic rights as justiciable rights in the Bill of Rights in the 1996 Constitution. Prof. Sandra Liebenberg, who was the Project Head at the time, provided technical assistance to the Constitutional Assembly on the drafting of the relevant provisions protecting socio-economic rights in the Constitution. After these rights were included in the Constitution, the focus shifted to ensuring that the socio-economic rights are translated into tangible realities for the people of South Africa. The Project now works towards ensuring that socio-economic rights are accessible and enjoyed by everyone, particularly those groups and communities afflicted by poverty. The Project pursues this objective through

- Applied research;
- Publications;
- Advocacy and monitoring;
- Hosting workshops, seminars and conferences;
- Developing resource and educational materials; and
- Supporting public interest litigation.

### **Policy engagement**

Making evidence-based submissions to Parliament to influence important parliamentary processes is key to the Project's strategy. During 2012, two important submissions were made to Parliament. Parliament's Portfolio Committee on Health received a submission from the Project regarding the proposed amendment to the National Health Act. The focus of the Act and submission was on the proceeding for the appointment and removal of the Ombudsman. The second submission to Parliament was produced in conjunction with the Centre for Disability Law and Policy and advocated for the development of a special needs housing policy. Government's policies on housing fail to adequately meet the peculiar needs of vulnerable and marginalised groups such as the elderly, people living with HIV, women who experienced violence, and people with disabilities. Therefore, national policy guidelines, requiring provincial governments to develop special needs housing policies for vulnerable and marginalised groups are urgently needed. This submission has elicited debate at the national level regarding the possibility of a guideline or policy on special needs housing.

Throughout 2012 SERP was actively involved in stimulating debate on issues relating to the promotion and protection of socio-economic rights within and beyond South Africa. For instance, together with Black Sash, National Welfare Social Service and Development Forum, People's Health Movement South Africa, Global Call to Action against Poverty, the Project organised five strategy meetings on the



ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR) by South Africa. The group also made a submission to the Department of International Relations and Cooperation, entitled “South Africa’s Ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Optional Protocol?”.

Through the same network, the Project engaged with the public hearings on water and sanitation, organised by the South African Human Rights Commission. This opportunity was used to call on the South African government to ratify the ICESCR and the Optional Protocol. Consequent upon the activities of the Project and its partners, the Cabinet on 12 October 2012 announced the intention of South Africa to accede to the United Nations International Covenant on Economic and Cultural Rights. The recommendation would be tabled in Parliament for ratification in line with Section 231 (2) of the South African Constitution. In response to this commitment and in order to maintain the momentum, the ICESCR Ratification Campaign released a press statement on 12 October 2012 titled ‘South Africa to Ratify International Socio-Economic Rights Covenant.’

### **Research and teaching**

Three editions of *ESR Review* were produced and circulated among about 2,000 readers. *ESR Review* advances knowledge on socio-economic rights.

The Project also used its command of the area of socio-economic rights to educate students. A module on socio-economic rights was convened and delivered as part of the Law Faculty’s Masters Programme. This Module attracted students from all over Africa including Ghana, Ethiopia, Kenya, South Africa and Zimbabwe.

As part of its commitment to focus government’s attention to the socio-economic needs of vulnerable and marginalised groups, the Project in conjunction with other partners published two important research reports. These reports highlighted gaps in government’s policies and programmes in realising the right to housing for those in dire need. The first report (with the Socio-Economic Rights Institute of South Africa (SERI)), was entitled ‘Jumping the Queue’, Waiting Lists and other Myths: Perceptions and Practice around Housing Demand and Allocation in South Africa’. The highlights challenges and gaps in the housing allocation processes of municipal governments in Gauteng and Western Cape. The second report (with the Centre for Disability Law and Policy) documents gaps in policies and programmes relating to access to housing for people with special needs. The report recommends that national and provincial governments should develop housing policies to meet the needs of vulnerable and marginalised groups in society.

### **Strengthening the realisation of socio-economic rights internationally**

Beyond advancing the realisation of socio-economic rights in South Africa, SERP has continued to play a significant role in realising socio-economic rights at the regional and international levels. In this regard, SERP continues to engage with

regional and international human rights institutions and bodies responsible for the promotion and protection of human rights.

### **Engaging with the African Commission on Human and Peoples' Rights**

Dr Ebenezer Durojaye and Gladys Mirugi-Mukundi participated in the 51st Ordinary Session of the African Commission on Human and Peoples' Rights held from 18 April to 2 May 2012 in Banjul, The Gambia. At the Session, they delivered a statement on behalf of the Community Law Centre on poverty and human rights in Africa. The statement called on African governments to take practical measures to prevent people from experiencing extreme poverty. Furthermore, it called on African governments to avoid the criminalisation of poverty, adopt social security measures that will alleviate the effects of poverty among the people and pay greater attention to the needs of vulnerable and marginalised groups. This statement was well-received and provoked debate on a very important concern in the region. It complemented the work of the UN Special Rapporteur on poverty and human rights as it calls on the African Commission as a regional human rights body to pay more attention to the challenges posed by poverty in the region.

The Project also participated in the 52nd Ordinary Session of the African Commission on Human and Peoples' Rights in October 2012 at Yamoussoukro, Ivory Coast. In collaboration with the Office of the UN High Commission for Human Rights, the Project organised a workshop on the relationship between the Special Mechanisms of the UN and the African Union. It was designed to, amongst other things, educate civil society groups and human rights actors on how to use the special procedures under the two systems to advance the human rights of Africans.

SERP also played an important role in the drafting and the adoption of the first-ever General Comment on article 14 (1) (d) and (e) of the African Women's Protocol. It was the first time in the history of the Commission that it issued a General Comment clarifying the nature of states' obligations in relation to a specific provision of a human rights instrument.

### **Working with the UN Special Rapporteur on extreme poverty**

Under the umbrella of the cooperation agreement with the UN Special Rapporteur on Extreme Poverty, SERP has continued to engage formally and informally with the Special Rapporteur. During the second quarter of the year, SERP was actively involved in the preparation and adoption of the Guiding Principles by the Human Rights Council in September of 2012. SERP together with other non-governmental organisations was able to lobby states attending the Human Rights Council's session to lend their support to the adoption of the Guiding Principles. This campaign was successful as the Human Rights Council unanimously adopted the Guiding Principles. While these Guiding Principles are not legally binding, this type of 'soft law' is an important guide to states in adopting a rights-based approach to poverty reduction in their countries.

The Project furthermore submitted to the UN Special Rapporteur on extreme poverty a research report on access to justice for vulnerable and marginalised groups in formal and informal justice systems in Africa. The report identifies the tension between formal and informal justice systems and the implications for access to justice for the poor in the region. It then outlines some of the benefits of informal justice systems in Africa and how they may be used to advance access to justice for vulnerable and marginalised groups. Moreover, the report identifies some of the weaknesses of the informal justice system and how this may interfere with the enjoyment of human rights of women in Africa. This report forms part of the final thematic report on access to justice submitted by the Special Rapporteur on extreme poverty to the Human Rights Council.

SERP and the Department of International Relations and Corporation (DIRCO) hosted a one-day interactive session between the Special Rapporteur, civil society groups and government officials. The meeting afforded the Special Rapporteur an opportunity to engage with civil society groups, researchers and government departments on the significance of the recently adopted General Principles. In her opening remarks, the Special Rapporteur expressed her appreciation to the government of South Africa for taking a bold and important step in deciding to support her mandate. She noted that this was the first time a developing country and, for that matter, an African country will be providing support to any UN mandate holder. According to her, this is a significant achievement and attests to the commitment of the South African government to promote social justice and combat poverty across the world.

# CHILDREN'S RIGHTS PROJECT

## The early years

The Children's Rights Project focuses on the needs and status of children. It was established in the mid-1990s during a period when the Centre was playing an active role in advising on the multi-party negotiations towards South Africa's interim Constitution. The Project influenced the content of section 30 of the interim Constitution on the rights of children. This section evolved into the current section 28 of the Constitution, which affords children substantive civil, political, and socio-economic rights.

The Project focuses on marginalised and vulnerable children. Its work has moved beyond the formulation of constitutional provisions on children's rights into the arena of law reform within the juvenile system and the reform of laws concerning child care and protection. It does this by conducting research, hosting national and international seminars and roundtables, disseminating reports and studies, and soliciting the participation and opinion of children themselves.

The CRP has played an important role in transforming the legal framework insofar as it applies to children. A particular highlight is the publication, on behalf of the South African Child Justice Alliance, of a 2009 handbook, entitled *Getting to know the Child Justice Act*. The handbook serves as an easy reference source for clarifying the intended meaning of the provisions of the Act. It achieves this by presenting a simple overview of the Act in a logical and user-friendly manner. At the African continental level, in 2004, the CRP also published a *Guide to Good Practice* document on *Child Justice in Africa*.

At the national, sub-regional and continental levels, the CRP continues to engage with Parliament, State Governments, sub-regional and regional bodies, as well as Civil Society Organisations through quality research, advocacy and legal analysis to secure the realisation of children's rights at the various levels.

## Promoting the Rights of the child under the South African Constitution

As far as children's rights in South Africa are concerned, the Children's Rights Project places emphasis on the child justice system and the rights of children with disabilities. While recognising the constraints on the State in implementing the Child Justice Act and in safeguarding the rights of children with disabilities, the Project sustained its watchdog role on the State's adherence to the Bill of Rights as it concerns children throughout 2012.

### **Monitoring the implementation of the Child Justice Act**

The Project continued to serve as the Secretariat of the Child Justice Alliance during the year under review. The Alliance maintained its focus on research, advocacy and communication on issues of child justice in South Africa. With the Child Justice Act entering its second year of implementation in 2012, the Alliance prepared a shadow report on the Department of Justice and Constitutional Development's Annual Report on the first year of implementation. It focuses on diversion, the sentencing of children to residence in Child and Youth Care Centres and the implementation of the Act in One-Stop Child Justice Centres.

The Alliance also conducted two stakeholder seminars in Gauteng and Cape Town for the northern and southern regions of the country respectively. The seminars brought together representatives of the Departments of Social Development, Health, Correctional Services, Justice and Constitutional Development, the Police, prosecutors, the Judiciary, NGOs working with children in conflict with the law and city officials. Both seminars focused on the challenges encountered by stakeholders in implementing the Child Justice Act. New jurisprudence in child justice in South Africa was discussed as well as a report on children in South Africa's prisons. The seminars were also used to build capacity on the use of the Child Justice Act Monitoring and Implementation Tool (CJAMIT). Participants shared their experiences in implementing the Act at the national and provincial levels and together developed recommendations to improve on best practice and resolve the challenges faced.

Members of the Alliance continued to participate in the Provincial Child Justice Forums of Eastern and Western Cape, contributing to strengthening the child justice system as part of its advocacy work. The Alliance was also represented at the national level Inter-Sectoral Committee on Child Justice.

### **Safeguarding the rights of children with disabilities**

The Project leads the Campaign on the Right to Education of Children with Disabilities (R2ECWD). The year under review saw the development of a website for the Campaign, a number of strategic meetings of the R2ECWD Steering Committee and members of the Campaign, and publication of advocacy materials. As the Secretariat of the Campaign, the Project convened a meeting of the Steering Committee in January 2012 to chart the strategic direction of the R2ECWD for the year. The meeting successfully concluded with commitments to convene a broader meeting of all members, strengthening engagement with national departments and structures and enhancing the visibility and influence of the Campaign and its objectives.

The Campaign actively engaged with policy makers when it made a presentation on inclusive education to the Western Cape Provincial Parliament. The Project furthermore hosted a two-day meeting of Campaign members in June to provide an

opportunity for members to interact with one another, take stock of the Campaign and make recommendations for the future. The meeting brought together over 40 participants representing 24 member organisations. Participants took stock of the Campaign's progress and impact since its establishment in 2010. Opportunities to strengthen the Campaign's messages were identified and it was decided to pay dedicated attention to inclusive education for children with disabilities. The participants also discussed a research paper, prepared by a CRP doctoral researcher, Nkatha Murungi, reviewing Government's White Paper 6 titled, 'Special Needs Education, Building an Inclusive Education and Training System'. Following the Campaign meeting the Project finalised the Campaign's website ([www.saaled.org.za/R2ECWD](http://www.saaled.org.za/R2ECWD)) and published the eight key messages of the Campaign.

## **Promoting Children's Rights in Africa**

The Project continued to advance the rights of children in Africa within the normative framework of the African Charter on the Rights and Welfare of the Child (ACRWC) and the United Nations Convention on the Rights of the Child (CRC). CRP researchers participated in the 19<sup>th</sup> and 20<sup>th</sup> Ordinary Sessions of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) held in Addis Ababa, Ethiopia. At the Committee's request, the CRP presented a paper on the development of General Comments by the ACERWC to the 19<sup>th</sup> Session. Following that, the ACERWC requested the Project to assist in developing a concept note for the celebration of the Day of the African Child in 2013 under the theme, 'Protecting Children Against Harmful Social and Cultural Practices: Our Collective Responsibility'. The Concept Note was adopted by the Committee at the 20<sup>th</sup> Session in November. Another significant milestone was the drafting of the very first General Comment of the Committee on Article 30 of the ACRWC on the rights of children of imprisoned mothers. The first draft was presented to the Committee at the 20<sup>th</sup> Session and is currently under review by the Committee.

The Project provided on-site and remote technical legal assistance on child law reform processes in countries in Eastern and Southern Africa. This work is done under the Programme Cooperation Agreement (PCA) signed with UNICEF Regional Office for Eastern and Southern Africa. During the course of the year, support was provided to Angola, Ethiopia, Lesotho, South Sudan, Swaziland and Zimbabwe. The support offered assisted UNICEF and government officials in reviewing draft child legislation, planning implementation approaches and strategies for rolling out justice for children programmes.

During the year the Project also completed a first draft of a situational analysis of children in the justice system in Kenya at the request of UNICEF-Kenya. The draft

was presented to the joint UNICEF and technical working group of the Government of Kenya supervising progress on the situational analysis and will be finalised in 2013.

## **Research outputs**

Communication and advocacy are central to the CRP's work and under the Child Justice Alliance initiative; the CRP published three editions of *Article 40*, a newsletter on child justice. The articles dealt with issues such as legal aid for children, assessment of criminal capacity, sentencing of children, African regional and global developments in child justice and recent judgments on child justice in South Africa. Article 40 is disseminated to 3000 readers and available freely to a broader online audience on the Alliance's website.

Apart from the research paper on White Paper 6, the CRP under the R2ECWD produced eight fact sheets for use as advocacy materials on the campaign. The fact sheets were based on a number of themes including defining key concepts of inclusive education and dealing with the barriers to inclusive education. Another CRP researcher, Maria Assim also submitted for publication in the *European Journal of Law Reform* an article on the right to alternative care for children deprived of a family environment.

In line with the CRP's long established tradition of documenting and publishing the outcomes of and emerging developments from the work of the ACERWC during their sessions, the Project Head, Edmund Foley, co-authored an article on the decision of the first communication addressed by the ACERWC. The article is titled, 'Making a first impression: An assessment of the decision of the Committee of Experts of the African Children's Charter in the *Nubian Children* communication'.

## **PARLIAMENTARY PROGRAMME**

South Africa's legislatures are, compared to many others on the continent, relatively well resourced. Further, the Constitution provides a good framework for openness and public participation in the work of the legislatures. Yet questions persist about their capacity to hold the executive to account in South Africa's dominant single party context. Also, while participation takes place, this favours better-resourced entities and the emphasis is overwhelmingly on law reform, not oversight. Because South Africa has been strong in enshrining human rights in the constitution and legislation but weak on delivery, strengthening the legislatures' capacity for oversight and accountability is an essential element to realise these rights.

The Parliamentary Programme (PP) uses evidence-based advocacy to strengthen Parliament and the legislatures. We work with civil society organisations (CSO) to improve capacity for parliamentary engagement and we facilitate opportunities for such engagement. We focus on Parliament's law making and the oversight functions, to promote delivery on human rights obligations by government.

The PP undertakes initiatives independently and jointly with other CLC projects. During 2012, activities of the PP were undertaken by a large team of staff from across the Centre. In addition the PP routinely collaborates with other CSOs.

In the next five years, we'll focus on strengthening democracy through expanding participation in South African legislatures. We'll emphasise the rights of women and children.

### **Focus areas**

Linked to the focus areas of Centre projects, we've led or played a significant coordination role in nine larger campaigns during 2012:

Strengthening South Africa's Legislatures; 2) the Right to Education for Children with Disabilities; 3) Traditional Courts Bill [Led by the Alliance for Rural Democracy]; 4) Implementing the Child Justice Act; 5) Special Needs Housing Campaign; 6) Promoting Access to Justice for Women and Children – addressing gender-based violence in South Africa [*Shukumisa* led by Tswaranang Legal Advocacy Centre]; 7) Domestication of the UN CAT; 8) Promoting reporting on the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child; 9) Ratification of the ICESCR – linked to realising MDGs

Additionally, we led or participated in seven smaller campaigns

### **Highlights and potential impacts**



The full impact of our activities will only emerge over time. The impact of PP actions cannot be isolated from the efforts of our allies. However, there is no doubt that we have played a significant role in a number of developments in 2012. For example Government's announcement that the ICESCR will be ratified is directly linked to work of the ratification campaign.

### **Law reform**

Our work to establish and then collaborate with the Alliance for Rural Democracy, contributed to mobilisation of CSOs and rural communities to engage on the Traditional Courts Bill. This pressure from CSOs is likely to have been the basis of the current reconsideration of the Bill. Also, our campaign efforts have contributed, if not led, to the introduction and finalisation of the Prevention and Combating of Torture Bill.

### **Conference**

Leading and co-hosting the *People's Power, People's Parliament: a civil society conference on South Africa's legislatures* was a highlight in particular. PP efforts led to collaboration of 12 organisations to host this conference. The conference brought together senior office-bearers and members of national and provincial legislatures, NGOs, community organisations and social movements. It resulted in significant media coverage, provided a platform to engage in critical debate regarding the role of the legislatures at this point in South Africa's democracy and finally, led to the establishment of a network that has continued to engage with Parliament on the issues raised by the conference.

### **Engagement with legislatures on oversight**

Our efforts have increased the number and quality of engagements between civil society and legislatures. Amongst others, improved oversight on the implementation of the Child Justice Act and sexual offences legislation is evident. Our efforts have also resulted in pressure for the implantation of education policy on the rights of children with disabilities.

### **Alliances**

Collaboration strengthens the impact of policy engagement. We thus invest in building strong partnerships and active networks. The PP has contributed significant leadership capacity to existing alliances such as the Child Justice Alliance, the Shukumisa Campaign and the Campaign to Ratify the ICESCR. Importantly, our activities have resulted in the establishment of five active alliances.

Alliances comprise of coordination groups and broader membership networks that participate in different ways, these broad networks range from 24 to 235 members. Alliance coordination structures on average, comprise of seven organisations. Through these, we collaborate closely and regularly with 36 partners. These are:

The Black Sash; the Centre for Child Law, UP; the Centre for Disability Law and Policy, UWC; The Centre for Law and Society, UCT; Centre for the Study of Violence and Reconciliation; Children's Institute, UCT; Corruption Watch; Disabled Children's Action Group; Disabled People South Africa; Gender Health and Justice Research Unit, UCT; The Global Call to Action against Poverty (G CAP); Heinrich Boell Foundation; Inclusive Education Western Cape; Legal Resources Centre; the National Council for People with Physical Disabilities South Africa; The National Welfare Forum; Parliamentary Monitoring Group; the People's Health Movement; Ndifun Ukwazi; New Women's Movement; RAPCAN; Rape Crisis Cape Town Trust; Rural Women's Movement; Save the Children Sweden (SCS); Section 27; Social Justice Coalition; Socio Economic Rights Institute (SERI); Sonke Gender Justice; the South African Disability Alliance; the South African Human Rights Commission (SAHRC); the Southern African Association for Learning and Educational Differences; the Studies in Poverty and Inequality Institute (SPII); Teddy Bear Clinic; Tswaranang Legal Advocacy Centre; UNICEF; Western Cape Forum on Intellectual Disabilities.

### **Coordination and leadership**

We provide strategic leadership, fulfil a secretariat role, and ensure that the campaign goals are in place and regularly monitored. In 2012 we undertook 108 strategic meetings or workshops with civil society partners to develop, drive and monitor campaigns. These include facilitated national campaign workshops and campaign coordination meetings. In addition we facilitated five capacity-building workshops to broaden the range of stakeholders engaging with legislatures.

### **Engagement with Parliament**

We interact with Parliament in a range of ways. PP staff and alliance partners (directly supported by the programme) made 21 oral submissions to various national and provincial committees. An additional 15 written submissions were made. During the period, we also undertook written communication and attended smaller meetings and seminars hosted by legislatures. PP built relationships with and provided information to the Parliamentary researchers because of the positions held by these influential legislatures.

Civil society presence in committee meetings impacts deliberations. It's a visible indication of public interest. Thus we facilitated the presence of PP staff and CSOs in meetings. This provides opportunities to interact with committee members informally, and often results in further engagements between stakeholders and the committees.

The committees at which engagements took place: The Portfolio Committees on Police; Correctional Services; Justice and Constitutional Development; Basic Education; Public Services and Administration; Human Settlements; Women, Children and Persons with Disabilities; and Health. Select Committee on Security

and Constitutional Development. Western Cape Select Committees on Human Settlements and Women, Children and Persons with Disabilities; Justice and Security.

The issues covered: 2012/2013 Strategic Plans and 2011/2012 Annual Report of the Department of Correctional Services; Prevention and Combatting of Torture Bill; 2 year of Implementation of the Child Justice Act; African Peer Review Mechanism; Special Needs Housing; Education for children with disabilities; Basic Education strategic plans and annual reports; Early Childhood Development; Penalty clauses in the SOA; Traditional Courts Bill; Health Amendment Bill.

### **Communication**

We regularly communicate with civil society and parliamentary stakeholders. Our South African database includes 1543 network partners. During the year we sent out 139 alerts on human rights delivery and opportunities to engage legislatures to a combined total of 35 105 people. Communication is targeted at smaller, relevant network groups and individuals. The average number of people reached per alert is 252.

We produced three editions of our electronic newsletter. Finally we administer two dedicated Facebook pages on the Traditional Courts Bill and on strengthening parliament.

### **Media engagement**

Communication through the media is a means of engaging politicians and citizens in public discourse on issues. Staff working with the PP released seven press releases and produced six opinion editorials, letters to the editor and articles during 2012. We were quoted in at least 12 print articles and undertook at least 26 radio interviews.

### **Seminars**

The Programme hosted 5 seminars that target parliamentary and civil society stakeholders to improve the quality of information available to Parliament. These seminars serve as 'think tanks' to discuss human rights issues and provide opportunities for civil society organisations to build independent relationships with parliamentary researchers. The seminars dealt with the following topics:

- Civil society engagement with Parliament;
- SA international treaty obligations
- Children in Prison in South Africa;
- Special Needs Housing;
- People's Power, People's Parliament: a civil society conference on SA legislatures.

### **Research**

Our advocacy is underpinned by research undertaken by the Centre. Ten research reports were finalised by researchers in projects linked to the PP during the year. Many of these are reported directly under the activities of those projects

## **DONORS**

The work, discussed in this Annual Report was made possible by the generous support of a variety of donors and supporters, some of whom are mentioned below.

The University supports the Centre by funding two permanent professorial posts and providing our building, utilities, IT, financial and human resources. The Centre has been particularly fortunate with the support of the Ford Foundation for core expenditure and project funding ever since starting its operations in June 1990. Over the past eight years, Webber Wentzel supported the Centre for hosting the Dullah Omar Memorial Lecture. The National Research Foundation provided research support to rated researchers through its rating programme.

### **MLGI**

The Multi-Level Government Initiative received project funding from the Ford Foundation and the Charles Stewart Mott Foundation. The Mott Foundation started supporting the Centre's activities in local government in 2005. It has supported the Multi-Level Government Project throughout its transition from a focus on South African local government to becoming an international think tank on multi-level government. In 2012, the United States Institute of Peace became a supporter of the work of MLGI by sponsoring the Kenya-South Africa dialogue on devolution.

### **CRP**

The Children's Rights Project is funded by UNICEF Eastern and Southern Africa Regional Office (UNICEF-ESARO) for its work on child law reform. Funding was also received from the UNICEF-Kenya Country Office to conduct a situational analysis of children in the justice system in Kenya.

The Open Society Foundation for South Africa funds the Project's work on child justice in South Africa through the Child Justice Alliance.

The European Union Delegation to South Africa provides funding for the Project's campaign for the right to education of children with disabilities in South Africa.

Plan International, through the African Children's Charter Project, funds the Project's work on supporting the African Committee of Experts on the Rights and Welfare of the Child in the performance of its mandate.

### **CSPRI**

The European Union, through its European Instrument for Democracy and Human Rights (EIDHR), supports the Article 5 Initiative (A5I) which is a joint project between CSPRI, the Gender Health and Justice Research Unit (University of Cape Town), the Centre for the Implementation of Human Rights (University of Bristol) and the African Policing Civilian Oversight Forum (APCOF).

The Open Society Foundation (SA) has supported CSPRI since its inception and enabled the project to conduct research and advocacy on a broad front of issues related to prison and criminal justice reform in South Africa. In 2012, OSF support was utilised to continue advocacy work targeted at Parliament and to continue its research. OSF(SA) also supports, with the Foundation for Human Rights, the Network on Reducing Re-Offending of which CSPRI is the secretariat.

The Open Society Initiative for Southern Africa (OSISA) supports a number of projects on pre-trial detention in southern Africa. CSPRI undertook research in Mozambique on pre-trial detention in collaboration with local partners there.

The Open Society Foundations Rights Initiative Global Criminal Justice Fund supports the project on Promoting Pre-trial Justice in Africa (PPJA).

### **Parliamentary Programme**

The Parliamentary Programme was principally funded by the European Union during this period. This was provided through the Justice & Constitutional Rights – CSO Support Programme. This Programme provided substantial funding to various Civil Society Organisations to promote good governance; to strengthen democratic culture and participation of CSOs in governance, to improve law-making and to improve the prevention and combating of crime.

In addition 30% of the funding for the Programme was received through a range of other funders to the Centre, such as the Open Society Foundation, the Ford Foundation, the Open Society Initiative for Southern Africa and the Foundation Open Society Institute.

### **SERP**

The Ford Foundation supports the work of SERP on the right to housing and the right to health, the ICESCR Campaign for South Africa's Ratification of the ICESCR and CLC's engagement with the African Commission on Human and Peoples' Rights.

The Centre's work on poverty and human rights, especially its collaboration with the UN Special Rapporteur on extreme poverty and human rights, is supported by the Department of International Relations and Cooperation.

The Foundation for Human Rights (FHR) supports SERP's work on housing, particularly the research on the Housing Demand Data Base.

The European Union is currently supporting the project's work on maternal mortality and the realisation of MDG5 in Eastern Cape and Limpopo.

# FINANCIAL STATEMENT

## Income and Expenditure Statements

	<u>2012</u>	<u>2011</u>
<b>INCOME</b>		
Funders	10 820 169.81	9 825 937.03
Consultancies	1 476 067.42	1 441 274.41
Other	71 795.13	195 068.39
<b>TOTAL INCOME</b>	<b>12 368 032.36</b>	<b>11 462 279.83</b>
<b>EXPENDITURE</b>		
Advertising	23 088.42	7 273.78
Audit Fees	147 516.00	43 193.10
Bank Charges	457.51	1 206.72
Computer Equipment	67 563.19	97 923.01
Conferences, Seminars & Workshops	343 549.47	222 076.75
Consultation Fees	330 299.50	783 035.86
Functions & Catering	41 279.16	68 014.23
Evaluation	<b>15 175.65</b>	0.00
Partner Activities	766 379.92	227 580.96
Photocopying & Postage	80 246.05	149 339.50
Post-Graduate Bursaries	1 214 632.13	1 190 354.19
Publications	500 070.20	451 770.65
Research	103 609.35	330 331.35
Returned to Funder	0.00	30 397.51
Salaries	6 177 914.99	6 732 882.29
Staff Development	0.00	4 340.00
Stationery	108 754.67	92 898.80
Subscriptions & Books	90 264.97	64 649.62
Telephone	41 659.33	71 233.19
Travelling & Accommodation	2 276 579.66	931 376.39
Rentals & Maintenance	66 914.00	223 681.52
Website	172 993.09	253 178.35
<b>TOTAL EXPENDITURE</b>	<b>12 568 947.26</b>	<b>11 976 737.77</b>
<b>CLOSING BALANCE FOR YEAR</b>	<b>-200 914.90</b>	<b>-514 457.94</b>
<b>Surplus carried forward from previous year</b>	<b>6 013 604.54</b>	<b>6 551 882.20</b>
<b>Prior Year Adjustment</b>	<b>29 441.83</b>	<b>-23 819.72</b>
<b>NET CLOSING BALANCE 2012</b>	<b>5 842 131.47</b>	<b>6 013 604.54</b>



## STAFF ACTIVITIES

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### **Other substantial research reports/outputs**

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### **Conference Papers**

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Ballard, C and Dereymaeker, G “Judicial accountability and the role of Judges in the monitoring and oversight prisons in Southern Africa: a particular focus on pre-trial detention, overcrowding and conditions of detention”. Paper presented at the Annual Conference of Constitutional Lawyers, Lagos, May.

Ballard, C “The findings of the Report on Children in South Africa”. Paper presented to management staff at the Department of Correctional Services DCS Head office, Pretoria, 21 June.

Chigwata, T “Decentralisation a peace strategy for Zimbabwe” Paper presented at the Summer School on decentralisation, federalism and conflict management at the Institute of Federalism, Fribourg University, Switzerland, September 2012.

Chofor Che, C “An institutional government design for curbing identity and language conflict in states: An analysis of the 1996 Constitution of Cameroon” Paper presented at the Summer School on decentralisation, federalism and conflict management at the Institute of Federalism, Fribourg University, Switzerland, September 2012.

Chofor Che, C “A Constitution devoid of constitutionalism: The case of Cameroon” Paper presented at the African Network of Constitutional Lawyers conference, Lagos, May 2012.

Dereymaeker, G and Ballard, C “Judicial accountability and the role of Judges in the monitoring and oversight prisons in Southern Africa: a particular focus on pre-trial detention, overcrowding and conditions of detention”. Paper presented at the Annual Conference of the African Network of Constitutional Lawyers, Lagos, Nigeria, 17-19 May 2012.

De Visser, J, Steytler, N and Y Fessha, Y “The role of ethnicity in the demarcation of internal boundaries in South Africa and Ethiopia”. Paper presented at the Annual Conference of the International Association of Centres for Federal Studies, Rome, September.

De Visser, J “Subnational governments and socio-economic rights: the South African experience”. Paper presented at the Conference on Subnational constitutions, rights and minorities, Institute of Federal Studies, Community Law Centre, Louis Favoreu Institute, Addis Ababa, May 2012.

De Visser, J “Addressing climate change through provincial planning in South Africa - A case study of the Western Cape”. Paper presented at Strengthening Green Federalism - Sharing Best Practices TERI/Forum of Federations, New Delhi, October 2012.

De Visser, J “Delineating municipal power over land use planning: The post DFA era”. Paper presented at the Conference on Local Government Law, Port Elizabeth, 19-20 November 2012.

Durojaye, E “The right to health under the African Human Rights systems: Lessons for South Africa Courts”. Paper presented at a Colloquium on the Application of the African Charter by South African Court, Cape Town, 8-9 November

Durojaye, E “Realising Access to Housing for Vulnerable and Marginalised Groups in South Africa”. Paper presented at the International Housing Summit organised by the National AIDS Housing Coalition preceding the International AIDS Conference in Washington D.C, 21 July.

Durojaye, E “Civil Society and accountability”. Paper presented at the Forum on Improving the Relationship between Civil Society and the State, Townhouse Hotel Cape Town, 13 November.

Durojaye, E “Monitoring the Right to health at the National level”. Paper presented at the People’s Health Movement International Assembly, University of the Western Cape, Cape Town, 5 July.

Durojaye, E “Presentation on Monitoring the right to health at the national level”. Paper presented at the Global Third People’s Health Assembly, University of the Western Cape, Cape Town, 5 July.

Kangu, M “Demystifying the Kenyan devolution: Its main features, opportunities and challenges” Paper presented at the Annual General meeting of the Red Cross Society of Kenya, Nairobi, May.

Kangu, M “Kenyan devolution and the implementation challenges” Paper presented at RTI Conference, Nairobi.

Kangu, M “The concept of shared governance and its institutional framework under the Constitution of Kenya”. Paper presented at 8<sup>th</sup> Annual International Conference, Moi University Kenya, 4<sup>th</sup> – 8<sup>th</sup> September 2012

Mandlate, A “Adoption by foreign national: Exploring the law and the practice in the face of the recent judgement of the Supreme Court of Mozambique”. Paper presented at the Family Law Miller du Toit Conference, Cape Town, 15-16 March.

Muntingh, L and Long D “The Committee for the Prevention of Torture in Africa (CPTA) as regional catalyst in the prevention of torture”. Paper presented at the 10 year Anniversary of the Robben Island Guidelines, Johannesburg, 21- 23 August.

Muntingh, L “Guidelines and principles on imprisonment and the prevention of torture under the African Charter - how relevant are they for South Africa?”. Paper presented at a Colloquium on the Application of the African Charter by South African Court, Cape Town, 8-9 November.

Muntingh, L “The feasibility of norms and standards for conditions of detention in SADC”. Paper presented at the SADC Lawyers Association Seminar, 28 June.

Murungi, N “The significance of article 24(2) of the UN CRPD for primary education of children with disabilities: potential and challenges to ensure social justice”. Paper presented to the annual research seminar of the Working Group on Economic and Social Rights, The Hague, Netherlands, 21 November 2012.

Ntliziywana, P “Models for Professionalisation of Municipal Administrators”. Paper presented at the 14<sup>th</sup> IMASA Annual National Conference, Johannesburg, 4-7 September.

Ntliziywana, P “The State of Local Government in South Africa”. Paper presented at the Local Government Indaba, Durban, 17-19 October.

Ntliziywana, P “Models for Professionalisation of Municipal Administrators: Consequences of not meeting the competency levels prescribed in terms of the Municipal Regulations on Competency Levels”. Paper presented Conference on Local Government Law, Port Elizabeth, 19-20 November.

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Waterhouse, S “Public Participation in South Africa’s Legislatures: The South African Experience and Lessons Learnt – Learning”. Paper presented at Technical Forum on the Development of a Framework on Public Participation in Kenya hosted by the Commission for the Implementation of the Constitution (CIC), Nairobi, 24 -26 September 2012.

### **Membership of bodies and other activities**

Ballard, Clare

Member of the Child Justice Alliance driver group.

Member of Board of Trustees for “Life Choices” NGO.

Member of Constitutional Court Clerks Alumni Association.

Brookes, Virginia

Member of the Board of Trustees (Treasurer), Activists Networking Against the Exploitation of Children, Cape Town

De Visser, Jaap

C2 Rating, National Research Foundation

Member, European Group of Public Law

Member, Thinktank on City Support Programme Human Sciences Research Council (HSRC)

Member, Research Advisory Group of the Commonwealth Local Government Forum  
Committee Member, Law Faculty Higher Degrees Committee

Co-editor of *Local Government Bulletin*



Durojaye, Ebenezer

Member Nigerian Bar Association

Editor *ESR Review*

Member Editorial Board *Law Democracy and Development*

Member Sexual and Reproductive Health and Rights Scholars

Coordinator and principle course instructor, LLM Socio-Economic Rights module University of the Western Cape

Fessha, Yonatan

Member, African Network of Constitutional Lawyers

Member, Scientific Committee, Africa Focus, Journal for Comparative law and Constitutional Studies

Committee Member, Law Faculty Higher degrees Committee

Committee Member, Law Faculty Appointment and Probation Committee

Committee Member, Senate International relations Committee

Committee Member, Senate Executive Committee

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Member of the Board of Trustees, Activists Networking Against the Exploitation of Children, Cape Town

Member of the Driver Group, Child Justice Alliance of South Africa

Member of the Steering Committee, Campaign on the Right to Education of Children with Disabilities

Member Ghanaian Bar Association

Member of Constitutional Court clerks Alumni Association

Kruuse, Helen

Sub-Editor, South African Law Journal

May, Annette

Managing Editor, Local Government Bulletin

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Member, Section 5 Committee on Local Government and Basic Services, South African Human Rights Commission

Lecturer Extraordinary: School for Public Leadership, University of Stellenbosch

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Member Kenyan Bar Association

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Member, Section 5 Committee on Torture of the South African Human Rights Commission

Editorial board member, Article 40

Editorial board member, SA Crime Quarterly

Member, Advisory Board, Restorative Justice Centre

Member, Steering Committee of the African HIV in Prisons Partnership network (AHPPN).

Chairperson, Young in Prison – South Africa

Ntliziywana, Phindile

Managing Editor, Local Government Bulletin

Sloth-Nielsen, Julia

Member, International Society of Family Law

Member, Board of Restorative Justice Centre (Pretoria)

Member, Board of Resources aimed at the Prevention of Child Abuse and Neglect (RAPCAN)

Member, Inter-Agency Panel on Juvenile Justice (Geneva)

Member, African Committee of Experts on the Rights and Welfare of the Child

Member, Editorial Board: International Journal of Children's Rights

Member, Editorial Board: Law, Democracy and Development (Faculty of Law, UWC)

Member, Editorial Board: Article 40 (CLC, University of the Western Cape)

Steytler, Nico

Member, Municipal Demarcation Board (MDB) 2009-2014

President, International Association of Centres for Federal Studies (2010-2012)

Member of the Board of Trustees, Centre for Multi-level Federalism, New Delhi

Committee Member, Law Faculty Higher Degrees Committee

Co-editor, Law, Democracy and Development

Co-editor, *Local Government Bulletin*

Trustee, Association of University Legal Aid Institutions Trust

Member, Editorial Board, Studies in Territorial and Cultural Diversity Governance, EURAC Research (Bolzano, Italy), Martinus Nijhoff Publishers

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