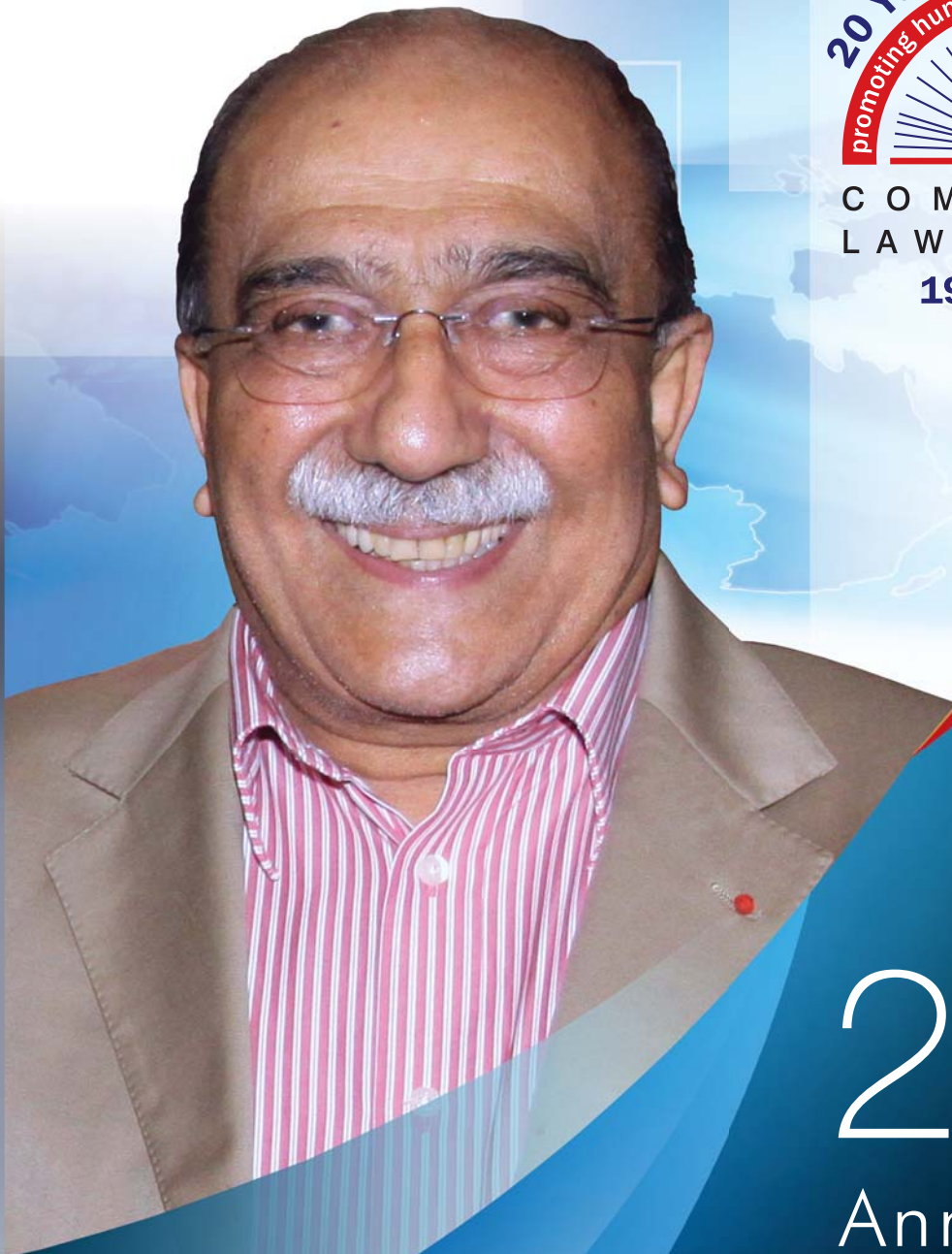




UNIVERSITY of the  
WESTERN CAPE



20 Years of Excellence  
promoting human rights and democracy



COMMUNITY  
LAW CENTRE  
1990-2010

# 2010 Annual Report

A place of quality,  
a place to grow, from hope  
to action through knowledge

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- Ms. Bianca Robertson (Children's Rights Project)
- Mr. Lukas Muntingh (Civil Society Prison Reform Initiative)
- Professor Jaap de Visser (Local Democracy, Peace and Human Security)
- Ms. Samantha Waterhouse (Parliamentary Programme)
- Dr. Lilian Chenwi (Socio-Economic Rights Project)

## Staff

**Director:** Professor Nico Steytler

**Children's Rights Project:** Bianca Robertson (co-ordinator), Lorenzo Wakefield (researcher), Benyam Mezmur (doctoral intern until March and post doctoral fellow from April), Nkatha Murungi (doctoral intern from March), Maria Assim (doctoral intern from March), Janine Demas (administrator)

**Civil Society Prison Reform Initiative:** Lukas Muntingh (co-ordinator), Aquinaldo Mandlate (doctoral intern), Berber Hettinga (doctoral intern from July)

**Local Democracy, Peace and Human Security:** Prof. Jaap de Visser (co-ordinator), Derek Powell (senior researcher), Annette May (researcher), Phindile Ntliziywana (researcher), Dr. Yonatan Fessha (post doctoral researcher until March), Douglas Singiza (doctoral intern), Zemelak Ayele (doctoral intern), Conrad Bosire (doctoral intern since March), Valma Hendricks (administrator)

**Socio-Economic Rights Project:** Dr. Lilian Chenwi (co-ordinator), Rebecca Amollo (doctoral intern until March), Renchia du Plessis (administrator)

**Parliamentary Programme:** Samantha Waterhouse (co-ordinator since June), Tumelo Kgosimmele (researcher since June)

**Financial management:** Virginia Brookes (financial manager), Jody Wyngaard (bookkeeper)

**Librarian:** Jill Claassen

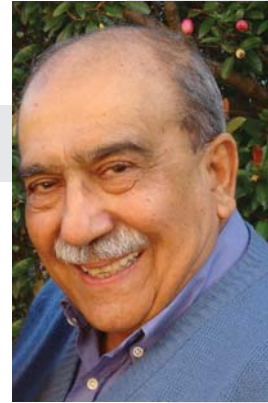
**Office management:** Trudi Fortuin (office manager), Keathéla Saptó (receptionist)

## Research Fellows

Professor Kader Asmal  
Professor Julia Sloth-Nielsen  
Dr. Jacqui Gallinetti  
Dr. Christopher Mbazira

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PROFESSOR

# Kader Asmal 1935-2011

Professor Kader Asmal died on 22 June 2011 after a long and distinguished career as an academic, anti-apartheid activist, government minister and public intellectual.

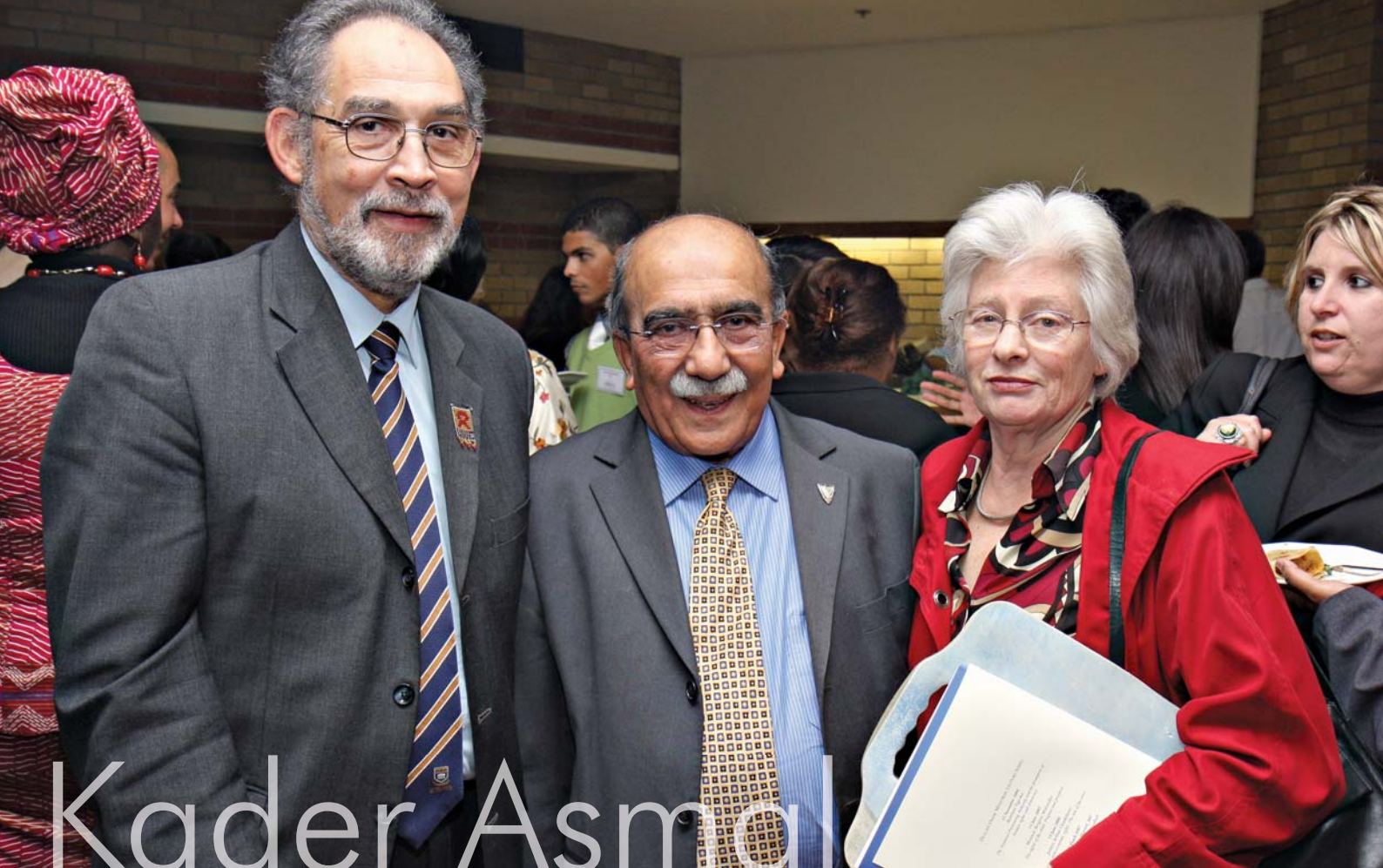
The Community Law Centre was fortunate in having had a close working relationship with Kader, from its earliest days to his last days. The Centre would like to honour him by dedicating the 2010 annual report to his memory.

Born in Stanger on 8 October 1934, he qualified as a teacher, before moving to London to further his studies, where he met his future wife and fellow activist, Louise. He graduated with a law degree from the University of London and obtained a teaching position as a law lecturer at Trinity College Dublin. There he immersed himself in international human rights law and labour law. Soon he and Louise became the drivers behind the Irish Anti-Apartheid Movement. He joined the African National Congress and played an important intellectual role in shaping policy during the 1980s.

With the unbanning of the ANC and other liberation movements in 1990, Kader came home. That home was 'the home of the left', as the University of the Western Cape was then known. He was appointed as the first professor of human rights in the Faculty of Law. At the same time he began his close association with the Community Law Centre. The Centre, then under the leadership of Dullah Omar, was home to a number of local and exiled legal activists – Zola

Skewyiya, Bulelani Ngcuka, Brigitte Mabandla and Albie Sachs. With Kader, they were all members of the ANC's Constitutional Committee, working on the new democratic constitution of South Africa. During those years, Kader's intellect and wide knowledge of constitutional law and human rights sparked a vibrant intellectual life in the Faculty and the Centre. I still remember the conference paper that Kader presented on the future electoral system, which eventually formed the basis of the first (and current) electoral law.

It was in the office of the Community Law Centre that Kader and I listened to the newly elected President Nelson Mandela announcing the first cabinet on the radio. Kader Asmal's name as Minister of Constitutional Development was announced, as well as Dullah Omar as Minister of Justice. Kader could not hide his excitement when he wryly remarked: "We certainly do not follow the Westminster tradition of first consulting a person before inviting him to serve in cabinet!"



Kader and Louise Asmal at the 6th Dullah Omar Memorial Lecture

# Kader Asmal

After a stand-off with the National Party over cabinet positions, Kader was moved to the Department of Water Affairs and Forestry, a then seemingly unimportant portfolio. However, with his intellectual enthusiasm he transformed the entire legal edifice relating to the right to water. His wide-ranging knowledge and inquiring mind did not confine itself to his ministry; he became known as the Minister of all Portfolios. In the second government of President Thabo Mbeki, Kader assumed responsibility for education and again brought his reform initiative to bear, on both secondary and tertiary education. During his ten years as a government minister he always made time for Law Faculty functions and the Centre's conferences.

When he retired from Parliament in 2008, he rejoined the Law Faculty as an extraordinary professor. What was extraordinary about the professorship, Kader quipped, was that he performed scholarly duties without remuneration. During this time Kader was also appointed as a research fellow of the Centre and participated in a number of the Centre's activities.

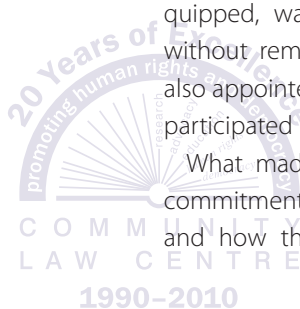
What made Kader so extraordinary was his life's commitment to constitutionalism and human rights and how these ideals must serve the interest of

ordinary people. His commitment was one of public service. When he arrived at UWC, he said he wanted to be a publicist – participating in the public domain on the important issues of day, raising the public discourse to rational and principled debate. In his last years he made his voice heard, defending the rule of law and human rights advances made in the democratic South Africa, to which he dedicated his life. He was outspoken in his belief that in the new South Africa government worked for the people. He expressed himself in 2008 as follows:

"My deepest hope is that we will build a sense of community, which will bind our small communities to the larger community of South Africa. We must reclaim the struggle's morally just cause that people come before the personal; that actions speak louder than our words; and that we will always treasure the noble honour to be servant leaders rather than leaders who serve ourselves."

Kader Asmal represents the noble pursuit of an intellectual in service of the community, to speak the truth to power. We, at the Community Law Centre, can honour him by seeking to follow his example.

**Nico Steytler**



# overview

## Director's Overview



Nico Steytler

### Celebrating 20 years of excellence

The Community Law Centre celebrated its 20th Anniversary in 2010. Opening its doors in 1990, supported by a generous grant from the Ford Foundation, the Centre played an important role over the next two decades in shaping South Africa's constitutional order based on human rights and democracy. Professor Brian O'Connell, Vice-Chancellor of the University of the Western Cape, captured that role as follows: "The Community Law Centre at the University of the Western Cape epitomises everything that the institution values. It produces new knowledge of the highest standard and that knowledge relates directly to the development of a keener sense of what it means to be human and how human beings ought to relate to one another". Linked to producing new knowledge is the Centre's community outreach goal, as reflected in the message of support from Archbishop Desmond Tutu: "The Community Law Centre continues to play a pivotal role in the community in the promotion of good governance and protection of vulnerable members of our society who ordinarily do not have access to legal recourse".

At its celebratory conference in October, the focus was thus appropriately on taking stock of the past two decades and looking forward to the next decade. The discussion was led by Ms Alice Brown, Judge Albie Sachs and Prof. Kader Asmal. As part of the 20th-year celebratory conference, Justice Pius Langa, former chief justice of South Africa, gave the 7th Dullah Omar Memorial Lecture on the theme of the transformation of the judiciary.



Above: Judge Albie Sachs, Ms Alice Brown and Professor Kader Asmal

Above right: Professor Brian O'Connell, Vice Chancellor and Rector of the University of the Western Cape

Right: Judge Pius Langa, keynote speaker at the 7th Dullah Omar Memorial Lecture



## National and international profile of the Centre

In 2010 there was ample evidence that the work of the Centre was bearing concrete results. The South African human rights regime showed the following advances:

- The Child Justice Act came into operation on 1 April 2010. This was a particularly proud moment for the Children's Rights Project and the Child Justice Alliance, when the years they spent ensuring that this Act complies with international standards and is in the best interest of children bore fruit.
- The process towards the ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR) gained momentum in Parliament when President Jacob Zuma was questioned on why South Africa has not ratified the ICESCR. The campaign for the ratification of the ICESCR was initiated by the Socio-Economic Rights Project, in partnership with other organisations and supported by the South African Human Rights Commission. In addition, the Project, together with other organisations, organised a seminar to coincide with the United Nations annual treaty event and the Millennium Development Goal (MDG) summit. This was a milestone in raising awareness of the link between the ICESCR and the MDGs, and in creating a platform for sharing community perspectives and experiences regarding this linkage.

The Centre's footprint beyond the borders of South Africa is also becoming more defined.

- A memorandum of agreement between the Centre and the African Commission on Human and People's Rights has been signed, creating the framework for cooperation between the Commission and the Centre.
- The Children's Rights Project signed a co-operation agreement with UNICEF to conduct specialised technical work in relation to children's rights law reform in the Eastern and Southern African region. The impact of this project will be a better children's rights legislative framework in this region.
- The civil society campaign for the ratification of the Optional Protocol to the ICESCR (OP-ICESCR), of which the Socio-Economic Rights Project is part, continues to be successful, with three ratifications now and 32 other signatories.
- Another success has been the United Nations Human Rights Council's decision to appoint an independent expert, for a three-year period, on the issue of human rights commitments related to the discrimination against women. The Socio-Economic Rights Project was among the 33 organisations that made a joint statement to the Council in support of the establishment of this mechanism at the time its creation was being debated.
- Nico Steytler was elected as the president of the International Association of Centres of Federal Studies (2010-2012).

The victories in improved governance in the field of local government were few and far between. However, the Centre's report on the withdrawal of taxes from municipalities contributed to one of the first practical solutions to the problem of withholding rates as a result of a roundtable convened by the Centre. Some of the parties to the dispute met in Sannieshof, one of the affected areas, to forge a way forward. It proved the Centre's continued presence in the South African polity and its ability to produce influential research in facilitating effective dialogue.

In line with its broader focus, the Local Government Project changed its name to the Local Democracy, Peace and Human Security Project. This reflects the



Project's growing interest in and exposure to, the broader goals of decentralisation on the continent, which includes deepening democracy, building peace and improving human security. A publication on local government in Zimbabwe was a milestone as it gave real expression to the Project's work in Africa.

## Parliamentary Programme

A further significant occurrence was the commencement of the Parliamentary Programme which seeks to use international human rights norms as a tool for the better realisation of human rights in South Africa. The Programme adds advocacy capacity to the Centre. It is built on three pillars: firstly, to promote the implementation of international human rights law and constitutional rights; secondly, to strengthen parliamentary oversight over the executive in respect of the implementation of human rights through the provision of information and other engagements with national and provincial parliaments; and thirdly, to strengthen the opportunities and capacity of civil society organisations to interact with Parliament on its oversight and legislative functions. The Programme has four focus areas, namely children's rights, the rights of persons deprived of their liberty, socio-economic rights and women's rights. The focus areas are realised through specific campaigns.



CLC 2010 staff graduates:  
From left to right: Lorenzo Wakefield (LL M); Jody Wyngaard (B Com Finance); Janine Demas (LL B); Jill Claassen (M Bibl); Phindile Ntliziywana (LL M) and Benyam Mezmur (LL D)

## Staff

At the beginning of 2010 Mr. Derek Powell and Mr. Phindile Ntliziywana joined the centre as researchers in the Local Democracy, Peace and Human Security Programme. The Centre also managed a doctoral programme with four doctoral interns. Two research officers for the Parliamentary Programme were also appointed: Ms Samantha Waterhouse and Ms Tumelo Kgosimeme, as from June 2010. Jaap de Visser was promoted to full professor from January 2011. Six staff members graduated in March: Benyam Mezmur (LLD on intercountry adoption in an African context), Lorenzo Wakefield (LLM), Phindile Ntliziywana (LLM), Jill Claassen (MBib), Janine Demas (LLB) and Jody Wyngaard (BCom (Finance)).

The Centre made no appointments in the Gender Project, but has sought to address gender issues across the three projects. The Parliamentary Programme officers, Ms Waterhouse and Ms Kgosimeme, have brought considerable gender expertise and experience, and have made gender one of the focal areas of the Programme.

## Finances

Despite the difficult economic environment, the Centre managed to raise R11.4 million in 2010, an increase of 11.7 percent on 2009. The funding profile shifted significantly though. Whereas in 2008, 39 percent of the funding came from consultancies, in 2010 the figure went up to 46 percent. This meant that the Centre had to spend much more time on contract research and less on setting its own research agenda. This trend highlighted the tension between sustainability (contract research) and academic enterprise (publication and teaching). As ever, the Centre is very grateful to its donors for supporting the work of its projects. Particular acknowledgement goes to the Ford Foundation for providing funding for both core costs and project activities. The University also gave generous support in the form of the Director's salary, space, utilities, IT assistance, human resources and financial management services.

## Conclusion

Looking forward to the next ten years, the Centre has its work cut out. Implementing the vision of the Constitution remains relevant to the goals and objectives of the Centre. Yet, to thrive as a self-sustaining research institution, the Centre must have high quality researchers, which enjoy the confidence of funders and of organisations that procure its expertise. It must also maintain its reputation for excellence in financial management. These success factors pose a number of challenges.

In order to retain the confidence of its main funders, the Centre must be able to attract and retain highly skilled researchers that can successfully compete in a very competitive national and, particularly, international market for research funding. The name of the Centre is as good as its individual researchers. The fact that the Centre has been able to perform well can be attributed to persons who are primarily attracted by the cutting edge nature of the Centre's work and the demonstrable impact of its engagements. Few people can, however, survive for long in an environment where time must be juggled between fund raising, research, teaching and advocacy. Many of the researchers have thus moved on to senior permanent positions at universities and in government. While this affirms the Centre's capacity-building mandate, it nevertheless places serious strain on its continued functioning.

These challenges must be met, as the larger problems of the old and new South Africa leave us with no option. Combining a strong academic tradition with a practical hands-on approach to change, the Centre has been fortunate in making a contribution to the building of a new society. It has served both as a think tank and as a resource of practical skills and expertise. It will continue to do so in the next decade.

### **Professor Nico Steytler**

Director

**Please note:** *This report highlights the Centre's main activities and research products for 2010. For a full report, visit our website.*





# Research

In-depth and cutting-edge research is the foundation of the Centre's activities; it informs and guides our teaching and outreach programmes. As a university-based institution, we also publish our research results in peer-reviewed publications.

During 2010, the **Children's Rights Project** focused on the monitoring of the Child Justice Act, which became operational on 1 April 2010. Research was also undertaken to test whether the Child Justice Act truly complies with international law. It was concluded that it does, except for certain of its technical aspects.

The Project embarked on a new area of research, which has been generally overlooked - the right to education for children with disabilities. Lorenzo Wakefield and Nkatha Murungi examined how South Africa complies with the numerous international and regional treaties that place an obligation on the government to provide education to children with disabilities.

The **Civil Society Prison Reform Initiative (CSPRI)** undertook research on a wide range of issues related to prisoners' rights. Due to the excessively long periods that awaiting-trial prisoners spend in custody prior to the finalisation of their cases, research on the constitutional rights of this category of prisoners commenced, reflecting on domestic and international law and jurisprudence.

In 1997 the Centre published a report on the state of children in South Africa's prisons. Following the implementation of the Child Justice Act on 1 April 2010, a survey began of children detained in prison. This project, from which a report and a monitoring tool will emanate, will be completed in 2011.

In collaboration with the George Washington University, research was undertaken and completed as part of an international review of the emergence of super-maximum security facilities and on the history and impact of the two South African facilities, namely C-Max (Pretoria) and Ebongweni (Kokstad).

In 2009 the Criminal Procedure Act was amended to provide, for the first time, a statutory mechanism for the expungement of criminal records under certain conditions. In view of this new procedure, research commenced to assess this mechanism, as well as to investigate the justifications for and purposes of the state in keeping a record of criminal convictions.

In collaboration with the Institute for Security Studies (ISS), a desktop study was completed on the known causes of repeat violent offending. This research feeds into a larger empirical study on repeat violent offending in South Africa and will be completed in the course of 2011. Also in collaboration with the ISS, a review was undertaken of the prison services of Botswana, Mozambique, South Africa and Zimbabwe as part of a larger project on security sector governance and reform. The findings were published in the book *The Security Sector in Southern Africa*.

The **Local Democracy, Peace and Human Security Project (LDPHS)** analysed the spate of protests in municipalities, which reached record highs in 2010. First, a detailed empirical analysis of community protests in South Africa was produced by Harvard Law School intern, Hirsh Jain. Secondly, Derek Powell, Annette May and Phindile Ntliziywana conducted field-work research on the phenomenon of ratepayers' associations withholding tax payments



to municipalities. Solutions were suggested on how to resolve the standoff between municipalities and communities. LDPHS, SALGA and GTZ co-hosted a Roundtable Conference with representatives of the ratepayers' organisations, municipalities, provincial and national governments and civil-society organisations, where the findings were discussed.

Cities across the world are at the forefront of combating climate change. LDPHS participated in a research project of the City of Cape Town, in collaboration with Sustainable Energy Africa and the African Centre for Cities, on cities and climate change. Jaap de Visser produced a research paper on the legal impediments for cities in South Africa to combat climate change.

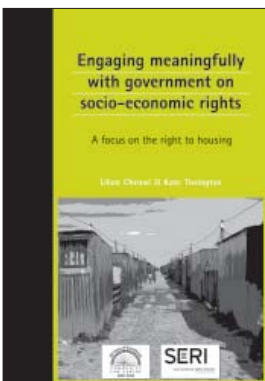
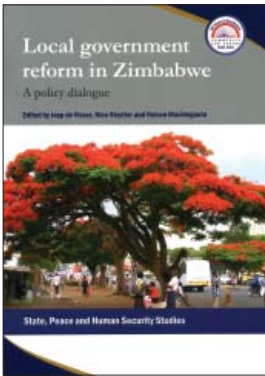
LDPHS continued to make its mark in the area of decentralisation in Africa. Six papers on various themes surrounding local government in Zimbabwe comprise the book *Local government reform in Zimbabwe: A policy dialogue*, which was edited by Jaap de Visser, Nico Steytler and Naison Machingauta. The book was launched by the Zimbabwean Deputy Minister of Local Government in Harare. Furthermore, the Project was a key participant at the Fifth International Conference on Federalism in Addis Ababa, Ethiopia. Nico Steytler assisted in the academic preparation and implementation of the Conference and four short research papers were delivered by Project members.

The **Socio-Economic Rights Project** conducted research on meaningful engagement, which constitutes an important development in the South African courts' approach to enforcing socio-economic rights in 2010. Lilian Chenwi conducted research on the obligations of the State in the engagement process, and how the concept fits within the constitutional and socio-economic legislative frameworks, specifically in the area of housing and local government.

Other areas of research included the South African Constitutional Court's approach to remedies in socio-economic rights cases, and women's access to housing. Research continued in the first quarter of the year on the responsiveness of laws and policies to gender issues as a means of improving health rights and HIV and AIDS policies.

The **Parliamentary Programme**, with the assistance of the projects, completed a number of research papers:

- the *state of civil society participation in Parliament*, paying particular attention to the accountability and oversight mandates of Parliament;
- the extent of civil society participation at both United Nations and African Union levels;
- the role of international law in promoting constitutional rights, with specific focus on Parliament's role, and on South Africa's compliance with its international human rights law obligations; and
- the application of international human rights obligations to provincial legislatures.



# Applied research

Based on its reputation for high quality research, the Centre is frequently requested and commissioned to undertake applied research for government departments and non-governmental bodies. Through this work, the Centre and its staff not only make a major contribution to policy formulation, but are also placed at the coalface of the key challenges confronting government and civil society.

Based upon its cooperation agreement with UNICEF (Eastern and Southern African Office) the **Children's Rights Project** undertook research in order to produce a best practice document on legislative reform aimed at children. This best practice document will be completed in 2011 and be made available to UNICEF's offices and other persons and organisations working on child law reform in Africa.

**CSPRI** has received support from OSISA and OSF (SA) to conduct audits of awaiting trial prisoners, prison management and case-flow management in Zambia and Malawi. This work will be in support of a global campaign on Promoting Pre-trial Justice and will be completed in mid 2011.

Lukas Muntingh was part of a consultant team that evaluated two prison reform projects implemented by the UN Office of Drugs and Crime (UNODC) in Southern Sudan and the Palestinian Territory.

The corporatisation of municipal functions in municipal entities is an option open to municipalities. Nico Steytler, Phindile Ntliziywana and Jaap de Visser of the **LDPHS** examined the legal framework for municipal entities for the Development Bank of Southern Africa.

The argument that red tape hampers service delivery led to LDPHS being requested by the Department of Cooperative Governance to identify legislative obstacles to service delivery. Jaap de Visser and Nico Steytler conducted a comprehensive analysis of those obstacles. In addition, research papers on land-use management and the legal framework surrounding evictions were produced by Jaap de Visser and Annette May, respectively.

The Project developed key governance policies on community participation, delegations, public gatherings, grants-in-aid and rules for council meetings to assist Greater Tubatse Municipality, a rural municipality in Limpopo.

On a monthly basis, summaries of case law were posted on a website called *Local Government Net* for local government practitioners, which is hosted by the Development Bank of Southern Africa.

The studies in Poverty and Inequality Institute commissioned the **Socio-Economic Rights Project's** Lilian Chenwi to conduct research on measuring the progressive realisation of socio-economic rights, drawing from the jurisprudence of the South African Constitutional Court and the pronouncements of the United Nations Committee on Economic, Social and Cultural Rights. This research forms part of a larger project, aimed at developing a tool for monitoring the progressive realisation of socio-economic rights in South Africa.

Lilian Chenwi was also tasked by the United Nations Office of the High Commissioner for Human Rights to produce a first draft manual for parliamentarians on the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which will be used globally.

unicef   
unite for children



Dr Lilian Chenwi, Co-ordinator of the Socio-Economic Rights Project



Prof Nico Steytler, Prof Brian O'Connell, Bianca Robertson, Cornelius Williams and Prof Julia Sloth-Nielsen at the launch of the Unicef Cooperation Agreement

## Informing public debate on law and policy reform

Central to the Centre's mission has been the advancement of human rights and democracy by engaging with decision-makers through public discourse and advocacy campaigns. The proximity to Parliament has meant that the Centre could regularly engage with legislators on their functions of law making and oversight.

Under the auspices of the Child Justice Alliance, the **Children's Rights Project** took part in a number of initiatives to inform public debate on law reform. The Project prepared public submissions on the draft National Policy Framework to the Child Justice Act, the draft National Instruction for South African Police Services members on the Child Justice Act and the notification for competent persons to test whether children have criminal capacity in terms of the Child Justice Act. The Project continues as an active member of the Inter-Sectoral Committee on Child Justice (the national body established to monitor the Child Justice Act) and the Western Cape Child Justice Forum (the provincial body established to monitor the Child Justice Act).

The Project, together with Julia Sloth-Nielsen, facilitated a workshop on the amendment to the Kenyan Children's Act, at the request of UNICEF Kenya. The recommendations that emanated from this workshop were presented to the attorney-general of Kenya as part of its legislative reform process. Also within the region, Jacqui Gallinetti conducted a scoping mission on structures needed to implement the new Botswana Law of the Child.

During March, the Project launched its project cooperation agreement with UNICEF, which sparked a debate on children's rights law reform processes in Eastern and Southern Africa. This led to the project staff being interviewed on numerous radio stations and print media.

**childjustice  
alliance**



A number of submissions were made by **CSPRI** to the Parliamentary Portfolio Committee on Correctional Services. These submissions dealt with prison labour, the departmental budget vote and the Department of Correctional Services' annual report. A submission on the Independent Police Investigative Directorate Bill and the Civilian Secretariat for Police Service Bill was made to the Portfolio Committee on Police. A number of press releases were issued and CSPRI was frequently asked to comment on issues in the media.

**LDPHS** produced a number of opinion pieces in local and international media, including on the recruitment of candidates for the 2011 local government elections (*Cape Times*), the abolition of local democracy for Kampala City, and the devolution scheme in the Kenyan Constitution (*Daily Nation*).

The **Socio-Economic Rights Project**, together with its partners, wrote joint letters to the government and Parliament encouraging ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and its Optional Protocol (OP-ICESCR); and disseminated information and documents on these treaties and their relevance to advancing socio-economic rights in South Africa. The documents that were developed and distributed related to what the Covenant is, why it should be ratified, how it compares to the Constitution, government statements relating to ratification and socio-economic rights issues, and the role Parliament can play in ensuring ratification of the Covenant.

The joint statement was made to the United Nations Human Rights Council in support of the establishment of a mechanism in relation to laws that discriminate against women. The Project was among the 33 organisations that made the submission. The Council took a decision in 2010 'to appoint, for a period of three years, an independent expert on the issue of human rights commitments related to the discrimination against women based on law'.

Through its mandate of improving parliamentary oversight and public engagement on the implementation of human rights, the Centre's **Parliamentary Programme**, with other Projects and organisations, was involved in the following campaigns, which are ongoing:

- Campaign on the Right to Education for Children with Disabilities;
- The NGO Campaign for an Optional Protocol to the Convention on the Rights of the Child, which will create communications procedures on the violation of children's rights to the UN Committee on the Rights of the Child;
- The Promotion of Access to Justice through specialisation of police services to women and children;
- The Rights of Persons Deprived of their Liberty;
- Campaign on the Domestication of UN Convention against Torture;
- Campaign for South Africa to ratify the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol; and
- Campaign on the right to housing for particularly vulnerable groups.

The Programme also undertook a number of activities to provide support and capacity to civil society organizations interacting with Parliament, including to the People's Health Movement South Africa (PHM SA) on the right to health and housing. This support was aimed at facilitating communication between the legislatures and local organisations that work directly with community members to access socio-economic rights.



Campaign on the Right to Education for Children with Disabilities



Campaign for South Africa to ratify the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol



LLM graduates with Ms Trudi Fortuin and Dr Lilian Chenwi

# Outreach activities

One of the Centre's core activities is to disseminate its expertise and research results to the broader community through education programmes, training workshops, publications and its website.

## Education programmes

The Centre once again presented the following LLM modules on Constitutional Litigation:

- children's rights; and
- socio-economic rights.

The Centre, in partnership with a number of universities, presents the LLM in Human Rights and Democratisation in Africa for students from across the continent, organised by the Centre for Human Rights at the University of Pretoria. The partner universities are: Addis Ababa University, Catholic University of Cameroon, Eduardo Mondlane University, Makerere University, University of Ghana and University of Mauritius. In the second semester, it hosted six students who attended the LLM courses offered by the University of the Western Cape and completed their dissertations with the Centre.

The LLM/MPhil in Local Government and Decentralisation was offered for the second year. Seven students of the Programme were placed in internships at the Western Cape Provincial Government, South African Local Government Association, City of Cape Town and Drakenstein Municipality.

## Lay publications

An important dimension of the Centre's mission is to disseminate our research results to a broad non-academic audience. This community outreach activity is done through lay publications.

- **Article 40:** Due to funding constraints only one edition of *Article 40* was produced and printed during 2010. This printed edition was distributed to 2 500 readers.
- **CSPRI Newsletter and CSPRI 30 Days/Izinsuku/Dae:** The two electronic newsletters continue to be distributed to more than 1200 subscribers.
- **ESR Review:** Three issues of the *ESR Review* were produced. The first issue was distributed in print and the second and third issues distributed electronically to over 2000 organisations, institutions and individuals.
- **Local Government Bulletin:** Four printed editions of the *Local Government Bulletin* were published and disseminated to all municipalities and civil society, with a circulation of 11 000 copies.



## Other popular publications

The Socio-Economic Rights Project produced a lay publication, *Engaging meaningfully with government on socio-economic rights: A focus on the right to housing* in both English and isiXhosa. This publication was produced in partnership with the Socio-Economic Rights Institute of South Africa. The publication had a circulation of 2 000 copies of the English version and 1 500 copies of the isiXhosa version.

Lilian Chenwi, together with other organisations in the steering committee of the International NGO Coalition for an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR), developed four publications (booklets) on substantive aspects of the Covenant and the OP-ICESCR.

## Workshops and training programmes

Along with its other dissemination strategies, the Centre has sought to engage directly with stakeholders on the basis of its research results. It provides not only for verification of research results but also for the empowering of government officials and civil society.

The Department of Justice and Constitutional Development (Kwazulu-Natal regional office) requested the **Children's Rights Project** to conduct a two-day inter-sectoral training on the provisions of the Child Justice Act to various government departments and institutions responsible for the implementation of the Child Justice Act in Durban.

Under its campaign to inform stakeholders of the provisions of the Child Justice Act, the Project (under the auspices of the Child Justice Alliance) conducted various workshops on the provisions of the Child Justice Act. In 2010 these workshops took place in Bloemfontein and Rustenburg. The Project was also commissioned by NICRO Western Cape to facilitate a one-day workshop on the Child Justice Act for NICRO social workers and social auxiliary workers.

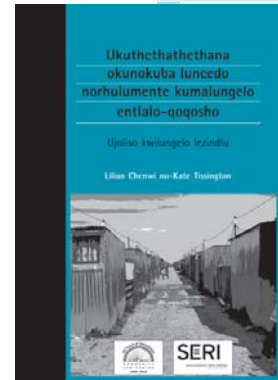
Following the development by **CSPRI** of the Correctional Services Act Monitoring System (CSAMS) for the Department of Correctional Services (DCS) from 2006 to 2009, work commenced in 2010 to see the institutionalisation of the system in the Department. This saw the training-of-trainers in DCS and practical training was provided in Nelspruit and Pretoria.

**LDPHS** facilitated a two-day training seminar with municipal managers in the Western Cape as part of its partnership agreement with the Western Cape Government.

The **Socio-Economic Rights Project**, in collaboration with the Socio-Economic Rights Institute of South Africa, hosted a roundtable discussion on meaningful engagement in Cape Town. It was widely attended, bringing together participants from government (provincial and local) and civil society, including social movements and community leaders.

A seminar was also held in Cape Town on the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Millennium Development Goals (MDGs).

The **Parliamentary Programme** hosted three signature events during the latter part of the year. The first of these was the seminar *Promoting constitutional rights through international human rights law: the state of South Africa's state reporting* which was held in September. At this seminar Lilian Chenwi presented her research on South Africa's reporting to international treaty bodies and Acting Judge Jody Kollapen presented on the role of Parliaments, Human Rights Institutions and Civil Society in state reporting.



Acting Judge Jody Kollapen, chairperson of the South African Human Rights Commission, addressing a Parliamentary Programme seminar

Mr Patrick Simonnet, Counsellor of the EU Delegation to South Africa, Ms Samantha Waterhouse, Coordinator of the Parliamentary Programme, Hon. Yunus Carrim, Deputy Minister of Cooperative Governance and Traditional Affairs and Prof. Nico Steytler, Director of CLC, at the launch of the Parliamentary Programme.



The second event was a seminar on *Realising human rights in South Africa: promoting dialogue between parliaments and civil society on constitutional and international obligations*. Research undertaken by the Centre's researchers were presented to an audience which included parliamentarians from the national and Western Cape Provincial Parliaments.

The seminar was followed by the launch of the Programme, at which Yunus Carrim, Deputy Minister of Cooperative Governance and Traditional Affairs gave the keynote address on the subject, *Towards an activist Parliament*, dealing with the question of promoting activism and civil society participation in parliamentary processes.



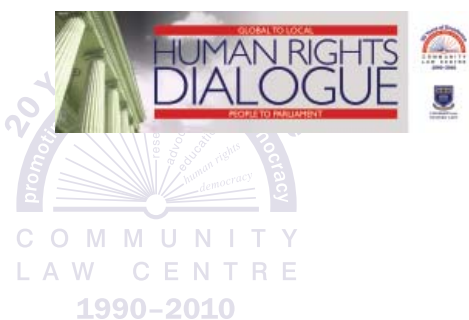
## Websites

A website was produced by The **Children's Rights Project** that aims to inform the debate on children's rights law reform in the Eastern and Southern African region. This website can be accessed at [www.aclr.info](http://www.aclr.info).

LDPHS launched a new website, [www.ldphs.org.za](http://www.ldphs.org.za). The new format makes the Project's research outputs more accessible through a variety of new features. The website contains a repository of laws and instruments on decentralisation and federalism in Africa. A template and methodology for presenting this information was developed and the site was populated with the first four countries, i.e. Sudan, Kenya, Uganda and Ethiopia.

The **Parliamentary Programme** hosts a website, [www.peopletoparliament.org.za](http://www.peopletoparliament.org.za), which serves as an information hub on international human rights law and the respective treaty monitoring bodies. The website also provides information related to our focus areas and campaigns.

The Programme regularly releases alerts on developments in the international human rights treaty monitoring bodies, parliamentary processes and information related to our focus areas and events.





# Other activities

## Working with the African Commission on Human and Peoples' Rights

Having obtained observer status to the Commission, the Centre participated in the 47th and 48th sessions of the African Commission. Meetings were held with Commission staff, commissioners and with civil society organisations. A total of three statements were delivered, dealing with pre-trial detention, children in detention and a response to the inter-session activity report of the Special Rapporteur on Prisons. The regular submissions by the Centre on a range of issues have been well received by the Commission, especially the Special Rapporteur on Prisons.

A memorandum of agreement between the Centre and the Commission has been signed and creates the framework for more formalised cooperation between the Commission and the Centre.

The regular presence of the Centre at the Ordinary Sessions of the Commission has assisted in forging focussed areas of cooperation. The first in this regard is a three-year six-country programme aimed at the prevention and eradication of torture in places of detention. The ACHPR Special Rapporteur on Prisons as well as the Committee for the Prevention of Torture in Africa (CPTA) are integral partners to this project. In addition to the two Special Mechanisms of the Commission, the four partners to the project are: the Community Law Centre, University of Cape Town, University of Bristol and the African Policing Civilian Oversight Forum (APCOF). This three-year project will also see the appointment (for a two-year period) of a project liaison officer at the Commission's office in Banjul, The Gambia.

## Working with State Institutions

During 2010 the **Children's Rights Project** continued serving on two important government bodies that are responsible for the implementation of the Child Justice Act nationally and in the Western Cape. These are the Inter-Sectoral Committee on Child Justice and the Western Cape Child Justice Forum.

Lukas Muntingh is a member of the Section 5 Committee on Torture of the South African Human Rights Commission and also interacted on a regular basis with the Judicial Inspectorate for Correctional Services (JICS). Given the high levels of gang activity in certain prisons, the DCS established a Gang Management Task Team to develop a policy framework on prison gangs and **CSPRI** was part of this task team.

**LDPHS** continued to provide legal assistance to the Department of Local Government in the Western Cape in terms of a partnership agreement. The assistance took the form of training of municipal managers and the writing of legal opinions on matters such as interventions, budget approval and the regulation of public drunkenness.



Mr Lukas Muntingh, Co-ordinator of CSPRI

## Working with non-governmental organisations

The campaign on the right to education for children with disabilities was launched in December 2010 and it is facilitated by the **Children's Rights Project** and the Centre for Disability Law and Policy at the UWC Law Faculty. The campaign is a collaboration between 16 organisations from the children's and disability sectors in South Africa.



Dr Helene Combrinck, Senior Researcher at the Centre for Disability Law and Policy, with other participants.

## childjustice alliance

The **Children's Rights Project** continues to serve as the secretariat and coordinator of the Child Justice Alliance, a civil society alliance with over 400 members (NGOs) that all have an interest in child justice issues.

CSPRI continues to cooperate with other NGOs, in particular the Institute for Security Studies, the Centre for the Study of Violence and Reconciliations, Just Detention International and the Association for the Prevention of Torture (South Africa). This cooperation also involves support for research and advocacy activities of these NGOs.

The **Socio-Economic Rights Project**, together with the Black Sash, National Welfare, Social Service and Development Forum, the People's Health Movement South Africa and Global Call to Action against Poverty, continued to work on the ICESCR and OP-ICESCR ratification campaign. Twenty-five South African organisations have signed up to the Campaign thus far.

The Project also engaged with the Centre for Human Rights and Equal in Rights, an international organisation, in relation to housing rights in South Africa. This engagement involved a series of consultative meetings, organised by the Project, with several civil society organisations and some individuals in the Manenberg community, on advancing the right to adequate housing in South Africa.

ICESCR and OP-ICESCR  
ratification campaign



## International Assistance and Collaboration

The **Socio-Economic Rights Project** continued its work on the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, in collaboration with other organisations forming the International NGO Coalition for an OP-ICESCR. The Coalition issued a call for action to civil society in the United Nations Economic and Social Council (ECOSOC) member countries to get involved in the election process of the members of the Committee on Economic, Social and Cultural Rights.

Lilian Chenwi participated at an expert consultation on the United Nations Draft Guiding Principles on Human Rights and Extreme Poverty. It provided an opportunity to make contributions to the development of the principles.

# Funders funders

Core funding and project activities	Ford Foundation
Children's Rights Project	Open Society Foundation (SA) UNICEF (Eastern and Southern African Regional Office)
Civil Society Prison Reform Initiative (CSPRI)	Open Society Foundation (SA) Open Society Institute for Southern Africa
Local Democracy, Peace and Human Security (LDPHS) Project	ICCO Charles Stewart Mott Foundation Austrian Development Cooperation
Socio-Economic Rights Project	Norwegian Centre for Human Rights, University of Oslo Foundation for Human Rights
Parliamentary Programme	European Union
Dullah Omar Memorial Lecture	Webber Wentzel
LLM Human Rights and Democratisation in Africa	Centre for Human Rights (University of Pretoria)

# Income and expenditure statement

	2010	2009
<b>Income</b>		
Funders	10 065 970.57	7 485 105.97
Consultancies	1 307 815.71	1 914 038.32
Other	92 803.95	156 502.60
<b>TOTAL INCOME</b>	<b>11 466 590.23</b>	<b>9 555 646.89</b>
<b>Expenditure</b>		
Advertising	44 156.76	50 327.96
Audit Fees	66 348.00	40 366.00
Bank Charges	1 618.30	623.60
Computer Equipment	87 359.82	92 585.21
Conferences, Seminars & Workshops	282 097.26	595 810.25
Consultation Fees	418 697.09	1 526 942.45
Equipment	82 564.74	0.00
Functions & Catering	139 378.36	84 175.67
Litigation	0.00	799.00
Partner Activities	0.00	62 750.00
Photocopying & Postage	199 612.01	278 987.38
Post-Graduate Bursaries	885 314.76	591 304.10
Publications	734 563.64	1 642 153.33
Research	649 865.59	46 000.00
Returned to Funder	123 357.13	12 316.21
Salaries	5 092 421.36	4 179 016.14
Staff Development	88 000.00	32 535.65
Stationery	98 345.73	193 432.65
Subscriptions & Books	254 184.53	133 476.42
Telephone	73 719.48	64 028.46
Travelling	638 129.96	815 574.68
Rental - PP Office	32 236.86	0.00
Website	141 026.95	47 124.90
<b>TOTAL EXPENDITURE</b>	<b>10 132 998.33</b>	<b>10 490 330.06</b>
CLOSING BALANCE FOR YEAR	1 333 591.90	-934 683.17
Surplus carried forward from previous year	5 104 962.63	5 979 171.14
Prior Year Adjustment	113 327.67	60 474.66
<b>NET CLOSING BALANCE 2010</b>	<b>6 551 882.20</b>	<b>5 104 962.63</b>

# Publications and reports

## Books

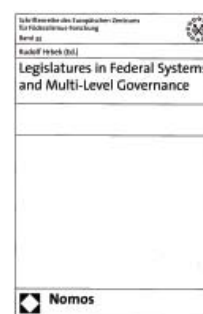
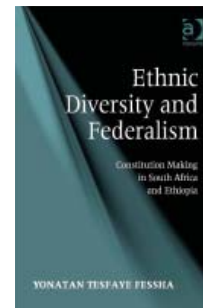
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- De Visser, Jaap; Steytler, Nico and Machinguata, Naison. *Local government reform in Zimbabwe: A policy dialogue*. Bellville: Community Law Centre, 2010, p151.

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## Mission statement

The Community Law Centre, established in 1990, works to realise the democratic values and human rights enshrined in South Africa's Constitution. It is founded on the belief that our constitutional order must promote good governance, socio-economic development and the protection of the rights of vulnerable and disadvantaged groups. Given the need for regional integration to encourage development in Africa, the Centre also seeks to advance human rights and democracy in this broader context. Based on high quality research, the Centre engages in policy development, advocacy and educational initiatives, focusing on areas critical to the realisation of human rights and democracy in South Africa and Africa in general.

# 2010

## Annual Report