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ANNUAL REPORT

1995

COMMUNITY LAW CENTRE

UNIVERSITY OF THE WESTERN CAPE

ANNUAL REPORT

1995

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A Community Law Centre Publication

Prepared by Nico Steytler, Julia Sloth-Nielsen, Sandra Liebenberg,
Peter Volmink and Desmond Grootboom

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TABLE OF CONTENTS

A. AN OVERVIEW OF 1995	5
B. PERSONNEL & ACCOMODATION	8
C. RESEARCH PROJECTS	10
1. CONSTITUTIONAL LAW AND HUMAN RIGHTS	10
2. WOMEN AND HUMAN RIGHTS	17
3. CHILDREN'S RIGHTS RESEARCH AND ADVOCACY.....	23
D. STREET LAW	34
E. FUNDING	37
F. VISITORS	39
G. ACTIVITIES	40
1. PUBLICATIONS	40
2. PRESENTATIONS	43
3. TEACHING	46
4. OTHER ACTIVITIES	47
5. SEMINARS	48

A. AN OVERVIEW OF 1995

I. BACKGROUND

The Community Law Centre was reconstituted in 1990 and under the direction of its director, Adv A M (Dullah) Omar, was to play an important role in the realization of a new constitutional order. Adv Omar established an important research institute which was influential in the multi-party negotiations for a political settlement in this country. The Centre embarked on a programme of constitution-making. The contents of the Constitution and Bill of Rights - especially regarding the structures of government, the powers of the regions, the constitutional court, electoral systems, and the reincorporation of the homelands - were to a large degree influenced by the presentation, research results, conferences, workshops and study tours undertaken by the Centre.

Ms Brigitte Mabandla initiated the Children's Rights Research and Advocacy Project and established a Women's Rights Project including a resource centre.

A new complement of researchers had to be appointed after the departure of most of the incumbent researchers to high political office in April 1994. During the course of 1994 appointments were made and as from January 1995 a permanent director and two senior researchers took office. During the course of 1995 a further two researchers were appointed. The year under review thus presents the beginning of a new era of the Centre in which a new role and function had to be forged.

2. ACTIVITIES

The aim of the Centre's research activities is to assist in the transformation of the legal order befitting the new democratic state based on freedom and equality. Central to the new legal order stands the evolving South African Constitution. Furthermore, the new order has to conform to the international human rights norms and standards. Through its activities the Centre has sought to provide the new state with research assistance and advice when requested. The Centre has thus provided resources and expertise to the Constitutional Assembly, Parliament and government ministries and departments both at local and na-

tional level. Much time and energy was devoted to participating in the drafting of the final Constitution.

Two members were appointed as technical advisors to two important theme committees of the Constitutional Assembly where they participated in the drafting of sections of the working draft of the Constitution published in November. In addition the Centre submitted a number of proposals and memoranda to the Constitutional Assembly.

The primary focus of the Centre's research activities has continued to be the three areas in which it had developed expertise and resources over the years. The areas are (a) constitutional law and human rights, (b) women and human rights, and (c) children's rights. In each of these areas a number of distinct research projects were conducted which are set out in detail below.

3. STREET LAW AND COMMUNITY OUTREACH

An important development was the decision to locate the National Street Law Office at the Centre as from January 1996. Since its inception the Centre has had a Street Law Programme and has been responsible for the Street Law co-ordinator at UWC. The placing of the National Office at the Centre is thus a continuation and expansion of this programme. Moreover, the work of the Centre and Street Law is mutually complimentary. While the work of the Centre is by and large human rights research, the Street Law Programme focusses on the dissemination of the values of human rights and the Rule of Law in schools, institutions, communities and the workplace. It is hoped that both the Centre and Street Law will be enriched by the exchange of ideas which the close co-operation will bring. Through the Street Law Programme the community outreach component of the Centre will be greatly enhanced.

4. VISITING SCHOLARS

A new development for the Centre was the appointment of visiting scholars to assist the Centre in its research activities. Prof Hans-Peter Schneider from the Institute of Federal Studies at the University of Hanover was appointed a visiting professor to the Centre from August 1995 to March 1996. As a foremost expert on German constitutional law, he assisted and advised members

of the Centre in the area of constitutional law and human rights.

Dr Neil Hutton from the Law Faculty of the University Strathclyde in Scotland was appointed as a visiting academic from September to December. He assisted in the empirical research on the administration of juvenile justice and completed a paper on the sentencing of juvenile offenders.

Prof Daniel Bradlow from the Washington College of Law at the American University, Washington DC, has been appointed as visiting professor from January to June 1996. He will be assisting in the project on Human Rights, Democracy and Economic Development.

B. PERSONNEL & ACCOMODATION

I. RESEARCH STAFF

Director:

Prof Nico Steytler

Senior Researchers:

Ms Julia Sloth-Nielsen
Ms Sandra Liebenberg

Researchers:

Ms Charlotte McClain
Ms Sindiso Ngaba
Mr Johan Mettler

Contract Researchers:

Mr Nic Fine
Mr Rudolph Mastenbroek

Associate researcher:

Ms Shireen Said

Office Administrator:

Ms Natasha Emmett

Secretary:

Ms Violet Abrahams

Visiting Professor:

Prof Hans-Peter Schneider

Visiting academic:

Dr Neil Hutton

Student assistant:

Mr Mzamane Mzwandile

Research Assistants:

Ms Betty Khumalo
Ms Alethea Percival
Mr Mbulelo Bikwani
Mr Maxwell Solomon

2. NATIONAL STREET LAW OFFICE

With the location of the National Street Law Office at the Community Law Centre, the following appointments were made during 1995 with effect from 1 January 1996:

Director:

Mr Peter Volmink

Deputy Director:

Mr Desmond Grootboom

3. ACCOMMODATION

The Centre has secured additional offices in the Old Library Building. The offices were refurbished at the Centre's expense. The premises will also house the Women and Human Rights Documentation Centre and the Centre's Library. The National Street Law Office will be located off campus in Wynberg.

C. RESEARCH PROJECTS

I. CONSTITUTIONAL LAW AND HUMAN RIGHTS PROJECT

I.1 THE NEW CONSTITUTIONAL ORDER

I.1.1. RETROSPECTIVE JUSTICE

One of the elements in the reconciliation process in South Africa is redressing the injustices of the apartheid era. This process takes place within the framework of the interim Constitution. In the light of the commonalities between the experience of Germany and South Africa in coming to terms with their past, a joint research project with the Humboldt University in Berlin was launched and a conference was held in June. The conference was opened by the Minister of Justice, Adv Dullah Omar MP. The Minister of Land Affairs, Mr Derek Hanekom MP also addressed the conference. The following papers were delivered:

- (a) Punishment and amnesty for violations of human rights
 - Prof Medard Rwelamira (UWC)
 - Prof Gerhard Werle (Humboldt University)
 - Prof Marxen (Humboldt University)
 - Dr Hansjorg Geiger (Director of the Federal Office of the Stasi (secret police) files)
- (b) Compensation and restitution
 - Prof Lovell Fernandez (UWC)
- (c) Restitution of land
 - Mr Gerhard Fieberg (Federal Ministry of Justice)
 - Prof Danie Visser (UCT)

The following persons were discussants: Senator Bulelani Ngcuka; Prof Johann van der Westhuizen; Mr Willie Hofmeyr MP; Mr Johnny de Lange MP; Dr Alex Borrairie; Prof Andre Odendaal; Mr Geoff Budlender; Mr Wallace Mgoqi; Prof Andre du Toit; Mr Steve Kahanowitz.

The conference proceedings have been edited by Professors Rwelamira and Werle and will be published by Butterworths in 1996.

I.1.2 CIVIL SOCIETY AND LOCAL GOVERNMENT

The Centre was invited to participate in a national task team

A N N U A L
R E P O R T 95

forming part of a larger multi-national research project on development, civil society and local governance in Africa. The project was initiated by the North-South Institute in Vienna and is led by Prof Konrad Ginther of the University of Graz. Other participating countries are Mozambique, Zimbabwe and Uganda. Prof Steytler participated in the first meeting held in Graz in April where the aims and objects of the project were established. In pursuance of the project Mr Derrick Fine was commissioned to prepare a research paper on making local government accountable to civil society.

The Centre participated (Prof Steytler, Mr Johan Mettler and Mr Rudolph Mastenbroek) in a follow-up seminar held in East London in November where the paper on accountable local government was presented. The research project on the relationship between civil society and local government continues.

I.1.3 DRAFTING FRAMEWORK LEGISLATION ON LOCAL GOVERNMENT

The Centre was approached by the Chairperson of the Parliamentary Standing Committee on Local Government for assistance in the drafting of a new national local government framework legislation. In July, Rudolph Mastenbroek was appointed as temporary researcher for this task and was joined in August by Johan Mettler. A first draft of the legislation has been prepared which has been widely circulated and discussed.

I.2 INTERPRETING THE BILL OF RIGHTS

I.2.1. CRIMINAL JUSTICE

In practice the Bill of Rights has had the greatest impact on criminal justice. Prof Steytler continued with the writing of a commentary on the criminal procedure provisions of the interim Constitution which should be published in 1996. He also presented an LL M course on "Criminal justice and the Constitution".

Prof Bert Swart from the University of Utrecht visited the Law Faculty and the Centre and participated in the teaching of the LL M course on Criminal Justice and the Constitution, focussing on the jurisprudence of the European Court of Human Rights.

I.2.2. RIGHT TO LEGAL AID

The Centre was requested by the Legal Resources Centre in Johannesburg to conduct a feasibility study on the right to legal aid in terms of the interim Constitution. The report was intended

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to be submitted to the Constitutional Court when the right to legal representation is considered. Prof Steytler and Julia Sloth-Nielsen drafted a report on the feasibility of legal aid for all accused persons who may face actual imprisonment.

1.2.3. ADMINISTRATIVE JUSTICE

The Centre sponsored the publication of a popular edition of conference proceedings on administrative justice, held in 1993. The book entitled *Controlling Public Power*, edited by Prof Hugh Corder and Fiona McLennan of the University of Cape Town, was eventually published this year.

Prof Jacques de Ville was commissioned to research the interpretation of section 24 of the interim Constitution dealing with administrative justice. The research paper has been published in 1995 *South African Journal on Human Rights*.

1.3 TRANSFORMATION OF THE ADMINISTRATION OF JUSTICE

1.3.1. REFORM OF BAIL LAW

Prof Steytler was invited by the Joint Parliamentary Standing Committee on Justice to submit proposals regarding the reform of bail law. Key aspects of the proposals that were submitted, were included in the Criminal Procedure Amendment Act 75 of 1995.

1.3.2. ADVISORY GROUP ON THE TRANSFORMATION OF THE ADMINISTRATION OF JUSTICE

Prof Steytler was invited to form part of a Consultative Advisory Group to the Ministry of Justice on the transformation of the administration of justice. He prepared a document on the role of the prosecution in crime control and on witness assistance programmes.

1.4 TOWARDS THE FINAL CONSTITUTION

1.4.1. TECHNICAL ADVISORS TO THEME COMMITTEES OF THE CONSTITUTIONAL ASSEMBLY

The most important role that members of the Centre played in the drafting of the final Constitution was as technical advisors to two of the more important Theme Committees. Prof Steytler was appointed as a Technical Advisor to Theme Committee Two, dealing with the Structures of Government, and Sandy Liebenberg to Theme Committee Four, dealing with the Bill of

Rights. For Sandy Liebenberg's work in the latter Committee, see the report on the Women and Human Rights Project.

Prof Steytler prepared for Theme Committee Two memoranda on presidentialism, bi-cameralism and separation of powers. Reports on the legislature, executive, provincial government, electoral system and amendments to the Constitution were prepared and formulations of the text were drafted. When the reports and draft formulations were submitted to the Constitutional Committee, advice, further reports and draft formulations were also given to that body. Further work was also done with the Panel of Experts and the Drafting Committee of the Constitutional Assembly.

1.5.2. ELECTORAL LAW

In the field of electoral law, the Centre commissioned in 1994 research on two questions: first, what has been the impact of the present proportional representation system on the conduct of election campaign and the relationship between the elected representatives and the voters (Mr Pierre de Vos, UWC), and second, how can the proportional representation system be adapted to ensure accountability to the electorate (Prof Jacques de Ville, UWC)?

In May the research was presented to Theme Committee Two of the Constitutional Assembly in a day-long seminar. Other speakers were Mr Michael Krennerich from the University of Heidelberg in Germany, and Professors Faure (UNISA), Venter (RAU), and Kotze (Stellenbosch).

The proceedings of the seminar have been edited by Professors Steytler and De Ville and will be published by Butterworths in 1996 under the title *Voting in 1999: Choosing an electoral system*.

1.4.3. JUDICIAL AUTHORITY

Prof Steytler submitted a memorandum to the Constitutional Assembly, on the constitutional position of the prosecuting authority suggesting that the attorneys-general should fall under the direction of the executive.

Prof Steytler made oral submissions to Theme Committee Five of the Constitutional Assembly on the structure of the courts. The Centre granted a three months internship to an American student, Jeremy Levitt, to analyse the debates in Theme Committee

Five on the appropriate courts to adjudicate constitutional matters.

I.4.4 SPECIALIZED INSTITUTIONS OF STATE

Prof Steytler made oral submissions to Theme Committee Six of the Constitutional Assembly on the role, function and structure of the Human Rights Commission and the Public Protector.

I.4.5. PROVINCIAL/FEDERAL RELATIONS

One of the critical areas in interim Constitution and for the final Constitution, is the distribution of power between the provinces and the central government. The Centre commissioned Prof Jacques de Ville to prepare a study on the interpretation of the interim Constitution on this issue. The report was published in the 1995 *Stellenbosch Law Review*.

In November the Centre co-hosted a two day conference with the German Institute for Foreign Relations and the German Consulate General on federalism, provincial powers and local governance. The topics were addressed by the following speakers:

- (a) Federalism and provincial powers:
 - Prof Hans-Peter Schneider (University of Hanover, Community Law Centre, UWC)
 - Prof Gunther Kissker (University of Giessen)
 - Prof Dirk du Toit MP
 - Prof Christoph Vedder (University of Bielefeld)
- (b) Local government:
 - Prof Umbach (University of Potsdam)
 - Ms Melanie Verwoerd MP

Panel discussion on provincial powers and national unity followed: Mr Peter Marais MP, Mr Hennie Bester, Ms Hilda Ndude MP and Mr Anthony Johnson (moderator) participated.

I.5. DEMOCRACY, HUMAN RIGHTS AND ECONOMIC DEVELOPMENT

A constitutional democracy has been established in South Africa. Similar developments are also evident in countries in southern and eastern Africa. The survival of the emerging democracies and human rights regimes will depend much on economic development of the respective countries and the region as a whole. In this context it is imperative that research should be conducted on the relationship between democratic governance, the protec-

tion of human rights and economic development.

In June the Centre had the benefit of the expertise of Prof Daniel Bradlow from the American University in Washington DC, in developing this research project. He advised on the critical issues in the area and on the drafting of the conference programme on the topic. The Centre commissioned Prof David Ailola (UWC) to prepare a paper on Direct Foreign Investment and Human Rights.

A major international conference on this topic was held in November with the theme "Human Rights, Democracy and Economic Development in South and Southern Africa". The conference was opened by the Minister of Water Affairs and Forestry, Prof Kader Asmal, MP, and closed by the Minister of Trade and Industry, Mr Trevor Manuel MP.

The following themes were addressed:

- (a) The relationship between democracy, human rights and economic development:
 - Prof Hans-Peter Schneider (University of Hanover, Community Law Centre, UWC)
 - Mr Akashambatwa Mbikusita Lewanika MP (Zambia)
 - Dr Nicoli Nattrass and Dr Jeremy Seekings (University of Cape Town)
- (b) The significance of international human rights law:
 - Dr Danny Titus (Technicon SA)
 - Mr Peter Peek (ILO)
- (c) Women, human rights and economic development:
 - Ms Fayeeza Kathree (Judge's clerk, Constitutional Court)
 - Ms Sandra Liebenberg (Community Law Centre, UWC)
- (d) International business law issues:
 - Dr Ian Phillips MP
 - Prof. David Ailola (UWC)
- (e) Environmental rights and economic development:
 - Prof Konrad Ginther (University of Graz)
 - Ms Jennifer Mohamed (University of Zimbabwe)
 - Mr Graham Boyd (Legal Resources Centre)
 - Adv Andrew Brown (Cape Bar)
- (f) South African Constitution and economic development
 - Prof Shadrack Gutto (University of the Witwatersrand)
 - Dr Rob Davies MP
- (g) International Economic Organizations
 - Prof Daniel Bradlow (American University)
 - Mr Cyrus Rustomjee (Department of Finance)

- Ms Sarah Christie (University of Cape Town)
- (h) Development Assistance
Mr Louis Corronado (USAID SA)
Prof Xavier Philippe (University of Reunion & UWC)
- (i) Regional protection of human rights and economic integration
Mr Erwan Fouéré (Ambassador, European Union)
Mr Eduardo Landivar (Institute of Human Rights, Santa Cruz, Bolivia)
- (j) Southern African Development Community (SADC)
Prof Chris Maina Peter (University of Dar es Salaam)
Dr Dot Keet (UWC)

The conference proceedings will be published in 1996.

2. WOMEN AND HUMAN RIGHTS PROJECT

2.1 OBJECTIVES AND FOCUS

The Women and Human Rights Project has the following objectives -

- to engage in research within the areas of focus of our project, and to publish and disseminate this research;
- to advocate for women's human rights; and
- to engage in educational initiatives related to our research both within and outside the university.

The research activity of the Project is focused in the following areas -

- the incorporation of international human rights standards relating to the equal participation of women in political, social and economic life in national laws and policies;
- the structuring and development of constitutional rights and bodies such as the Human Rights Commission and the Commission on Gender Equality to be of maximum benefit to the most disadvantaged women in South Africa; and
- economic and social rights for women, including the rights to equal benefit of the law and to adequate housing, health and social security.

2.2 STAFFING

Currently there are two full-time researchers in the Project. Sandra Liebenberg who was appointed in October 1994 is senior researcher and responsible for overall co-ordination of the Project. Sindiso Ngaba was appointed as a researcher in the Project in August. Betty Khumalo was student assistant to the researchers. Finally, the Project employed a part-time librarian/documentalist, Gill Kerchhoff, to assist in the establishment of a comprehensive Women and Human Rights Documentation Centre.

2.3 OVERVIEW OF ACTIVITIES

2.3.1. CONFERENCE AND PUBLICATION ON THE GENDER IMPLICATIONS OF THE CONSTITUTION-DRAFTING PROCESS IN SOUTH AFRICA

In January 1995, the Project organised a Conference entitled

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COMMUNITY LAW CENTRE

'Towards the Final Constitution: A Critique of the interim Constitution from a Gender Perspective - the Way Forward'. The aim of this Conference was to bring together a range of representatives from NGO's, government and Members of Parliament, and to stimulate debate and the active participation of women in the final Constitution-drafting process. The Conference was held in Cape Town from 27-29 January 1995 and was attended by approximately 150 people. Papers were presented on various aspects of the Constitution by international and South African lawyers, activists and government representatives. The participants were therefore able to benefit from international experiences and the different perspectives of the speakers. The formal presentations were followed by questions and debate. On the last day of the Conference, participants broke into workshops to explore strategies for ensuring that the final constitution provides them with effective tools for achieving real gender equality in South Africa.

The themes of these workshops included -

- the recognition of customary and religious rights and the implications for women's rights to equal protection and benefit of the law;
- the right to protection against violence;
- reproductive and health rights for women;
- economic and social rights; and
- the Human Rights Commission, the Commission on Gender Equality and other mechanisms for promoting the rights of women.

The Conference Report was submitted as a formal public submission to the Constitutional Assembly. Many women have also formed networks and lobby groups around specific themes of importance to women in the constitution-drafting process. However, the effectiveness of women's participation in this process is hampered by the absence of a strong, well-resourced and representative women's organisation in South Africa at present.

The papers presented at this Conference were published jointly by the Community Law Centre and David Philip Publishers (Cape Town) as a book entitled *The Constitution of South Africa from a Gender Perspective*. The publication of the book coincided with the release of the first Working Draft of the Final Constitution in November 1995. It is hoped that it will provide a useful resource for women to identify the critical areas of intervention required

as the constitution-drafting process enters its final phases.

2.3.2 TECHNICAL ADVISER TO THE CONSTITUTIONAL ASSEMBLY

Sandy Liebenberg served as convenor of the Technical Committee of four experts advising the Constitutional Assembly on the Bill of Rights. In this capacity she was responsible for drafting explanatory memoranda and advising the Constitutional Assembly on the following rights which are included in the Working Draft of the final Constitution -

- equality;
- freedom and security of the person;
- the right to a healthy environment;
- the right to education;
- the rights to housing and equitable access to land;
- the rights to health care, including reproductive health care, food, clean water and social security; and
- the protection of rights during a state of emergency.

This work has provided an important opportunity to draw the attention of the relevant constitutional committees to the gender implications of the various rights and their formulation in the Bill of Rights.

2.3.3 THE COMMISSION ON GENDER EQUALITY

The Project prepared joint written representations with the Gender Equity Unit (UWC) on the structure, powers and functions of the Commission on Gender Equality. Sandy Liebenberg and Rhoda Kadalie (then Gender Equity Officer) also made a verbal presentation to the Parliamentary Ad Hoc Committee on the Establishment of the Commission on Gender Equality. The establishment and work of the Commission on Gender Equality and its relation to the Human Rights Commission will be a special area of focus of Sindiso Ngaba during 1996.

2.3.4 IVTH UN WORLD CONFERENCE ON WOMEN, BEIJING

The active participation of South African women in the development of international standards and the integration of these standards in national policies and laws are central to the process of achieving gender equality in South Africa. The Women and Human Rights Project regards the Beijing Declaration and Platform for Action as a key point of reference in its work.

Members of the Project participated actively in the preparatory process for the Conference, attending a number of pre-Beijing meetings both in the Western Cape and nationally. The Project, co-hosted a workshop together with the Women's National Coalition and SADEP (Southern African Development Education and Policy Research Unit) for Western Cape women in preparation for the Beijing Conference. This workshop was held at the University of the Western Cape on 13 August, and was attended by about 170 women from a number of urban and rural areas in the Western Cape.

Sandy Liebenberg represented the Centre both at the NGO-Forum in Huirou, and at the official Conference in Beijing as an accredited observer.

At the NGO-Forum the Project organised a workshop on 'The participation of South African women in constitutional change.' This involved a panel of presentations by members of a range of organisations represented in the South African delegation on their experiences in organising for women's rights in the Constitution. The panellists were Judge Navi Pillay (presently serving on the Rwandan War Crimes Tribunal), Lydia Kompe (a Member of Parliament), Elda Oliphant (Women with Disabilities lobby of the Women's National Coalition), Judy Fortuin (Progressive Primary Health Care Network) and Sandy Liebenberg. The role of the Public Participation Campaign of the Constitutional Assembly in popularising the constitution and generating public awareness of human rights was an important theme of discussion at the workshop. A great deal of interest was expressed, particularly by women from other African countries, in this attempt to make the constitution-drafting process in South Africa inclusive and participatory.

At the government Conference, Sandy Liebenberg worked closely with members of South Africa's official delegation and provided resources on the Constitution and international law. She was also an active participant in the Human Rights Caucus at Beijing and liaised with the South African delegation on positions developed in this Caucus relating to the human rights language in the Platform.

After the Beijing Conference, the Project participated in a number of report-back meetings, and also co-hosted a workshop on Beijing with the Women's National Coalition held at UWC on 20 October. A short written introduction to the Beijing Platform for

Action was prepared by the Project and distributed at this meeting in an attempt to explain this document and make it more accessible.

2.3.5 CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (1979)

The recent ratification of CEDAW without reservations by South Africa represents an important achievement for women in this country. Early in 1995 and before ratification of this Convention the Project made representations to government, urging the ratification and incorporation of its provisions in domestic law. Sindiso Ngaba also published an article on CEDAW in the magazine, *Agenda*. One of the on-going areas of research of the Project is the implications of CEDAW for domestic law and policy.

2.3.6 REPORT ON THE TRANSFORMATION OF PARLIAMENT

Racial and gender equality in South African society will not be attained unless these values are central to the transformation of Parliament. During the latter half of 1995 the Project embarked on a collaborative research project commissioned by the Speaker of the National Assembly, Dr. Frene Ginwala. The project involved research into what the first democratic Parliament in South Africa has done to improve the quality of life and status of women during the first twelve months of its existence. A Report was compiled which reviews the major legislation and policy initiatives during the period within the framework of the critical areas of concern identified in the Beijing Platform for Action. It also examines the extent to which gender concerns are integrated in the legislative process. Finally, the Report identifies conditions both impeding and facilitating the equal participation of women MPs in the institution of Parliament.

This Report, which was jointly produced by Pethu Serote (Gender Education and Training Network), Sandy Liebenberg, Jacqui Nolte (UCT) and Nozipho January-Bardill (World University Service), is due to be publicly released in early 1996.

2.3.7 WOMEN AND HUMAN RIGHTS DOCUMENTATION CENTRE

One of the goals of the Project has been the establishment of a comprehensive Women and Human Rights Documentation Centre based in the law faculty at UWC. This Centre will not only provide a resource for the researchers and interns based in the

Project, but will also be made available to students, NGO's and Members of Parliament working in the field of women's rights. Work commenced in earnest on this project during 1995 with the provision of premises on campus where the Documentation Centre and the main library collection of the Centre will be housed. A part-time librarian/documentalist, Gill Kerchhoff, was employed to assist both in establishing the Centre and building up a collection of material. The material will be catalogued on computer and efforts will be made to disseminate information regarding this collection as widely as possible.

2.4. CONCLUSION

The past year has been extremely busy and productive. The research component of the Project has focused primarily on the drafting of the final Constitution, particularly the entrenchment of all universally accepted fundamental rights and freedoms in the Bill of Rights. The Project values this involvement as the final Constitution will constitute the framework within which democracy and human rights can be effectively realised in South Africa. Millions of women in South Africa are not able to participate effectively in political and economic decision-making processes due to an intersection of race, gender and poverty. It is vital that the Constitution embodies not only a formal vision of equal rights, but also includes those rights and mechanisms which are necessary to achieving substantive equality in the South African context. A priority for the Project has also been researching the implications of international human rights treaties for South Africa and advocating their ratification.

After the Constitution has been adopted, it is anticipated that the Project's focus will shift to a more in-depth analysis of appropriate policy and legislation to give effect to constitutional and international commitments. This is presently occurring in relation to the work on the Commission on Gender Equality. The Project plans to build on its research into the potential of human rights embodied both in the Constitution and international standards to contribute to the achievement of gender equality. In this process, members of the Project are constantly challenged to explore how rights and legal processes can best serve the interests of the most disadvantaged women in South Africa.

3. CHILDREN'S RIGHTS RESEARCH AND ADVOCACY

3.1. CUSTOMARY LAW AND THE CONSTITUTION

The proceedings of the international seminar on 'The Rights of the Child to a Secure Family Life', held in March 1994, were published. Papers from customary law specialists from the Southern African region were included in the publication. One of these, Prof. Tom Bennett, was commissioned to work further in this field, and 1995 saw the publication of *Human Rights and African Customary Law under the South African Constitution*, published by Juta and Co, which analyses the implications of the interim Constitution for customary law in South Africa.

3.2. TRANSFORMATION OF JUVENILE JUSTICE

3.2.1 ASSESSMENT CENTRES

Staff of the Centre have continued working actively towards this goal. Shireen Said and Julia Sloth-Nielsen participated in the Wynberg and Cape Town assessment committees for the year under review, both committees providing a forum for pilot projects to be initiated.

Shireen Said and Julia Sloth-Nielsen conducted an evaluation of the Assessment Centre pilot project in both areas mentioned above for the Department of Welfare. The project involved after hours probation services to assist in the speedy release of arrested juveniles, and has been widely hailed as a successful strategy. The individual research reports were compiled and edited by Julia Sloth-Nielsen and have been widely circulated in other jurisdictions provincially and nationally. The results have also been used to influence policy concerning juvenile justice reform. Arising from this fieldwork, Julia Sloth-Nielsen was asked to address a conference organised by the Provincial Administration of the Western Cape on the 'Constitutional role of probation officers in juvenile cases'. Shireen Said participated in a panel discussion on the assessment centres at this conference.

Julia Sloth-Nielsen presented a paper on the functioning of assessment centres, local committees and the results of the independent evaluation of individual assessment centres at a conference co-hosted by the Ministry of Safety and Security "Confronting Crime" in September. Shireen Said attended sessions at this conference on research management and juvenile justice.

3.2.2 FAMILY GROUP CONFERENCES

In Wynberg, a pilot project to implement Family Group Conferences was initiated by members of the assessment committee and the office of the Attorney-General. The Centre's staff were invited by the Attorney-General to be researchers for the experiment. Julia Sloth-Nielsen and Charlotte McClain compiled a research design proposal for the pilot project, and have continued to monitor and evaluate the process. The results of the initial cases are expected early in 1996.

3.2.3 CONSTITUTIONALITY OF JUVENILE WHIPPING

The Constitutional Court tried the landmark *Williams* case concerning the constitutionality of juvenile whippings in March 1995. Julia Sloth-Nielsen had, in 1994, been requested to file an affidavit as an expert witness for the juvenile litigants concerning the availability of alternative sentences. In the days before the actual trial, the Court requested a further affidavit based on fieldwork conducted by the Centre, regarding the extent to which magistrates had stopped imposing such sentences in expectation of the constitutional court ruling. This second affidavit was supplied to the Court, pointing out that fieldwork had revealed that whipping has ceased in all places save magisterial districts in the former Transkei area.

Pending public release of the decision of the court in *Williams*, Julia Sloth-Nielsen was requested to provide the Minister of Justice with a memorandum on juvenile sentencing alternatives.

3.2.4 NATIONAL AND REGIONAL JUVENILE JUSTICE CONFERENCE

In October the Centre hosted a successful national and regional conference to explore the changes that had affected juvenile justice during the year under review. The conference was called "Law Practice and Policy: South African Juvenile Justice Today", and was characterised by the presentation of well-researched papers, as well as in depth workshop discussions. Julia Sloth-Nielsen introduced the conference with a paper summarising recent developments in juvenile justice and pointing to the changing nature of the debate about key concerns in the field. Shireen Said presented the results of the empirical study on the administration of juvenile justice. Charlotte McClain presented a paper entitled "New problems relating to age and criminal capacity" in which the centrality of age determination to successful reform of juvenile justice was mooted. All the staff of the Chil-

dren's Rights project participated in the organisation of the conference and facilitation of panel discussions.

A range of policy makers attended the conference. The conference was addressed by the Minister of Correctional Services, Mr Siphon Mzimela MP, and closed by the Deputy Minister of Welfare, Ms Geraldine Fraser-Moleketi MP.

A book containing summaries of the papers that were presented, as well as the important recommendations emanating from the workshops was published shortly after conclusion of the conference in December, and has been distributed to those concerned at present with policy decisions in juvenile justice and related fields. The full research papers will be published in 1996.

3.2.5 DETAINED JUVENILES

Following on the comment prepared by Julia Sloth-Nielsen on the White paper on Correctional Services in 1994, she was asked to address the parliamentary portfolio committee on the content of the comment in March. The comment was concerned in the main with incarceration of juveniles and was based on the international legal rules for juveniles deprived of their liberty. She also attended a conference hosted by IDASA on the transformation of correctional services.

New demands were placed on the juvenile justice system after an amendment to the Correctional Services Act, preventing children from being detained while awaiting trial in adult prisons, was put into operation in May. As inadequate alternative accommodation was available, widespread public dissatisfaction occurred after many juveniles were simply released from custody, only to fail to attend their subsequent trial.

An article describing and analysing the new legal provisions on juvenile detention was published by Julia Sloth-Nielsen in the 1995 *South African Journal of Criminal Justice*, shortly before the new legal provisions were implemented.

Charlotte McClain and Julia Sloth-Nielsen worked on a proposal for secure care for detained juveniles with a range of NGO's in August, when it emerged that the amendments to the Correctional Services Act were having a negative effect on public perceptions of juvenile offenders and that existing places of safety were unable to cope with the crisis. Because it became clear that

secure care proposals were being discussed at a national level, this proposal was held in abeyance for a while, but it will be presented (as a result of a request to this effect) to the provincial committee concerned with institutional reform in January 1996.

As part of an ongoing commitment on the part of the Centre to work towards the transformation of juvenile institutions, a researcher and social work practitioner visited the Centre from September. As an expert in programmes for awaiting trial and institutionalised juveniles, Nic Fine immediately commenced consultations with juvenile institutional staff, policy makers and corrections officials to assist in the development of programmes for South African institutions. Together with Julia Sloth-Nielsen, he was invited to a workshop on proposed "Youth Development Centres" hosted by the Inter Ministerial Committee in conjunction with the Department of Correctional Services in September. He was requested to chair a focus group on Youth Development Centres during the days proceedings. He also chaired a focus group on youth programmes at the "Confronting Crime" conference co-hosted by the Ministry of Safety and Security in September. He was approached as a consultant to NICRO on programme development for serious and violent juvenile offenders, and conducted workshops with facilitators from various branches on programme design. He presented a paper on programme content and planning to a Youth at Risk pilot project in George, held under the auspices of the Inter Ministerial Committee on Youth at Risk, and thereafter provided further consultancy and support services to the team involved in the project. A similar engagement resulted in the provision of consultancy services to the Pretoria branch of NICRO, who were endeavouring to implement a pilot diversion programme for juvenile offenders there.

However, a key focus of his work thus far has concerned the transformation of juvenile institutions. In this capacity, he has met with NGO's involved with the new juvenile correctional facility (Youth Development Centre) planned for launch in May 1996. He co-hosted with Street Law a workshop with institutionalised youth at St Albans prison in Port Elizabeth in September, and assisted the facilitators of this workshop to prepare research papers based on workshops. These were presented at the conference "Law, Practice and Policy: South African Juvenile Justice Today" in October. He has provided training to key staff at a local place of safety for awaiting trial juveniles, and together with staff designed a training module for implementation for

staff in that facility. Apart from training for staff, he has, in addition, worked with the staff to develop a locally appropriate leadership training programme for the youth at risk who await trial there. In this work, he has been assisted by Mbulelo Bikwani, a former youth advocate from the Centre with expertise in local youth problems. Mbulelo Bikwani facilitated the workshop with convicted juveniles in St Albans Prison and presented a paper based on this workshop at the October conference.

The results of the practical experience that has been gained in institutions and amongst youth in this country will result in a publication on programme development for South African institutions, to appear in May 1996. It will be preceded by a workshop with key national programme practitioners and developers in March 1996.

3.2.6 INTER MINISTERIAL COMMITTEE: PROVINCIAL AND NATIONAL

As a consequence of the crisis that occurred after section 29 of the Correctional Services Act was put into operation, the Cabinet of the Government of National Unity approved the establishment of an Inter Ministerial Committee on Young People and Children at Risk, comprising seven Ministries and a range of NGO's. Their brief was to take steps to resolve the crisis. Julia Sloth-Nielsen had in January submitted a brief to the Ministry of Justice wherein the argument was raised that due to a pending crisis regarding juvenile detentions, an inter ministerial committee at the highest level should be formed to address the institutional crisis.

The President announced the formation of above mentioned cabinet committee in July; it comprises seven Ministries who are concerned with juveniles in trouble with the law, as well as select NGO's, and is chaired by the Deputy Minister of Welfare. The committee was initially established for a term of six months. Shireen Said represented both the National Children's Rights Committee and the Centre at this committee, whose key task was to design a new child and youth care system for South Africa, to prevent deterioration in the present system and to address the crisis.

Parallel structures were set up within each province, and Julia Sloth-Nielsen and Charlotte McClain participated on behalf of the Centre at this level. Provincial tasks included the development of local and regional pilot projects to further transformation of youth justice.

A task group of the national Inter Ministerial Committee hosted a planning workshop on law, procedures and mechanisms surrounding the arrest, reception and diversion of juveniles who conflict with the law. Julia Sloth-Nielsen and Charlotte McClain were invited to attend this workshop and Julia Sloth-Nielsen was requested to document the day's proceedings. Her report will form the basis of a new national policy on "Arrest, Reception and Referral of Juvenile Offenders". The report was completed in November, and will be circulated by the national Inter Ministerial Committee in 1996.

At the workshop, Charlotte McClain was requested to develop further a proposal for an inter sectoral tracking sheet to facilitate the speedy assessment and appearance in court of juveniles who have been arrested. Charlotte McClain and Shireen Said will complete this pilot proposal in early 1996.

3.2.7 DEVELOPMENT OF DEDICATED JUVENILE JUSTICE SECTION IN CRIMINAL JUSTICE JOURNAL

In a quest to promote interest in, and knowledge about, juvenile justice law, the Project approached the *South African Journal of Criminal Justice* with the proposal that a separate section on juvenile justice would benefit the development and understanding of the law in this area. In November the *Journal* published the first Annual Juvenile Justice Review, which was, and in future will be written by Julia Sloth-Nielsen. The journal is widely read by legal practitioners, magistrates and prosecutors. This new column provides concrete recognition of the need for a separate juvenile justice system.

3.2.8 STATISTICAL SURVEY OF JUVENILE COURT RECORDS

When the draft proposals for a new juvenile justice system developed and released in 1994, it became clear that no reliable statistical data existed in the country on the extent and nature of juvenile offending and juvenile court processes. Therefore, the Children's Rights Project embarked on a research project to produce the first statistical overview of juvenile court cases. The study was conducted by examining court records of juvenile cases in seven widely differing urban and rural jurisdictions, based on a sample of two months' cases. The statistical survey yielded extremely valuable information about juvenile justice in the courts, legal representation, types of offences, gender differences in various regions, presence of parents in court, and sen-

tencing. It is the first study of its kind in the country, and, for example, contains the first recorded information on sentencing practices in juvenile cases. All information had to be manually collected, as computerised court records are not kept. Court records were supplemented by interviews with key personnel familiar with juvenile offending in the individual areas. The study, conducted by Julia Sloth-Nielsen and Shireen Said, together with contracted researchers from Kwa Zulu-Natal, Venda and Transkei, was presented at the "Law Practice and Policy" conference in October by Shireen Said, and will be published in 1996.

3.2.9 JUVENILE SENTENCING AND DIVERSION RECORDS

A visiting academic, Dr Neil Hutton from the University of Strathclyde, assisted the children's rights project from September until December. He gave advice on the setting up of a database in Cape Town to gather detailed information on juvenile offenders who are assessed by welfare officers prior to court appearance. The information will be linked to diversion decisions. A report, based on the records of this project for the initial year, will be completed in early 1996. The researcher also examined national juvenile sentencing information and is preparing a paper on juvenile sentencing and policy.

3.2.10 CHILDREN'S COURT PROCEEDINGS

Conversion of criminal proceedings to a children's courts enquiry currently represents the only formal diversion mechanism in legislation. To illuminate the efficacy of the present system of conversion of cases to welfare enquiries, a study was commissioned by the Centre on Children's Court inquiries. This research, undertaken in Kwa-Zulu Natal in more than 50 jurisdictions, is also the first of its kind, despite the fact that children's courts have been functioning in this country since 1937. The research findings were presented at the October "Law Practice and Policy: South African Juvenile Justice Today" conference by the researchers, Prof N Zaal and Dr C Matthias from the University of Durban-Westville, and will appear in several publications in early 1996. The research has sparked widespread interest in the Ministry of Justice, and Prof Zaal was asked to present his findings at the Ministry's "Access to Justice" legal forum in November.

Although the initial research focussed on cases which were transferred to children's courts from juvenile criminal courts, a need to examine further children's court procedures was re-

vealed by the study. As members of the National Programme of Action (Justice Sector) committee, Julia Sloth-Nielsen and Charlotte McClain were part of a task group investigating children's court procedures, current staff needs and apparent defects in the children's court system. A task group report on Children's Courts, compiled by Julia Sloth-Nielsen, was submitted to the NPA Justice committee.

The research on children's courts will be elaborated upon in 1996, in relation to all cases involving the protection of children. It has become critical to examine these courts for the protection of the most vulnerable children in society, as major revisions of the Child Care Act are to be introduced in 1996, and the institution of the children's court is central to the implementation of this core legislation concerning children.

3.2.11 COMMISSIONED RESEARCH ON POLICING AND JUVENILE COURTS

Commissioned research on policing and juvenile justice, as well as the future of juvenile criminal courts was also completed during this year. Prof Lovell Fernandez and Mr Tseliso Thipanyane, both of the University of the Western Cape, presented their research at the October conference "Law Practice and Policy: South African Juvenile Justice today", and will be published in 1996.

3.3 CONVENTION ON THE RIGHTS OF THE CHILD.

3.3.1 SOUTH AFRICA'S TREATY OBLIGATIONS

South Africa ratified the UN Convention on 16 June 1995. This important event was preceded by a conference in December 1994, co-hosted by the Ministry of Justice, Centre and the Raoul Wallenburg Institute on South Africa's International Treaty Obligations. Julia Sloth-Nielsen presented a paper on the implications of the ratification of CRC for South Africa. This paper, along with others from the conference, was published in a special volume of the 1995 *South African Journal of Human Rights*.

3.3.2 TOWARDS FULFILMENT OF CHILDREN'S RIGHTS IN SOUTH AFRICA

In June, UNICEF released an updated report on the realisation of children's rights in South Africa. Julia Sloth-Nielsen wrote the legal sections of this document, including one on juvenile justice and one on children's constitutional rights.

3.3.3 PUBLICISING THE CONTENTS OF THE CONVENTION

Julia Sloth-Nielsen also presented several seminars on CRC during the year under review. The audiences included LLM students in the Human Rights course taught in Pretoria, activists from a range of NGO's from countries in Africa at a residential workshop on International Human Rights Law, and high level civil servants appointed by the new Government. She presented a seminar on sentencing for senior magistrates at a workshop in September, which included examples from the children's rights field. She will present a new course on Children's Rights and the Law at post graduate level in 1996. This is, as far as is known, the only such programme in a South African Law Faculty at this level to date.

3.3.4 NATIONAL PROGRAMME OF ACTION (NPA)

All the permanent staff members working at children's rights project have, since July 1995, been participating in the justice sectoral working group of the Government's National Programme of Action, due to be finalised in 1996. Shireen Said was seconded to the committee as the representative of the National Children's Rights Committee. Julia Sloth-Nielsen and Charlotte McClain will assist in the drafting of the final report of this committee in February 1996.

3.3.5 NATIONAL CHILDREN'S RIGHTS COMMITTEE (NCRC)

Charlotte McClain and Shireen Said represented the Community Law Centre on the legal committee of the NCRC during 1995. Shireen Said was part of a delegation from the NCRC invited to attend the first public hearing of the Constitutional Assembly in Pretoria. Both participated in the drafting of submissions on a range of issues affecting children, including constitutional rights, the inter-relationship between welfare and criminal justice, and child care legislation.

3.3.6 CHILDREN IN ESPECIALLY DIFFICULT CIRCUMSTANCES

3.3.6.1 VULNERABLE GROUPS AND ACCESS TO JUSTICE

Charlotte McClain was invited to chair a panel on this theme at the Access to Justice Conference organised by the Ministry of Justice in November. The topic included a detailed session on children as victims, as well as child witnesses in criminal cases.

3.6.6.2 HOMELESS CHILDREN AND CHILD PROSTITUTION

Shireen Said was invited to facilitate a session on Child Prostitution organised by the Human Sciences Research Council in Pretoria in March. Charlotte McClain presented a paper at a seminar in Cape Town in November entitled "Street Children and their Constitutional Rights". The paper is being prepared for publication in the journal *The Child Care Worker* for early 1996.

3.6.6.3 CHILDREN'S DISABILITY RIGHTS

Charlotte McClain has forged close ties with the NGO community working in this field, and has contributed knowledge and expertise on the legal rights of disabled children to joint projects undertaken by the South African Disability Institute (SADI), an umbrella organisation working towards the furtherance of the rights of disabled people. As a representative from the Centre, she contributed to the development of a position paper on the rights of disabled people in the final Constitution which was submitted to the constitutional assembly. The recommendations embodied in this document included a detailed summary of the role and functions of a proposed new commission for people with disabilities.

She also presented a paper at a workshop hosted by SADI during the year entitled "The rights of disabled children: mainstreaming the right choice". A visit by Assistant Attorney-General of the United States, Deval L Patrick, resulted in her arranging a working lunch with him for NGO's in the disabled sector.

4. CHILDREN'S RIGHTS IN THE CONSTITUTION

A study of the implications of constitutional socio-economic rights for children, commissioned from Pierre de Vos (UWC) by the Centre, was completed and will be published in *SA Public Law* in January 1996.

A drafting consultancy was formed by members of the Centre with academics and representatives from other NGO's in the Western Cape with legal expertise. This consultancy prepared a submission to the Constitutional Assembly on a children's rights clause in the final Constitution. In the Working Draft released by the Constitutional Assembly in November 1995, it appears that several significant amendments proposed by this group have been incorporated. Charlotte McClain and Shireen Said, in their capacity as delegates to the NCRC legal forum, contributed to the NCRC's submission to the Constitutional Assembly pertain-

ing to children's rights in the final Constitution. Debate about the content of the children's rights clause in the final Constitution has not yet been concluded, however, and work in this area will continue during 1996.

An article on the implications of the constitutionalisation of children's rights surveying the period April 1994 to November 1995 and demonstrating the consequences of the high political consequences that children's rights have enjoyed, was written by Julia Sloth-Nielsen and will be published in the 1995 *Acta Juridica* (which has as its theme Children and the Law) in early 1996.

5. LEGISLATIVE DEVELOPMENTS

1995 saw the release of draft amendments to the Child Care Act, a central legislative protection of children, and particularly children in especially difficult circumstances. The intention of the drafters was to remove discriminatory provisions which are contrary to the interim Constitution, to improve certain protections for children and to introduce amendments which are in line with the CRC, which South Africa has now ratified. A team of researchers, brought together by the Centre, prepared a critique of the proposed legislation, as parts of the proposed legislation appear to violate constitutional protections as well as ignoring key aspects of CRC. The critique was submitted to the drafters in the Department of Welfare. Further amendments are due in early 1996, and it is hoped that the concerns that have been raised about legislative changes (because they do not take account of constitutional law, international human rights law and the fact of the plurality of cultures in South Africa), will be addressed in the revised Bill.

D. STREET LAW

I. STREET LAW PROJECT AT UWC

The Project started off in 1995 against the backdrop of a highly active and emotive 1994 in which the Project played an important role in voter education. The Project continued on the same lines as the previous years which included outreach activities in schools, prisons, places of safety and rural areas. Some of the activities were done in collaboration with various NGO's and CBO's. At the core of the Project's activities were 100 volunteer law students, selected from 250 applications.

I.1 SCHOOLS PROGRAMME

The Street Law programme was presented at approximately 70 high schools across the Cape Metropolitan area. The schools were serviced on a weekly basis. As the enterprise is very labour intensive, it entailed much organisation and transport costs. The completed curriculum covered modules on criminal justice, human rights, governance and education. On average about 3000 high school children were taught per week.

I.2 OTHER INSTITUTIONS

The Street Law programme was presented in the women's section of a prison, focussing on the position of women in the Constitution. The programme culminated in an event on National Women's Day, where Ms Rhoda Kadalie was the guest speaker.

The work in places of safety was largely scaled down because of the costs factor and the fact that the children at these institutions were very young making it difficult for the student volunteers to work with them. Work continued, however, at Bonnytoun, La Flear and Huis Rosendal.

The volunteers worked with street children through the welfare organisations Molo Songolo and Streets. A number of workshops were presented on a weekly basis explaining them their rights under the Constitution and how to pursue those rights. On average work was done with about 60 children from both projects.

Further programmes were conducted in conjunction with the Quaker Peace Foundation, Peace Visions, NICRO with a variety of welfare organisations and CBO's, such as community police forums and civic associations. These workshops were largely centred around how specific laws, such as bail, affected people's lives.

A few businesses approached Street Law to run programmes for their staff. The programme was presented at Spoornet, AEG, BONITA, Pick & Pay and AMC.

I.3 COLLABORATIVE PROJECTS

The Project collaborated with Pick & Pay Hypermarket in organising a fun run on 16 June to celebrate National Youth Day. The Hypermarket also assisted with the setting up of Street Law information stalls at their premises.

The Project worked with ACCORD in training about 25 volunteers in conflict resolution who could then be called upon to facilitate in conflict situations as well as teach conflict resolution skills at various institutions.

During October the Project worked with the Public Participation Programme of the Constitutional Assembly. Teams of students were used to distribute pamphlets and spread information regarding the constitution drafting process. A group of students went to Clanwilliam to work with the community in this regard.

I.4 EVENTS

During October the Project ran a mock trial competition in collaboration with the universities of UWC, Stellenbosch and UCT. A number of lecturers from the law faculties as well as members of the Legal Aid Clinics participated as presiding officers.

The Project trained all the Western Cape delegates to Street Law's Annual Youth Parliament. Unfortunately they were not trophy takers during the mock trial competition.

The Project ran workshops with communities in Calvinia, Upington, George, Knysna, Oudshorn and Worcester. It became clear from contact with leadership figures in these areas that there is a real need for a Street Law Programme for the Region. The Project will have to develop creative strategies to meet this need.

2. NATIONAL STREET LAW OFFICE

The Centre was approached about whether it would like to house the National Street Law Office. After lengthy negotiations with the USAID and the Centre for Socio-Legal Studies of the University of Natal, Durban, it was agreed that the Office be located at the Centre and that USAID fund the project for two years. The agreement was signed in June by the acting rector of UWC, Prof Daan Cloete. In terms of the agreement Mr Desmond Grootboom was appointed as acting deputy national director as from 1 June.

The posts of national director and deputy national director were advertised and in due course Mr Peter Volmink was appointed as national director and Mr Desmond Grootboom as deputy. The appointments are effective as from 1 January 1996. It was further agreed that, in view of the accommodation shortage on campus, the National Office will use premises in Wynberg.

In terms of the USAID grant agreement some activities commenced in 1995. The most important of these was the first Youth Parliament. From 9 to 14 July the National Office hosted a Youth Parliament involving 150 youth representatives from all nine provinces as well as Namibia, Botswana, Zimbabwe and Lesotho. This activity was structured in a manner which enabled young persons to come to terms with the constitution making process as well as the values of parliamentary democracy and conflict resolution. The event was opened by the Minister of Justice, Adv Dullah Omar MP while Dr Blade Nzimande, the chairperson of the Education Standing Committee of Parliament, presented a trophy to the winning team of the mock trial competition. All the delegates were ferried to Robben Island where they participated in a human rights debate at which Mr Ahmed Kathrada MP was the guest of honour. The constitution making process culminated in a plenary event in Parliament at which the Speaker, Dr Frene Ginwala MP, made the closing remarks.

Assistance was also given to the All Africa Moot Court competition held at the University of Pretoria at which law students from almost every country in Africa participated.

E. FUNDING

The main funders of the activities of the Centre were the Ford Foundation, Radda Barnen (Swedish Save the Children Fund), Swedish International Development Agency (SIDA), USAID South Africa, Carnegie Corporation of New York, and the Friedrich-Ebert-Stiftung. We would like to express our deep gratitude for their assistance and the encouragement we receive from their representatives.

1. FORD FOUNDATION

The Ford Foundation has provided core funding for the Centre since its inception and now also supports the women's and children's rights projects. During the year meetings were held with Mr Aubrey McCutcheon and Mr John Gebhardt, Foundation representatives in South Africa, as well as with members of the Governing Board of the Foundation.

2. RADDA BARNEN

The Swedish Save the Children Fund (Radda Barnen) has been supporting the Children's Rights Research and Advocacy Project for the past three years. Ms Gunilla Larsson, regional representative in Southern Africa, has been very supportive of the Project and has assisted it in numerous ways.

3. SIDA

SIDA has supported the Women and Human Rights Project and Ms Gunilla von Bahr, the regional representative, has taken a personal interest in its various activities.

4. CARNEGIE CORPORATION OF NEW YORK

The Carnegie Corporation of New York has provided a grant for a Women and Human Rights Documentation Centre.

5. USAID SOUTH AFRICA

USAID has supported the Centre in a number of projects: research and conference on democracy, human rights and economic development; administrative law project, and street law. Mr Louis Corronado, the director of the Human Rights and Democracy Section, has been particularly helpful and encouraging.

6. FRIEDRICH-EBERT-STIFTUNG

The Friedrich-Ebert-Stiftung has continued its support of the Centre's activities and has sponsored the electoral law, the retrospective justice, and local government projects. Frequent meetings were held with Mr Hubert Schillinger who provided much needed support and assistance.

F. VISITORS

The Centre received and met with a number of foreign visitors:

Ms Carrie Marias UNESCO
Professor Kathrine Swinton (University of Toronto)
Professor Norgaard (Chairperson, European Commission on Human Rights)
Dr Britta Bohler (Lawyers for South Africa, Amsterdam)
Swedish Justice delegation, Mr Lennart Aspegren
Mr Lucas Guttentag (American Civil Liberties Union)
Mr Neil Kritz (United States Institute of Peace)
Prof David Beatty (University of Toronto)
Mr Henk van Rinsum (University of Utrecht)
Mr Haan Arts (University of Limburg)
Prof Jean Woods (University of Loyola)
Prof Jan M Sjocrona (Catholic University of Brabant)
Mr Daniel Abrahamson (California Appellate Project)
Mr Adam Ladbury (British Council)
Delegation from the French Department of Justice and Legal Profession
Prof Laurence Lustgarten (University of Sussex)
Prof Walter Kamba (University of Namibia)
Prof Charles Ogletree (Harvard University)
Mr Peter Hunziker (Hilfserk der Evangelischen Kirchen der Schweiz)
Prof Leon Trakman (University of Dalhousie, Halifax)
Dr Herta Daubler-Gmelin (Deputy President, Social Democratic Party, Germany)
Ms Shereen Musson (Southern African Legal Education Assistance Foundation, Australia)
Prof Harry Post (Utrecht University)
Prof Bernadine Dohrn (Northwest University, Chicago)
Prof Michael King (University of Brunel)

G. ACTIVITIES

I. PUBLICATIONS

I.1 CONFERENCE PROCEEDINGS

The Right of the Child to a Secure Family Life Proceedings of an international conference held in March 1994, Community Law Centre

Law Practice and Policy: South African Juvenile Justice Today Proceedings of a conference held in October 1995, Community Law Centre

I.2 PUBLICATION BY STAFF MEMBERS

PROFESSOR NICO STEYTLER

'Constitution-making: In search of a democratic South Africa' in M Bennun & MDD Newitt (eds) *Negotiating Justice: A New Constitution for South Africa* (Exeter: University of Exeter Press 1995)

'Judicialization of Namibian politics' in C Neal Tate & Torbjorn Vallinder (eds) *The Global Expansion of Judicial Power* (New York & London: New York University Press 1995)

SANDY LIEBENBERG

Editor, *The Constitution of South Africa from a Gender Perspective*, (Cape Town: Community Law Centre in association with David Philip, 1995)

'Social and economic rights: A critical challenge' in Sandra Liebenberg (ed) *The Constitution of South Africa from a Gender Perspective*, (Cape Town: Community Law Centre in association with David Philip Publishers, 1995)

'The International Covenant on Economic, Social and Cultural Rights and its implications for South Africa' (1995) 11 *South African Journal of Human Rights* 359-78

'Social rights in the final Constitution: Towards effective equality

for women in South Africa' (1995) *Third World Legal Studies Journal* Valpariso Law School

SINDISO NGABA

'CEDAW: Eliminating discrimination against women' (1995) 27 *Agenda* 81-89

JULIA SLOTH-NIELSEN

'No child should be caged: Closing the doors on the detention of children' (1995) 8 *South African Journal of Criminal Justice* 48-59

'Juvenile Justice' and 'Children's Rights in the Constitution' in *Towards Fulfilment of the Rights of South Africa's Children*, UNICEF, 1995

'Annual juvenile justice review' (1995) 8 *South African Journal of Criminal Justice* 331-43

'Ratification of the Convention on the Rights of the Child: Some implications for South African law' (1995) 11 *South African Journal of Human Rights* 401-20

'Chicken soup or chainsaws: Some implications of the constitutionalisation of children's rights in South Africa' 1995 *Acta Juridica* (forthcoming)

I.3 COMMISSIONED RESEARCH

Prof Jacques de Ville 'Guidelines for judicial review on "division of powers" grounds' (1995) 6 *Stellenbosch Law Review* 139

Prof Jacques de Ville 'The right to administrative justice: an examination of section 24 of the interim Constitution' (1995) 11 *South African Journal on Human Rights* 264

Prof TW Bennet *Human Rights and African Customary Law under the South African Constitution*, (Cape Town: Juta and Co, 1995)

Prof N Zaal and Dr C Matthias 'Can we build a better children's court? Some recommendations for improving the processing of child removal cases' 1995 *Acta Juridica* (forthcoming)

Adv Najma Moosa 'The interim Constitution and Muslim

A N N U A L
R E P O R T 95

UNIVERSITY OF THE WESTERN CAPE
COMMUNITY LAW CENTRE

personal law' in Sandra Liebenberg (ed) *The Constitution of South Africa from a gender perspective* (Cape Town: Community Law Centre and David Philip, 1995)

1.4 REPORTS

'Legal representation for indigent accused persons: a feasibility study' by Prof Nico Steytler and Julia Sloth-Nielsen, for the Legal Resources Centre, Johannesburg.

Report on what Parliament has done to improve the quality of life and status of women in South Africa, co-authored by Sandy Liebenberg, Pethu Serote, Jacqui Nolte and Nozipho January-Bardill for the Speaker of the National Assembly, Dr Frene Ginwala.

'Evaluation of the Wynberg assessment centre' report by Julia Sloth-Nielsen and Shireen Said (with others), for the Provincial Administration of the Western Cape, Welfare Services.

"Evaluation of the Cape Town assessment centre" reported by Julia Sloth-Nielsen and Shireen Said (with others) for the Provincial Administration of the Western Cape, Welfare Services.

'Arrest, reception and referral' report by Julia Sloth-Nielsen for the Inter Ministerial Committee on Youth at Risk.

2. PRESENTATIONS

PROFESSOR NICO STEYTLER

Lecture to the University System of Georgia delegation Faculty Development Seminar 'Culture, Change and Environment in South Africa', 'Human rights and law', UWC.

Lecture, UCT School of Graduate Studies, Faculty of Law, 'Constitutional developments in criminal procedure', UCT.

Participation in a seminar with the American Bar Association, on the Constitutional Protection of Investments, UWC.

Radio talks:

'Free and Fair elections' - Radio Metro

'Human Rights and Economic Development' - Afrikaans Stereo

'Constitutional issues' - Afrikaans Stereo

'The Attorney-General' - The Law Report, SAFM

JOHAN METTLER

Paper 'The role of traditional authority in local government' at an International Conference on Customary Law and Governance, Institute of International Relations, Maputo.

CHARLOTTE MCCLAIN

Paper 'New problems related to age and criminal capacity' at the Community Law Centre's conference 'Law Practice and Policy: South African Juvenile Justice Today,' Cape Town.

Paper 'The Rights of Disabled Children: Mainstreaming the right choic' at a workshop, South African Disability Institute (SADI).

Paper 'Street children and their constitutional rights' at a seminar organised by NGO's working with street children.

Chaired a panel discussion on vulnerable groups, Ministry of Justice's Access to Justice Conference, Durban.

SHIREEN SAID

Paper 'Overview of juvenile justice statistics' at the Community Law Centre's Conference 'Law Practice and Policy: South African Juvenile Justice Today' (co-written by Shireen Said and Julia Sloth-Nielsen), Cape Town.

Chaired workshop on Child Prostitution at a conference organised by the Human Sciences Research Council, Pretoria.

JULIA SLOTH-NIELSEN

Lecture on 'International law and children's rights' at a training course for senior government officials organised by the Centre for Human Rights, Pretoria and Raoul Wallenburg Institute, Pretoria.

Guest lecture on 'International human rights law and children's rights' to LLM students, University of Pretoria.

Paper on 'The constitutional role of the probation officer in juvenile cases' at a conference, Western Cape Department of Welfare, Bellville.

Paper on 'Assesment centres and their committees' at the 'Confronting Crime: Innovating for Safety' conference organised by NICRO, the Institute of Criminology, UCT, and the Ministry of Safety and Security, Bellville.

Presented workshop on Sentencing to senior magistrates at a seminar organised by the Law Race and Gender Project, UCT, Kommetjie.

Paper on 'Key changes in juvenile justice 1994-1995' at the Community Law Centre's conference 'Law Practice and Policy: South African Juvenile Justice Today', Cape Town.

Paper on 'International law and the rights of African children' at a seminar for African NGO's organised by HURISA, East London.

SANDY LIEBENBERG

Paper on 'Social and economic rights: A critical challenge', Community Law Centre Conference on the gender implications of the Constitution, Cape Town.

Lecture on 'A bill of rights in the South African Constitution', Raoul Wallenberg Institute (Sweden) and National Assembly, South African Parliament, Seminar for South African Parliamentarians on Human Rights, Cape Town.

Guest lecture on 'Economic and social rights and the right to development in international law' to LLM students, University of Pretoria.

Lecture on 'Economic, social and cultural rights', Raoul Wallenberg Institute and Law Faculty, University of Fort Hare.

Paper on 'Enforcement mechanisms for economic and social rights in international law', Joint CALS, LRC and Community Law Centre Workshop on social and economic rights, University of the Witwatersrand.

Guest lecture on 'The Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights', to LLM students, UCT.

Lecture on 'Economic, social and cultural rights', at a training course for senior government officials organised by the Centre for Human Rights, Pretoria and Raoul Wallenburg Institute, Pretoria.

Paper on 'The justiciability of economic and social rights', IDASA Mini-Conference on Social and Economic Rights, Parliament, Cape Town.

Workshop conducted on 'Women and Human Rights in international law', Gender Equity Unit Winter School, UWC.

Paper on 'Socio-economic rights: should they be included in a Bill of Rights?', Centre for Applied Legal Studies, Wits, Annual Judges Conference, Mabula Lodge.

Paper on 'The main issues facing South African women in the final constitution-drafting process', Community Law Centre workshop on women and the Constitution, NGO Forum, Huirou, China.

Paper on 'The Beijing Declaration and Platform for Action', Institute for Multi-Party Democracy, Focus Meeting on the Beijing Conference, Cape Town.

Presentation on 'The experience of Beijing', Gender Equity Unity, Beijing Women's Conference-Report Back, UWC.

Presentation on 'An introduction to the Beijing Declaration and Programme of Action', Women's National Coalition, Community Law Centre report back meeting, UWC.

Paper on 'The significance of social and economic rights for South African women', Community Law Centre, International Conference on Democracy, Human Rights and Economic Development in South and Southern Africa, Cape Town.

Guest on Agenda/Newsline Television programme on the genesis of the first Working Draft of the final Constitution.

SINDISO NGABA

Paper on 'The implications of CEDAW for South Africa', Women's National Coalition, SADEP and Community Law Centre Pre-Beijing preparatory workshop, UWC.

DESMOND GROOTBOOM

Paper on 'Human rights education in South Africa; how the Street Law Programme deals with cultural and language diversity' at Second African Conference on Human Rights NGO's, Cairo

Paper on the 'Role of Para Legals' at the Ministry of Justice's Consultative Legal Forum, Durban.

3. TEACHING

PROFESSOR NICO STEYTLER

LLM course, UWC, "Criminal Justice and the Constitution"

4. OTHER ACTIVITIES

PROFESSOR NICO STEYTLER

Nominated by NADEL to be a member of the Human Rights Commission, shortlisted and interviewed by the Parliamentary Selection Committee.

Member of the UWC Disciplinary Court

Senate Representative on the Advisory Committee of Council on Student Behaviour, Discipline and the Quality of Life on Campus

Member of UWC Senate

Member of the Senate Higher Degrees Committee

Member of the Faculty of Law Board

Member of the Faculty of Law Appointments Committee

Member of the Executive Committee of the African Society of International and Comparative Law, South African Chapter

Member of the Board of the Institute of Historical Research, UWC.

External examiner Faculty of Law, University of Namibia, Criminal Law and Legal Clinic I

External referee for a publication of the Mayibuye Centre, UWC

Appointed as member of Technical Committee 6 of Task Group 5 of the National Commission on Higher Education dealing with Professional Education and Training. Participated in a number of meetings and prepared draft papers on the question of the stratification of professional training.

CHARLOTTE McCLAIN

Guest editor of a volume of IMBIZO, a publication of the Community Peace Foundation.

5. SEMINARS

Prof Daniel Bradlow:

"The role of World Bank in Southern Africa"

"The role of lawyers in international business transactions"

Justice Albie Sachs (Judge of the Constitutional Court)

"Constitutional Adjudication"

Prof Hans-Peter Schneider (University of Hanover, Community Law Centre) "The German Bundesrat: A model for South Africa?"

Mr Deval Patrick (Deputy Attorney-General, US Department of Justice) "Affirmative Action, the Justice Department and the US Supreme Court"

Mr Pierre de Vos (UWC) "Economic and Social Rights of Children and the South African interim Constitution"

Mr Tseliso Thipanyane (UWC) "Juvenile justice and juvenile courts"

Prof Lovell Fernandez (UWC) "Cautioning of juvenile offenders"

Prof Micheal King (University of Brunel) "Children's Rights"

Prof Bert Swart (University of Utrecht) "The War Crimes Tribunal for the former Yugoslavia"