

2012

ANNUAL REPORT



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- Annette May (researcher)
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- Dr Jacqui Gallinetti
- Dr Christopher Mbazira
- Dr Yonatan Fessha

- Dr Jamil Mujuzi
- Helen Kruuse (until December 2012)
- Dr Benyam Mezmur

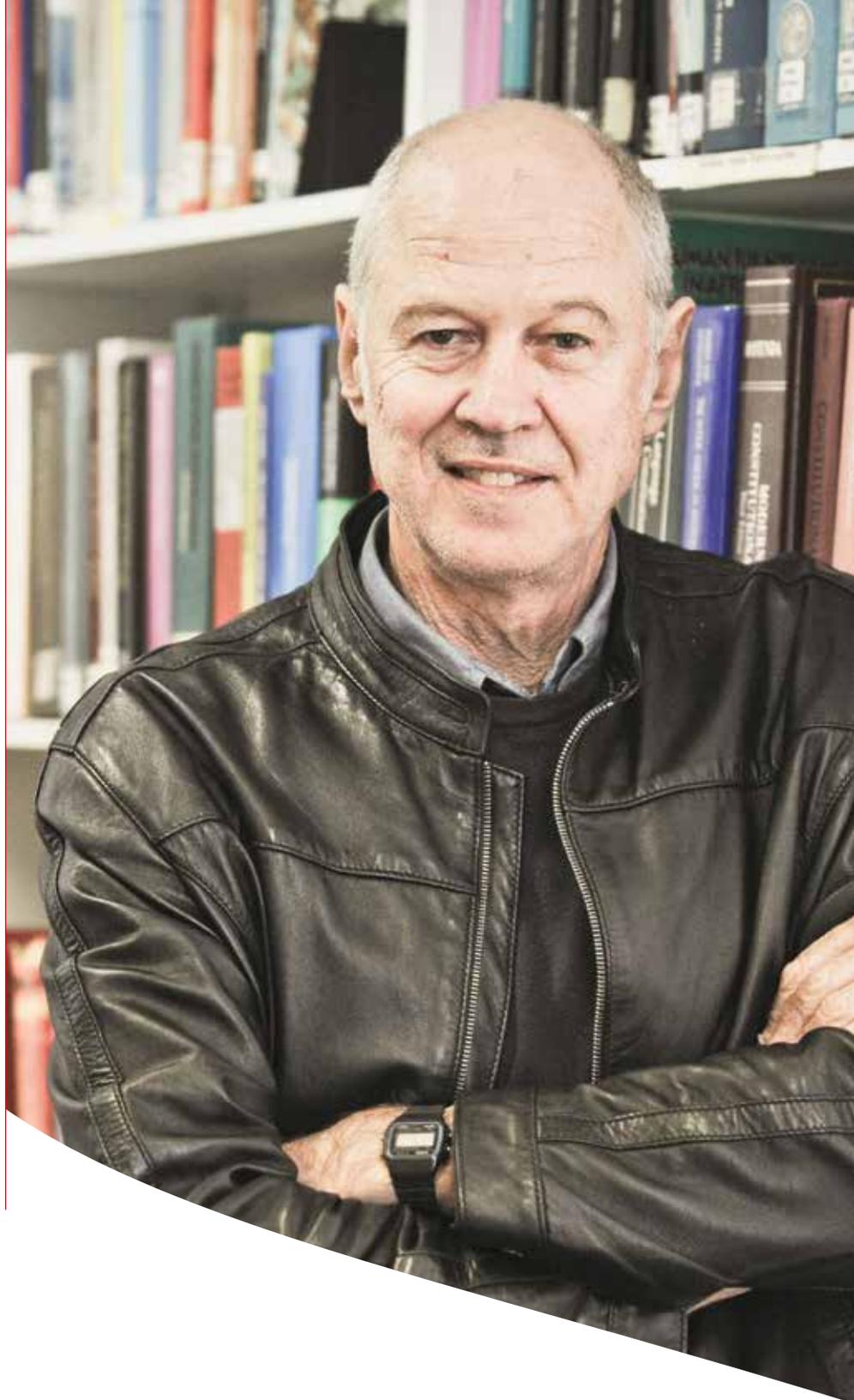
“It was indeed a privilege to work over the years with very talented and hardworking researchers and administrators who were united in their passion for and commitment to realising the mission of the Centre to advance human rights and democracy in South Africa and further afield.”

– PROF NICO STEYTLER

Director’s Overview

This Annual Report records the considerable growth in activities and impact during 2012.

As you will read in the forthcoming pages, we have achieved a demonstrable impact on South African law and policy, and have continued to play an increasingly international role, leaving a footprint in a large number of African countries.



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

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



“The work of the Centre is done by a group of dedicated staff members that all have a remarkable work ethic, integrity and a sense of community.”

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

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

The impact of our research can also be seen in many of the Resolutions of the 53th National Conference of the African National Congress, held in December 2012, relating to provinces and local government. They include:

- the review of provincial and local powers and functions;
- the critique of the single public service;
- the appointment of a presidential commission to review provinces;
- a differentiated model for local government;
- limiting district municipalities to weak local municipalities;
- the separation of the executive and legislative arms of the municipal council;
- the role definitions of the council office bearers;
- the reversal of the decision on a single election for all spheres of government; and
- the South African Local Government Association having full-time officer bearers.

All these resolutions bear marks of the research (including commissioned research) conducted by the Centre, through the Multilevel Government Initiative. With its enormous experience in law reform, the expertise of the Children’s Rights Project (CRP) is sought after by international institutions concerned with children’s rights in Africa. The CRP has already imprinted its mark on the African child rights system by supporting the work of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC).

Moreover, the Chairperson of our Board of Trustees and Dean of the Law Faculty, Prof Julia Sloth-Nielsen, was appointed as a member of the African Committee of Experts on the Rights and Welfare of the Child. Dr Benyam Mezmur, a former doctoral researcher and current research fellow, was not only appointed chairperson of this Committee, but was also recently elected by the UN General Assembly to the UN Committee on the Rights of the Child (2012).

The year 2012 saw the conclusion of a prestigious programme, supported by the European Union around the use of international human rights norms as a tool for the better realisation of the human rights in South Africa. The Programme centred around promoting the implementation of international human rights law and constitutional rights, strengthening parliamentary oversight in respect of implementation of human rights and strengthening the opportunities and capacity of civil society organisations to interact with Parliament.

The Programme was very successful in bringing communities to Parliament to engage with a number of parliamentary committees. This was done on the basis of a number of major campaigns, run in collaboration with the Centre's projects. At the conclusion of the contract period in September 2012, the Centre received a glowing external evaluation for this very effective and innovative programme.

Postgraduate teaching has taken on an increasingly important role in the work of the Centre. In 2012, the Master's Programme on Multilevel Government enhanced its throughput rate by ensuring that seven master's students were set to graduate in March 2013. In September, Zemelak Ayele obtained a doctoral degree on the basis of his study into local government in Ethiopia. Better throughput results can be expected as a result of the doctoral colloquium programme presented by the Centre and the Law Faculty. Instituted at the end of 2011, three colloquia were held in 2012. The work of the Centre is done by a group of dedicated staff members that all have a remarkable work ethic, integrity and a sense of community.

In 2012, the Centre celebrated a number of notable personal achievements. Prof Nico Steytler was awarded the South African Research Chair in Multilevel Government, Law and Policy, after the Centre had been awarded the right to host the Chair. Prof Steytler was also awarded an honorary doctorate by the University of Fribourg in Switzerland for his work on multilevel government and human rights.

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



Prof Julia Sloth-Nielsen



Dr Benyam Mezmur

“Prof Steytler was... awarded an honorary doctorate by the University of Fribourg in Switzerland for his work on multilevel government and human rights.”

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



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

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



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

The end of 2012 also saw my directorship coming to an end after 18 years at the helm. Having been awarded the SARChI Chair, I vacated the position at the end of December.

I would thus like to express my gratitude to the Centre, the Faculty and the University to have been able to lead this institution during the unfolding of constitutional democracy in South Africa. It was indeed a privilege to work over the years with very talented and hardworking researchers and administrators who were united in their passion for and commitment to realising the mission of the Centre to advance human rights and democracy in South Africa and further afield.

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

Prof Nico Steytler
DIRECTOR 1994–2012



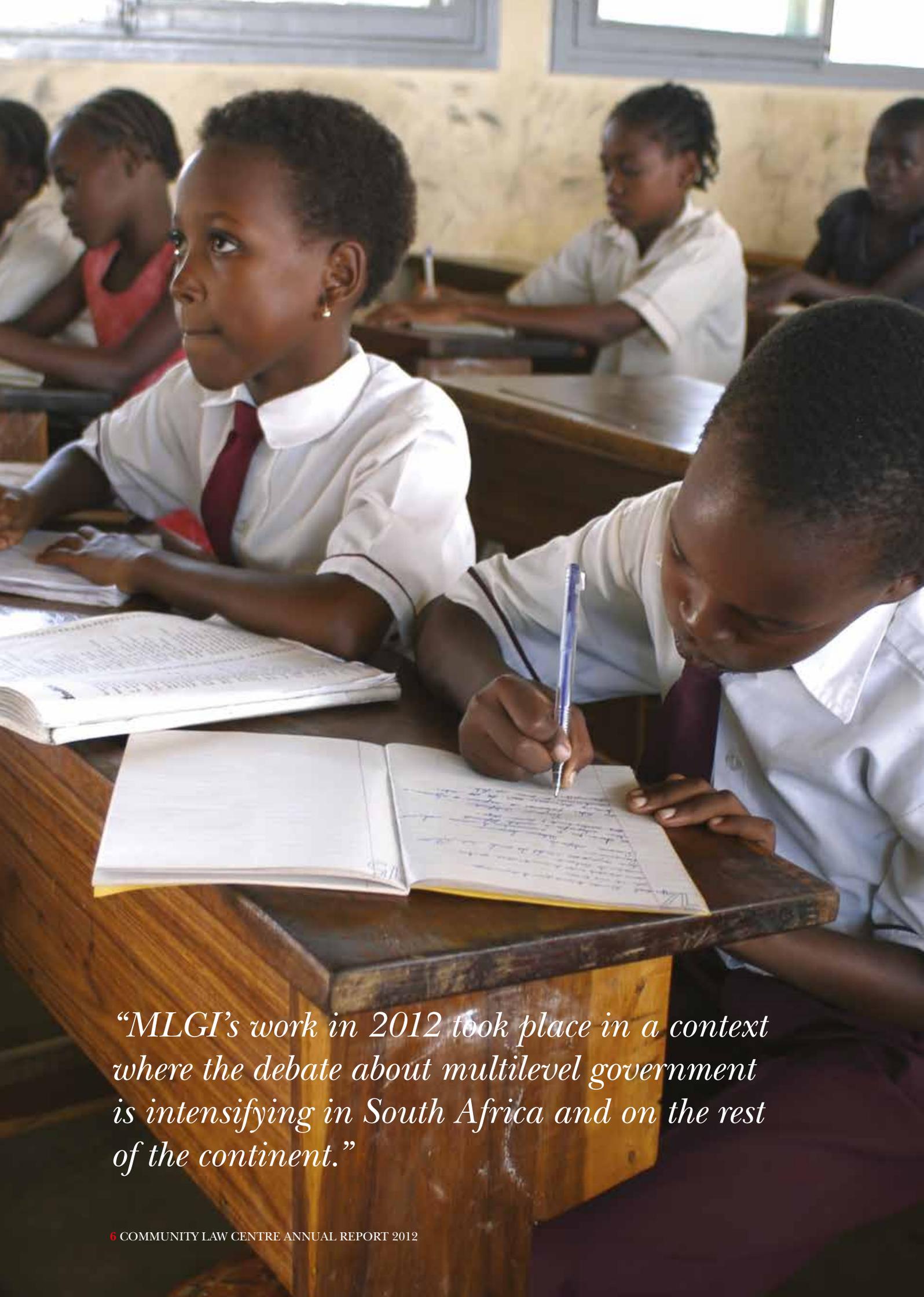
Incoming Director's statement

“The Centre will continue to strive to make a visible impact on law and policy, grow its footprint in Africa, increase its postgraduate output and improve its financial sustainability and internal operations.”

It is an immense honour for me to assume the position of Director of the Community Law Centre. While the task is big and the challenges many, I am comforted by the fact that my predecessor built a very strong and ambitious organisation. Prof Steytler's immense imprint on the status of the Community Law Centre as one of South Africa's premier research organisations on human rights and governance is undisputed. In 1994, he took over the reins from the Centre's founding Director, the late Advocate Dullah Omar and never ceased to grow the Centre's output and profile.

In attracting the South African Research Chairs Initiative (SARChI) Chair to the Centre, he has not only enhanced the Centre's profile during his incumbency, but has also given us the assurance that we may draw on his wisdom even after he has stepped down from the directorship. During my five-year tenure, the Centre will continue to strive to make a visible impact on law and policy, grow its footprint in Africa, increase its postgraduate output, increase the academic profile of its staff and improve its financial sustainability and internal operations. There is no doubt that the outstanding qualities of our staff and doctoral researchers, and their energy and passion for their work will ensure that we succeed.

Prof Jaap de Visser
INCOMING DIRECTOR



“MLGI’s work in 2012 took place in a context where the debate about multilevel government is intensifying in South Africa and on the rest of the continent.”

Multilevel Government Initiative

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

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

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

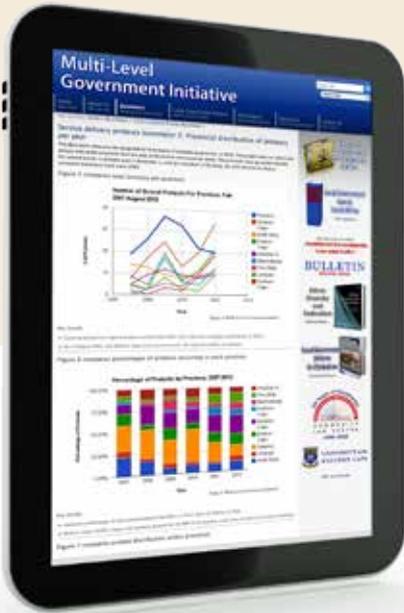
Research

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

Furthermore, the Project (co-) prepared research papers on a range of topics.

- Annette May produced a research paper on the right to sanitation and a chapter on environmental health services as part of local government's obligations to deliver services.
- Jaap de Visser co-authored, in collaboration with Urban LandMark, a research paper on intergovernmental relations surrounding land use planning.
- Phindile Ntliziywana and Jaap de Visser collaborated with UWC's School of Government to contribute a chapter to a research paper on the professionalisation of local government.
- Nico Steytler, Jaap de Visser and Robert Williams (a visiting professor in 2011) finalised a paper on the law and practice surrounding unfunded mandates in South Africa, United States and Australia.





Barometers

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

Conferences and roundtables

MLGI staff hosted or participated in approximately 14 seminars, round tables and conferences. For example, Profs Nico Steytler and Jaap de Visser and Dr Yonatan Fessha presented a joint paper on the use of ethnicity in boundaries at the International Association of Centres for Federal Studies Conference in Rome.

A roundtable on law reform and planning, hosted in collaboration with Urban LandMark, SA Cities Network and the Department of Rural Development had a major impact on the legislation on planning currently before Parliament and under construction in the provinces.

Outside South African borders, the Project has increasingly participated in and informed law and policy making in other countries. Together with the Center for Federal Studies (Addis Ababa University) and the Louis Favoreu Institute (Aix-en-Provence), MLGI hosted a conference, in Addis Ababa, on Subnational Constitutions and Human Rights. A prestigious United States Institute of Peace (USIP) grant was secured to develop a framework for implementing devolution in Kenya. This project will be carried out in collaboration with Professor Yash Gai's Katiba Institute in Nairobi and will see South African scholars working together with Kenyan scholars and practitioners.

The MLGI supported organised local government in Zimbabwe to participate in the constitution-making process in that country and also presented an analysis of Zimbabwe's Draft Constitution to the Law Society of Zimbabwe.

“The location of the Chair in the Centre and in the Multilevel Government Initiative will add tremendous impetus.”



Nico Steytler chairing the International Association of Centers for Federal Studies at its annual conference in Rome.



Roundtable on law reform and planning, hosted in collaboration with Urban LandMark, SA Cities Network and the Department of Rural Development and Land Reform

Policy engagement

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

Phindile Ntliziywana, with the support of the doctoral researchers in the Project, produced monthly summaries of local government-related case law for a practitioner's website, hosted by the Development Bank of Southern Africa. The Project also entered into an important agreement with the City of Cape Town to assist the City with the development of by-laws, thereby paving the way for a long-term relationship with the City around urban law making.

Four editions of the *Local Government Bulletin* were produced and disseminated to all municipalities and civil society organisations active in local government. All in all, the Project produced some 20 opinion pieces and *Bulletin* articles on various topical issues relating to multilevel government. Examples of topics included: the new urban legislation in Kenya, planning laws in Gauteng and Western Cape, the National Treasury's competence framework for municipal managers, the African Charter on Democracy, Elections and Governance, etc.

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

Postgraduate teaching

Zemelak Ayele concluded his doctoral study on local government in Ethiopia and graduated with a doctoral degree. Dr Ayele has since joined MLGI as a post-doctoral researcher. The Master's Programme on Multilevel Government was offered for the fourth consecutive year. In 2012, the Programme started taking on a multidisciplinary character and made use of various guest lecturers, such as CLC alumnus and City Manager of Drakenstein, Johann Mettler; Isandla's Director Mirjam van Donk; Urban LandMark's Stephen Berrisford; and Fazela Mohamed, Parliament's Registrar of Members' Interests. MLGI supported four students with bursaries. Three students were deployed with the South African Local Government Association for internships. Profs Nico Steytler and Jaap de Visser taught the doctoral students of Ethiopia's Center for Federal Studies under an agreement with Addis Ababa University.

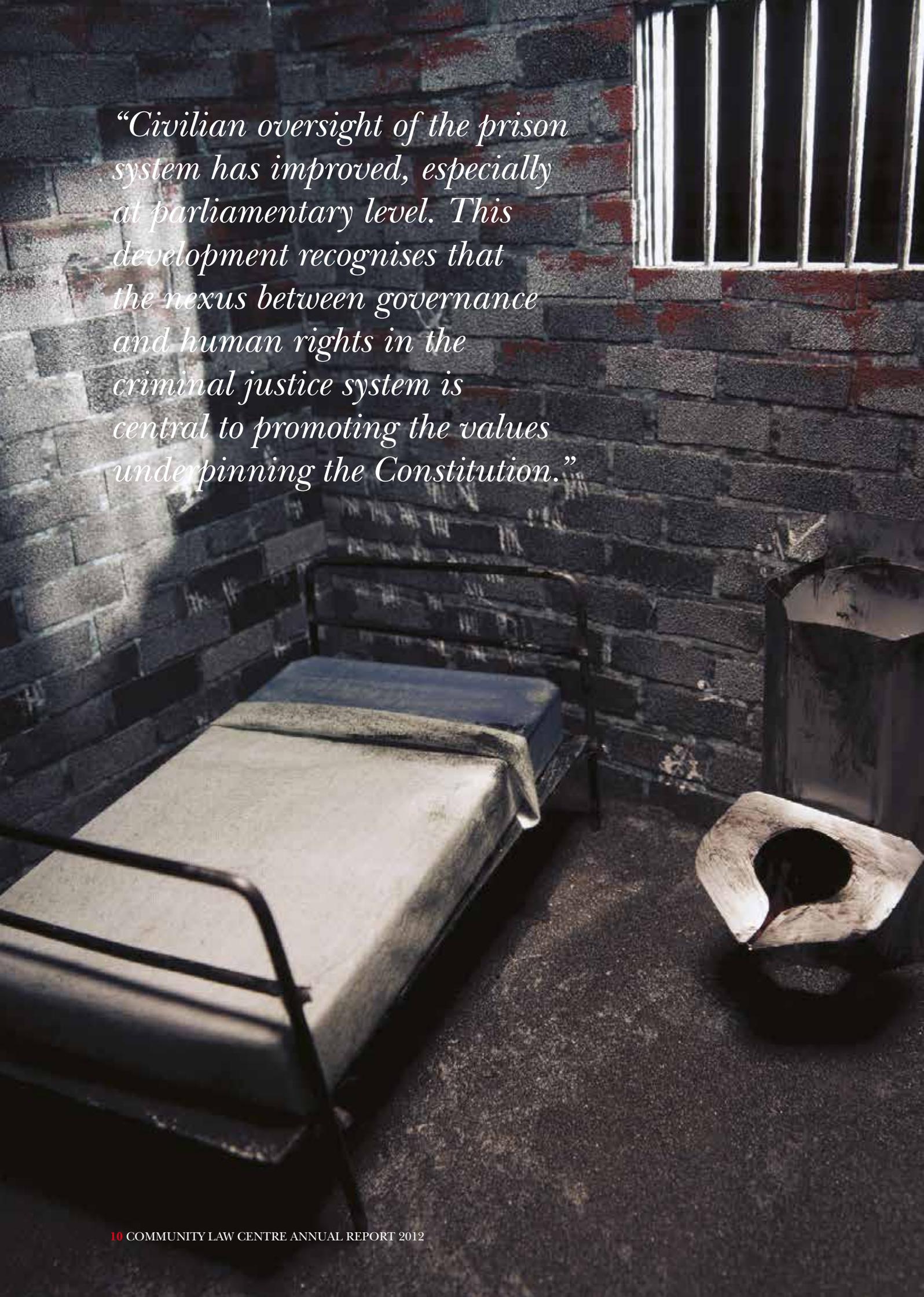
Publications

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

- Nico Steytler and Derek Powell finalised a book chapter on the impact of the global financial crisis on decentralisation in South Africa;
- Jaap de Visser produced a book chapter on the developmental use of municipal property taxation;
- Derek Powell produced a book chapter on local government policy reform in South Africa;
- Annette May produced a book chapter on environmental health services;
- Zemelak Ayele and Jaap de Visser prepared a paper on the marginalisation of internal migrants in Ethiopian cities;
- Phindile Ntliziywana's published an article on the *Makana judgement* of the Supreme Court of Appeal; and
- Nico Steytler and Jaap de Visser wrote a chapter on local government for the *International Encyclopaedia of Constitutional Law*.



Jaap de Visser teaching doctoral students of the Center for Federal Studies, Addis Ababa University

A photograph of a prison cell. The walls are made of dark, rough-hewn stone or brick. In the foreground, there is a metal bed frame with a mattress and a blue blanket. To the right, there is a toilet. In the background, there is a window with vertical metal bars. The lighting is dim, creating a somber atmosphere.

“Civilian oversight of the prison system has improved, especially at parliamentary level. This development recognises that the nexus between governance and human rights in the criminal justice system is central to promoting the values underpinning the Constitution.”

Civil Society Prison Reform Initiative

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

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

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

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

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

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



“By inserting quality research and analysis in the work of the Portfolio Committee, CSPRI helped the Committee to grow in confidence and stature.”

oral submissions to a number of Portfolio Committees related to draft legislation, expert submissions, policy developments, departmental annual reports, strategic planning and budget votes. Parliament became the key arena for strengthening oversight of the criminal justice system and the prison system in particular.

Clare Ballard speaking during a seminar organised by CSPRI



Promoting transparency and accountability through public engagement

Submissions

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

Supporting the Judicial Inspectorate for Correctional Services

In 2012 CSPRI published a national survey on children in South African prisons. The survey was undertaken to update a 1997 report published by the Community Law Centre on children in prison. A key finding of the 2012 report was that there were great inconsistencies in how children were treated. At some prisons there were good services in place as required by the Correctional Services Act, but this was not the case at all prisons where children were detained.

In response to the report, the Office of the Inspecting Judge approached CSPRI and there is now a three-year agreement in place to develop a monitoring system to assess conditions of detention and the treatment of children and young adults in prison.



“CSPRI has used the media effectively to provide quality comment on current affairs.”

Media work

Using the media as a means to provide the public with quality information is an important aspect of advocacy work. CSPRI has used the media effectively to provide quality comment on current affairs and developments related to the prison system in South Africa.

Newsletters

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



Preventing and eradicating torture

CSPRI is a partner to the Article 5 Initiative (A5I), an international three-year collaboration funded by the European Union. The project derives its name from the two articles in the African Charter and the Universal Declaration of Human Rights establishing the right of all persons to be free from torture.

A5I is working towards the prevention and eradication of torture in six post-conflict African states, namely Burundi, Kenya, Mozambique, Rwanda, Uganda and South Africa. The other partners are the University of Cape Town, the University of Bristol and the African Policing Civilian Oversight Forum.

The project's aim is to develop a 'package' of practical, context-specific tools and guidelines, which will be used by relevant mechanisms of the African human rights system and national actors in order to strengthen the implementation of standards aimed at preventing and eradicating torture and other ill-treatment in Africa. In 2012 the first round of consultations in these countries were completed with the assistance of our in-country partners. CSPRI facilitated the consultations in Mozambique and Burundi.

These consultations demonstrated the value of creating opportunities for dialogue between the state, civil society and national human rights institutions. Sharing knowledge and views around the prevention and eradication of torture facilitated the development of common priorities.



Sharing knowledge and views around the prevention and eradication of torture facilitated the development of common priorities.

“Pretrial detainees are entirely in the power of detaining authorities, who often perceive torture and other forms of ill-treatment as the easiest and fastest way to obtain information.”

Pretrial justice

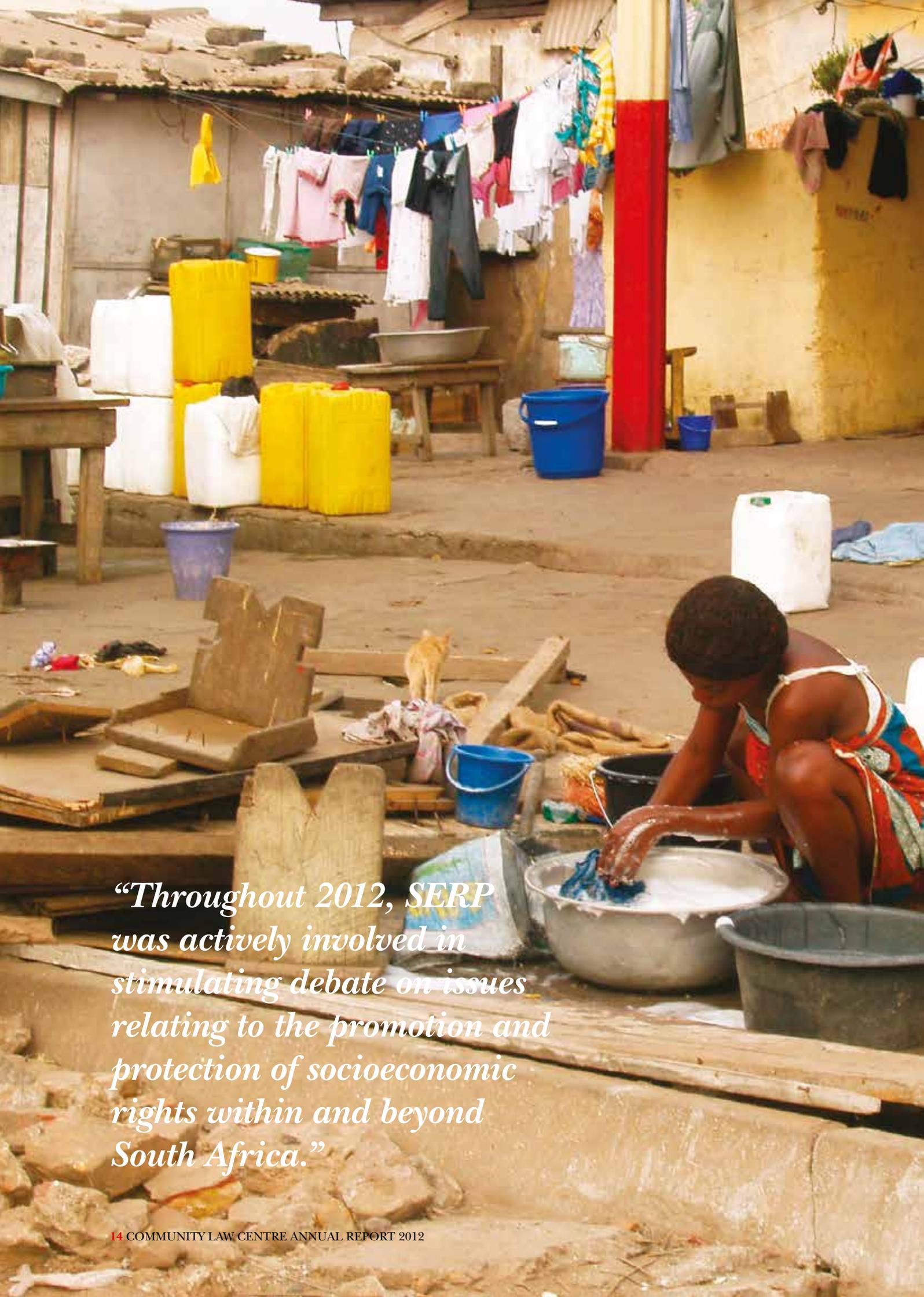
CSPRI's Promoting Pre-trial Justice in Africa (PPJA) project dovetails closely with the work conducted for the Article 5 Initiative. Pretrial detainees are at risk of torture because the incentives and opportunities for torture are most prevalent during the investigation stage of the criminal justice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

It makes this data available and accessible to a broad audience of stakeholders in a manner that can inform decision making and improve practice, thereby promoting pretrial justice in Africa.

The project encompasses a repository for research, international legal instruments, case law and news relevant to pretrial justice (in the form of a website), as well as a participatory forum, and a quarterly newsletter. The project has the higher aim of conducting meta-analyses on available research to uncover best practices and replicable solutions to common pretrial problems.

Systemic factors that support torture are:

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



“Throughout 2012, SERP was actively involved in stimulating debate on issues relating to the promotion and protection of socioeconomic rights within and beyond South Africa.”

Socio Economic Rights Project

The Socio Economic Rights Project (SERP) was formed in 1997 with the aim of promoting the effective implementation, monitoring and enforcement of the socioeconomic rights enshrined in what was then called the Constitution. SERP was actively involved in a broad-based civil society campaign to ensure the inclusion of socioeconomic rights as justiciable rights in the 1996 Constitution.

Prof Sandra Liebenberg, who was the project head at the time, provided technical assistance to the Constitutional Assembly on the drafting of the relevant provisions protecting socioeconomic rights in the Constitution. After these rights were included in the Constitution, the focus shifted to ensuring that the socioeconomic rights were translated into tangible realities for the people of South Africa. The Project now works towards ensuring that socioeconomic rights are accessible and enjoyed by everyone, particularly those groups and communities afflicted by poverty.

The Project pursues this objective through:

- applied research;
- publications;
- advocacy and monitoring;
- hosting workshops, seminars and conferences;
- developing resource and educational materials; and
- supporting public interest litigation.

Policy engagement

During 2012, two important submissions were made to Parliament. Parliament's Portfolio Committee on Health received a submission from the Project regarding the proposed amendment to the National Health Act, focusing on the appointment and removal of the Ombudsman. The second submission to Parliament, produced in conjunction with the Centre for Disability Law and Policy, advocated for the development of a special needs housing policy.

Government's policies on housing fail to meet the peculiar needs of vulnerable and marginalised groups adequately, such as the elderly, people living with HIV, women who have experienced violence, and people with disabilities. Therefore, national policy guidelines requiring provincial governments to develop special needs housing policies for vulnerable and marginalised groups are urgently needed. This submission has elicited debate at the national level regarding the possibility of a guideline or policy on special needs housing. Throughout 2012, SERP was actively involved in the promotion and protection of socioeconomic rights within and beyond South Africa.



“This submission has elicited debate at the national level regarding the possibility of a guideline or policy on special needs housing.”

Government's policies on housing fail to adequately meet the peculiar needs of vulnerable and marginalised groups.



For instance, together with the Black Sash, National Welfare Social Service and Development Forum, People's Health Movement South Africa, Global Call to Action against Poverty, the Project organised five strategy meetings on the ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR) by South Africa.

The group also made a submission to the Department of International Relations and Cooperation, entitled South Africa's Ratification of the ICESCR and the Optional Protocol.

Through the same network, the Project engaged with the public hearings on water and sanitation organised by the South African Human Rights Commission. This opportunity was used to call on the South African government to ratify the ICESCR and the Optional Protocol. Consequent upon the activities of the Project and its partners, the Cabinet on 12 October 2012 announced South Africa's intentions to ratify the International Covenant on Economic, Social and Cultural Rights.

Research and teaching

Three editions of *ESR Review* (a newsletter on socioeconomic rights) were produced and circulated among about 2 000 readers.

The Project taught a module on socioeconomic rights as part of the Law Faculty's Master's Programme. This module attracted students from all over Africa including Ghana, Ethiopia, Kenya, South Africa and Zimbabwe.

In conjunction with partners, the Project published reports highlighting gaps in government's policies and programmes. The first report (produced in collaboration with the Socio-Economic Rights Institute of South Africa), was entitled *Jumping the Queue, Waiting Lists and Other Myths: Perceptions and Practice around Housing Demand and Allocation in South Africa*. The second report (prepared in collaboration with the Centre for Disability Law and Policy) documents gaps in policies and programmes relating to access to housing for people with special needs. This report recommends that national and provincial governments should develop housing policies to meet the needs of vulnerable and marginalised groups.



“National and provincial governments should develop housing policies to meet the needs of vulnerable and marginalised groups in society.”

Promoting socioeconomic rights at an international level

SERP has continued to play a significant role in promoting socioeconomic rights at the regional and international levels by engaging with regional and international human rights institutions and bodies responsible for the promotion and protection of human rights.

Engaging with the African Commission on Human and Peoples' Rights

Ebenezer Durojaye and Gladys Mirugi-Mukundi participated in the 51st Ordinary Session of the African Commission on Human and Peoples' Rights in Banjul, The Gambia. They delivered a statement on behalf of the Community Law Centre on poverty and human rights in Africa.

The statement called on African governments to:

- prevent people from experiencing extreme poverty;
- avoid the criminalisation of poverty;
- adopt social security measures that will alleviate the effects of poverty; and
- pay greater attention to the needs of vulnerable and marginalised groups.

This statement complemented the work of the UN Special Rapporteur on poverty and human rights. The Project also participated in the 52nd Ordinary Session of the African Commission on Human and Peoples' Rights in Yamoussoukro, Ivory Coast. In collaboration with the Office of the UN High Commission for Human Rights, the Project organised a workshop on the relationship between the Special Mechanisms of the UN and the African Union.

It was designed, among other things, to educate civil society groups and human rights actors on how to use the special procedures under the two systems to advance the human rights of Africans. SERP also played an important role in the drafting and the adoption of the first-ever General Comment on article 14 (1) (d) and (e) of the African Women's Protocol. It was the first time in the history of the Commission that it issued a General Comment clarifying the nature of the obligations of states in relation to a specific provision of a human rights instrument.



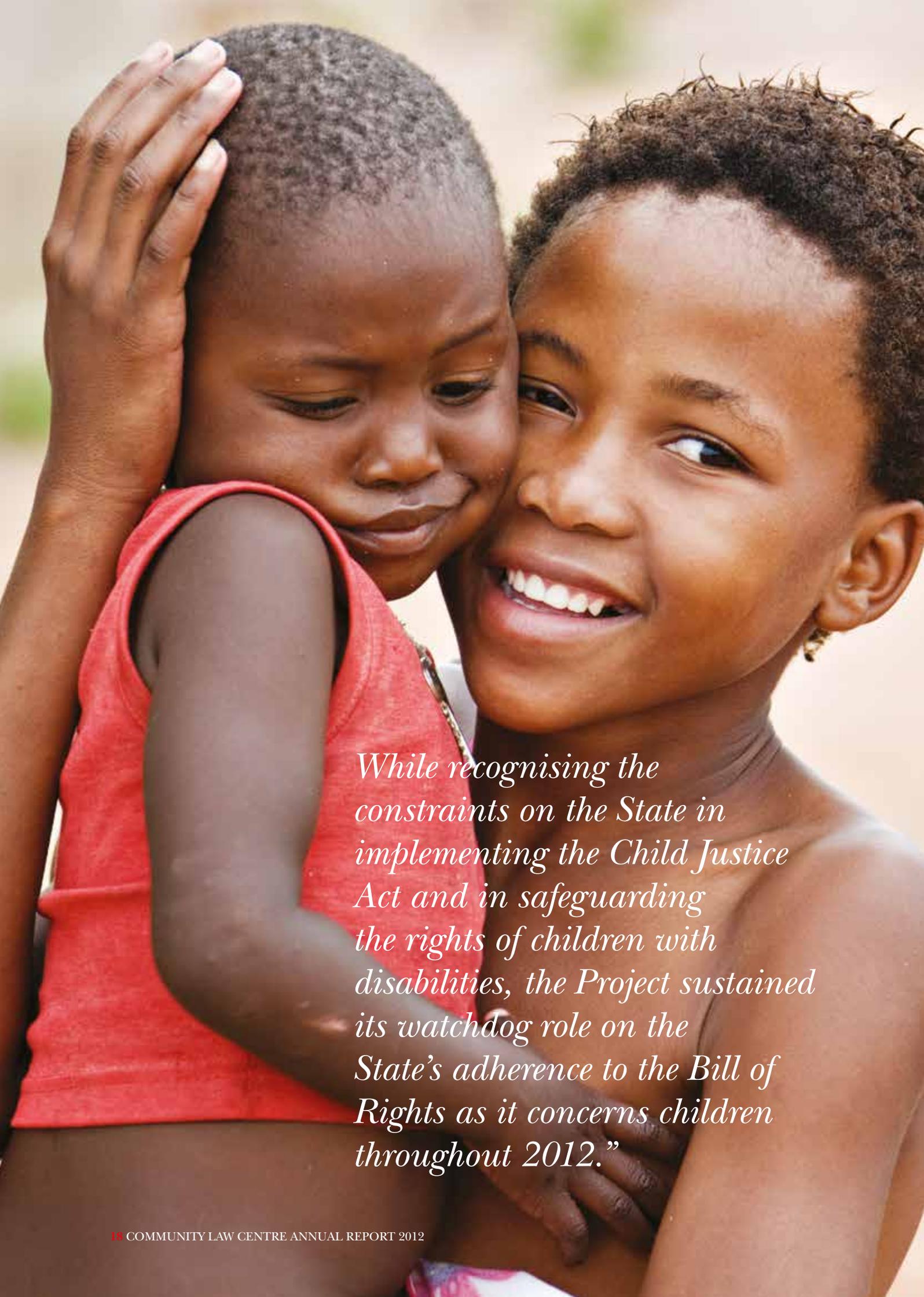
Ebenezer Durojaye and Gladys Mirugi-Mukundi during a field visit to Blikkiesdorp in the Western Cape

“The Special Rapporteur noted that SA was the first African country to support any UN mandate holder.”

Working with the UN Special Rapporteur on extreme poverty

Under the umbrella of a cooperation agreement with the UN Special Rapporteur on Extreme Poverty, SERP continued to engage formally and informally with Dr Magdalena Sepúlveda Carmona, the current Special Rapporteur. SERP was actively involved in the preparation and adoption of the Guiding Principles by the Human Rights Council in September 2012. Together with other non-governmental organisations, SERP lobbied states attending the UN Human Rights Council's session to support the adoption of the Guiding Principles. This campaign was successful as the Human Rights Council unanimously adopted the Guiding Principles. While these Guiding Principles are not legally binding, this type of 'soft law' is an important guide to states in adopting a rights-based approach to poverty reduction in their countries. The Project furthermore briefed the Special Rapporteur with a report on access to justice for vulnerable and marginalised groups in formal and informal justice systems in Africa. The report identifies the tension between formal and informal justice systems and the impact of that tension on access to justice for the poor in the region. It outlines the benefits of informal justice systems in Africa and how they may be used to advance access to justice for vulnerable and marginalised groups. It also identifies some of the weaknesses of the informal justice system and how this may interfere with the enjoyment of human rights by women in Africa.

The report forms part of the final thematic report on access to justice submitted by the Special Rapporteur on extreme poverty to the UN Human Rights Council. SERP and the Department of International Relations and Cooperation (DIRCO) hosted a one-day interactive session between the Special Rapporteur, civil society groups and government officials. In her opening remarks, the Special Rapporteur expressed her appreciation to the government of South Africa for taking a bold and important step in deciding to support her mandate. She noted that this was the first time a developing country and, for that matter, an African country provided support to any UN mandate holder.



While recognising the constraints on the State in implementing the Child Justice Act and in safeguarding the rights of children with disabilities, the Project sustained its watchdog role on the State's adherence to the Bill of Rights as it concerns children throughout 2012."

Children's Rights Project

The Children's Rights Project (CRP) focuses on the needs and status of children. It was established in the mid-1990s during a period when the Centre was advising on the multiparty negotiations towards South Africa's interim Constitution. The Project influenced the content of section 30 of the interim Constitution on the rights of children. This section evolved into the current section 28 of the Constitution, which affords children substantive civil, political, and socioeconomic rights.

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

The CRP has played an important role in transforming the legal framework insofar as it applies to children. A particular highlight is the publication in 2009, on behalf of the South African Child Justice Alliance, of a handbook, entitled *Getting to know the Child Justice Act*.

At the African continental level, in 2004, the CRP also published a *Guide to Good Practice on Child Justice in Africa*. At the national, sub-regional and continental levels, the CRP continues to engage with parliaments, state governments, sub-regional and regional bodies, as well as with civil society organisations, through quality research, advocacy and legal analysis to secure the realisation of children's rights.

Promoting the rights of the child under the South African Constitution

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

"The CRP has played a role in transforming the legal framework insofar as it applies to children."





Edmund Foley during a meeting of the Campaign on the Right to Education of Children with Disabilities

Monitoring the implementation of the Child Justice Act

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

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

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

Safeguarding the rights of children with disabilities

The Project leads the Campaign on the Right to Education of Children with Disabilities (R2ECWD). The year under review saw the development of a website for the Campaign, a number of strategic meetings of the R2ECWD Steering Committee and members of the Campaign, and publication of advocacy materials. As the Secretariat of the Campaign, the Project convened a meeting of the Steering Committee in January 2012 to chart the strategic direction of the R2ECWD for the year.

The Project hosted a two-day meeting of Campaign members in June to provide an opportunity for members to interact with one another, take stock of the Campaign and make recommendations for the future. The meeting brought together over 40 participants representing 24 member organisations.

Participants took stock of the Campaign's progress and impact since its establishment in 2010. Opportunities to strengthen the Campaign's messages were identified and it was decided to pay dedicated attention to inclusive education for children with disabilities.

The participants also discussed a research paper, prepared by a CRP doctoral researcher, Nkatha Murungi, dealing with Government's White Paper 6. Following the meeting, the Project finalised the Campaign's website (www.saaled.org.za/R2ECWD) and published the eight key messages of the Campaign.

“Support for child law reform was provided to Angola, Ethiopia, Lesotho, South Sudan, Swaziland and Zimbabwe.”

Promoting children's rights in Africa

The Project continued to advance the rights of children in Africa within the normative framework of the African Charter on the Rights and Welfare of the Child (ACRWC) and the United Nations Convention on the Rights of the Child (CRC).

CRP researchers participated in the 19th and 20th Ordinary Sessions of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) held in Addis Ababa, Ethiopia. At the Committee's request, the CRP presented a paper on the development of General Comments by the ACERWC to the 19th Session.

Following that, the ACERWC requested the Project to assist in developing a concept note for the celebration of the Day of the African Child in 2013 under the theme, Protecting Children against Harmful Social and Cultural Practices: Our Collective Responsibility.

The Concept Note was adopted by the Committee at the 20th Session in November. Another significant milestone was the drafting, by the Project, of the very first General Comment of the Committee on Article 30 of the ACRWC on the rights of children of imprisoned mothers.

The Project provided on-site and remote technical legal assistance on child law reform processes in countries in Eastern and Southern Africa. This work is done under the Programme Cooperation Agreement (PCA) signed with the UNICEF Regional Office for Eastern and Southern Africa. Support was provided to Angola, Ethiopia, Lesotho, South Sudan, Swaziland and Zimbabwe.

The support offered assisted UNICEF and government officials in reviewing draft child legislation, planning implementation approaches and strategies for rolling out justice for children programmes. The Project also completed a first draft of a situational analysis of children in the justice system in Kenya at the request of UNICEF-Kenya. The draft was presented to the joint UNICEF and technical working group of the Government of Kenya.

Research outputs

Communication and advocacy are central to the CRP's work. Under the Child Justice Alliance initiative, the CRP published three editions of *Article 40*, a newsletter on child justice.

The articles dealt with issues such as legal aid for children, assessment of criminal capacity, sentencing of children, African regional and global developments in child justice and recent judgements on child justice in South Africa. *Article 40* was disseminated to 3 000 readers and is available freely to a broader online audience on the Alliance's website. Apart from the research paper on White Paper 6, the CRP produced eight fact sheets for use as advocacy materials on the R2ECWD Campaign. The fact sheets covered a number of themes dealing with the barriers to inclusive education.

Maria Assim also submitted for publication in the *European Journal of Law Reform* an article on the right to alternative care for children deprived of a family environment. In line with the CRP's long-established tradition of documenting the work of the ACERWC, Edmund Foley co-authored an article on the decision of the first communication addressed by the ACERWC. The article is titled Making a first impression: An assessment of the decision of the Committee of Experts of the African Children's Charter in the Nubian Children communication.



Lorenzo Wakefield during a seminar organised by CRP.



“The campaign efforts have contributed, if not led, to the introduction and finalisation of the Prevention and Combating of Torture of Persons Bill.”



Parliamentary Programme

South Africa's legislatures are, compared to many others on the continent, relatively well resourced. Further, the Constitution provides a good framework for openness and public participation in the work of the legislatures. Yet questions persist about their capacity to hold the executive to account in South Africa's dominant single party context. Also, while participation takes place, this favours better-resourced entities and the emphasis is overwhelmingly on law reform, not oversight.

Because South Africa has been strong in enshrining human rights in the Constitution and legislation but weak on delivery, strengthening the legislatures' capacity for oversight and accountability is essential.

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

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

Focus areas

Nine large campaigns that were led by the PP or in which the PP played a major role:

- Strengthening South African legislatures;
- The Right to Education for Children with Disabilities;
- Traditional Courts Bill (led by the Alliance for Rural Democracy);
- Implementing the Child Justice Act;
- Special Needs Housing Campaign;
- Promoting Access to Justice for Women and Children which addresses gender-based violence in South Africa (Shukumisa led by Tshwaranang Legal Advocacy Centre);
- Domestication of the United Nations Convention against Torture;
- Promoting reporting on the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child; and
- Ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Additionally, the PP led or participated in seven smaller campaigns.



“In the next five years, we will focus on strengthening democracy through expanding participation in South African legislatures. The emphasis will be on the rights of women and children.”

“The Parliamentary Programme uses evidence-based advocacy to strengthen Parliament and the legislatures.”

Highlights and impact

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

Law reform

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

Conference

Leading and co-hosting the People’s Power, People’s Parliament, a civil society conference on South Africa’s legislatures, was a highlight in particular.

The PP led twelve organisations to host this conference. It brought together senior office-bearers and members of national and provincial legislatures, NGOs, community organisations and social movements. It resulted in significant media coverage, provided a platform to engage in critical debate regarding the role of the legislatures at this point in South Africa’s democracy and, finally, led to the establishment of a network that has continued to engage with Parliament on the issues raised by the conference.

Engagement with legislatures on oversight

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

Coordination and leadership

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



Samantha Waterhouse making a submission in Parliament

Alliances

Collaboration strengthens the impact of policy engagement. We thus invest in building strong partnerships and active networks. The PP has contributed significant leadership capacity to existing alliances such as the Child Justice Alliance, the Shukumisa Campaign and the Campaign to Ratify the ICESCR. Importantly, our activities have resulted in the establishment of five active alliances. Alliances comprise coordination groups and broader membership networks that participate in different ways. These broad networks consist of members ranging from 24 to 235 in number. Alliance coordination structures on average comprise seven organisations. Through these, we collaborate closely and regularly with the following 36 partners:

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

Engagement with Parliament

We interact with Parliament in a range of ways. PP staff and alliance partners (directly supported by the Programme) made 21 oral submissions to various national and provincial committees. An additional 15 written submissions were made.

The committees with which engagements took place:

- The National Assembly's Portfolio Committees on
 - *Police;*
 - *Correctional Services;*
 - *Justice and Constitutional Development;*
 - *Basic Education;*
 - *Public Services and Administration;*
 - *Human Settlements;*
 - *Women, Children and Persons with Disabilities; and*
 - *Health;*
- The National Council of Province's Select Committee on Security and Constitutional Development;
- The Western Cape Parliament's Select Committees on
 - *Human Settlements and Women;*
 - *Children and Persons with Disabilities; and*
 - *Justice and Security.*

During the period, the PP also undertook written communication and attended smaller meetings and seminars hosted by legislatures. The PP built relationships with and provided information to the Parliamentary researchers because of the positions held by these influential legislatures. Civil society presence in committee meetings has an impact on deliberations: it is a visible indication of public interest. We thus facilitated the presence of PP staff and CSOs in meetings.



The Programme hosted 4 seminars that target parliamentary and civil society stakeholders to improve the quality of information available to Parliament.

“PP staff and alliance partners made 21 oral submissions to various national and provincial committees. An additional 15 written submissions were made.”

“In 2012 we undertook 108 strategic meetings or workshops with civil society partners to develop, drive and monitor campaigns.”



This provides opportunities to interact with committee members informally, and often results in further engagements between stakeholders and the committees.

The issues covered were the following:

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

Communication

The PP regularly communicates with civil society and parliamentary stakeholders. Our database includes 1 543 South African partners. We sent out 139 alerts on human rights delivery and opportunities to engage legislatures to a combined total of 35 105 people. Communication was targeted at smaller, relevant network groups and individuals. The average number of people reached per alert was 252.

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

Media engagement

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

Seminars

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

- Civil society engagement with Parliament;
- SA international treaty obligations;
- Children in prison in South Africa; and
- Special needs housing.

Research

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

Donors

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

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

Multilevel Government Initiative (MLGI)

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

Civil Society Prison Reform Initiative (CSPRI)

The **European Union**, through its European Instrument for Democracy and Human Rights (EIDHR), supports the Article 5 Initiative (A5I), which is a joint project between CSPRI, the Gender Health and Justice Research Unit (University of Cape Town), the Centre for the Implementation of Human Rights (University of Bristol) and the African Policing Civilian Oversight Forum (APCOF). **The Open Society Foundation (SA) (OSF)** has supported CSPRI since its inception and enabled the project to conduct research and advocacy on a broad front of issues related to prison and criminal justice reform in South Africa. In 2012, OSF support was utilised to continue advocacy work targeted at Parliament and to continue its research. OSF (SA) also supports, with the **Foundation for Human Rights**, the Network on Reducing Re-Offending, of which CSPRI is the secretariat. **The Open Society Initiative for Southern Africa (OSISA)** supports a number of projects on pretrial detention in southern Africa. CSPRI undertook research in Mozambique on pretrial detention in collaboration with local partners there. The Open Society Foundation's Rights Initiative Global Criminal Justice Fund supports the project on Promoting Pre-trial Justice in Africa (PPJA).



UNIVERSITY of the
WESTERN CAPE



OSISA
Open Society Initiative
for Southern Africa



Plan



National
Research
Foundation



FOUNDATION
FOR HUMAN RIGHTS



international relations
& cooperation

Department:
International Relations and Cooperation
REPUBLIC OF SOUTH AFRICA

Children's Rights Project (CRP)

The Children's Rights Project is funded by **UNICEF** Eastern and Southern Africa Regional Office (UNICEF-ESARO) for its work on child law reform. Funding was also received from the UNICEF-Kenya Country Office to conduct a situational analysis of children in the justice system in Kenya. **The Open Society Foundation** for South Africa funds the Project's work on child justice in South Africa through the Child Justice Alliance. The **European Union** Delegation to South Africa provides funding for the Project's campaign for the right to education of children with disabilities in South Africa.

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

Socio-Economic Rights Project (SERP)

The **Ford Foundation** supports the work of SERP on the right to housing and the right to health, the ICESCR Campaign for South Africa's Ratification of the ICESCR and CLC's engagement with the African Commission on Human and Peoples' Rights. The Centre's work on poverty and human rights, especially its collaboration with the UN Special Rapporteur on extreme poverty and human rights, is supported by the **Department of International Relations and Cooperation**. The **Foundation for Human Rights** (FHR) supports SERP's work on housing, particularly the research on the Housing Demand Data Base. The **European Union** is currently supporting the Project's work on maternal mortality and the realisation of MDG5 in the Eastern Cape and Limpopo.

Parliamentary Programme (PP)

The Parliamentary Programme was principally funded by the **European Union** during this period. This was provided through the Justice & Constitutional Rights – CSO Support Programme.

“The work done by the Community Law Centre is made possible by the generous support of a variety of donors and supporters.”

“Three quarters of the Centre's donor agreements were externally audited and all received clean audits.” (pg 3)

Finance & Operations

PHOTO RIGHT
The Centre's finance office is headed by Mrs Virginia Brookes (R) who is assisted by Nadia Cassiem (L). They ensure that the Centre's finances are managed with care and prudence

PHOTO FAR RIGHT
General operations of the Centre are managed by Mrs Debbie Gordon, the Centre's Office Manager.



Financial Statement

	2012	2011
INCOME		
Funders	10 820 169.81	9 825 937.03
Consultancies	1 476 067.42	1 441 274.41
Other	71 795.13	195 068.39
TOTAL INCOME	12 368 032.36	11 462 279.83

EXPENDITURE

Advertising	23 088.42	7 273.78
Audit Fees	147 516.00	43 193.10
Bank Charges	457.51	1 206.72
Computer Equipment	67 563.19	97 923.01
Conferences, Seminars & Workshops	343 549.47	222 076.75
Consultation Fees	330 299.50	783 035.86
Functions & Catering	41 279.16	68 014.23
Evaluation	15 175.65	0.00
Partner Activities	766 379.92	227 580.96
Photocopying & Postage	80 246.05	149 339.50
Post-Graduate Bursaries	1 214 632.13	1 190 354.19
Publications	500 070.20	451 770.65
Research	103 609.35	330 331.35
Returned to Funder	0.00	30 397.51
Salaries	6 177 914.99	6 732 882.29
Staff Development	0.00	4 340.00
Stationery	108 754.67	92 898.80
Subscriptions & Books	90 264.97	64 649.62
Telephone	41 659.33	71 233.19
Travelling & Accommodation	2 276 579.66	931 376.39
Rentals & Maintenance	66 914.00	223 681.52
Website	172 993.09	253 178.35
TOTAL EXPENDITURE	12 568 947.26	11 976 737.77

CLOSING BALANCE FOR YEAR

Surplus carried forward from previous year	6 013 604.54	6 551 882.20
Prior Year Adjustment	29 441.83	-23 819.72

NET CLOSING BALANCE 2012	5 842 131.47	6 013 604.54
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Staff Activities

Books

De Visser, J (with Steytler, N) *Local Government Law of South Africa* (Durban: LexisNexis/Butterworths (2007), Update 2012 pp 200.

Chapters in books

Buntman, F & Muntingh, L "Super-maximum prisons in South Africa" in Ross, J *Globalization of Supermax Prisons* (Rutgers University Press: New Jersey).

Chofor Che, C "A Constitution devoid of constitutionalism: The case of Cameroon" in Mbondenyi, M & Ojienda, T *Constitutionalism in Africa* (Pretoria University Law Press: Pretoria) pp 163-188.

De Visser, J "Cities and Climate Change: *ex abundanti cautela* – 'from an excess of caution'?" in Cartwright A, Parnell S, Oelofse G & Ward S *Climate Change at the City Scale* (Routledge: London) pp 25.

De Visser, J (with Steytler, N & Williams, R) "Unfunded Mandates: directing subnational governments" in Färber, G *Governing from the center: the influence of the federal/central government on subnational governments* (Deutsche Forschungsinstitut für Öffentlichen Verwaltung: Speyer) pp 135-156.

Fessha, Y "Governing from the center: Federal-state relations in Ethiopia" in Färber, G *Governing from the center: The influence of the federal/central government on subnational governments* (Deutsche Forschungsinstitut für Öffentlichen Verwaltung: Speyer) pp 115-134.

Mandlate, A (with Mamade, F) "The impact of the African Charter and Women's Protocol in Mozambique" in Centre for Human Rights *The impact of the African Charter and the Women's Protocol in selected African states* (Pretoria University Law Press: Pretoria).

Mujuzi, J "The rights of refugees and internally displaced persons in Africa" in Sessononyo, M *The African Regional Human Rights System: 30 years after the ACHPR and beyond* (Martinus Nijhoff Publishers: The Netherlands) pp 177-194.

Mujuzi, J "Widow Inheritance in Uganda" in Atkin, B *The International Survey of Family Law 2012* (Jordan Publishing: Bristol) pp 393-403.

Muntingh, J "Children deprived of their liberty: Protection from torture and ill-treatment" in Van Niekerk, A, Suffla, S & Seedat, N *Crime, Violence and Injury in South Africa: 21st Century Solutions for Child Safety* (PsySSA: Houghton) pp 162-176.

Powell, D "Imperfect transition – local government reform in South Africa 1994-2012" in Booyesen, S *Local Elections in South Africa: Parties, People, Politics* (SUN MeDIA: Bloemfontein) pp 11-30.

Sloth-Nielsen, J "A new children's law in Botswana: Reshaping family relations for the twenty-first century" in Atkin, B *The International Survey of Family Law 2012* (Jordan Publishing Limited: Bristol) pp 27-41.

Sloth-Nielsen, J "Children's Rights in Africa" in Sessononyo, M *The African Regional Human Rights System: 30 years after the ACHPR and beyond* (Martinus Nijhoff Publishers: The Netherlands) pp 155-176.

Sloth-Nielsen, J "Modern African Childhoods: Does Law Matter?" in Freeman, M *Law and Childhood Studies: Current Legal Issues 2011* (Oxford University Press: Oxford) pp 117-132.

Steytler, N "South Africa – the reluctant hybrid federal state" in Loughlin, J, Swenden, W & Kincaid, J *The Routledge Handbook of Regionalism and Federalism* (Routledge: XX).

Steytler, N (with Powell, D) "The impact of the global financial crisis on decentralized government in South Africa" in Kincaid, J, Tarr, A & Walti, S *Federalism and the Global Financial Crisis: Impacts and Responses* (Oxford University Press: New York).

Waterhouse, W (with Van der Merve, A & Meys, U) "Youthful Sex Offending: The South African context, risks and effective management" in Ward C, Dawes A & Van der Merwe, A *Youth Violence: Sources and Solutions in South Africa* (UCT Press: Cape Town).

Articles

Assim, M (with Ogunfolu, A) "Africa and the International Criminal Court" (2012) 18 *HURIPPEC Journal* 1.

Assim, M (with Sloth-Nielsen, J) "Islamic Kafalah as an alternative care option for children deprived of a family environment" (2012) *European Journal of Law Reform*.

Ayele, Z & Fessha, Y "The constitutional status of Local Government in Federal Systems: The case of Ethiopia" (2012) 58(4) *Africa Today* 88.

Ballard, C "A statute of liberty? The right to bail and a case for legislative reform" (2012) 1 *South African Journal of Criminal Justice* 24.

Dereymaeker, G (with Muntingh, L) "Sexual Violence and Torture in International Criminal Law" (2012) *Journal of Human Rights Practice* 486.

Durojaye, E "Equality in Access to HIV Treatment for Vulnerable and Marginalised Groups in Africa" (2012) 15 (1) *PER* 214-242.

Durojaye, E "Substantive Equality and Maternal Mortality in Nigeria" (2012) 65 *Journal of Legal Pluralism and Unofficial Law* 103-132.

Durojaye, E & Foley, E "Making a first impression: An assessment of the decision of the Committee of Experts of the African Children's Charter in the *Nubian Children communication*" (2012) 12 *African Human Rights Law Journal* 564.

Fessha, Y "Federalism, the subnational constitutional framework and local government: Accommodating minorities within minorities" (2012) 27(1) *Southern African Public Law* 155.

Fessha, Y "Federalism, territorial autonomy and the management of ethnic diversity in Africa" (2012) *Journal of Studies on European Integration and Federalism* 265.

Kruuse, H "Substantive second-level reasoning and experiential learning in legal ethics" (2012) 23(2) *Stellenbosch Law Review* 280.

Mezmur, B "'Acting like a rich bully'?: Madonna, Mercy, Malawi, and international children's rights law in adoption" (2012) 20(1) *International Journal of Children's Rights* 25.

Mujuzi, J "Female Genital Mutilation in Uganda: A glimpse at the abolition process" (2012) 56(1) *Journal of African Law* 139.

Mujuzi, J "'Substantial and Compelling Circumstances': Looking at the Jurisprudence of the South African Supreme Court of Appeal since *Malgas*" (2011) 25(2) *Speculum Juris* 94.

Mujuzi, J "The Entrenchment of Qadis' Courts in the Ugandan Constitution" (2012) 26(3) *International Journal of Law, Policy and the Family* 306.

Mujuzi, J "The right to privacy of people in or presumed to be in same-sex relationships in Uganda" (2012) 20(3) *African Journal of International Comparative Law* 110.

Mujuzi, J "The rule of law: Approaches of the African Commission on Human and Peoples' Rights and selected African states" (2012) 1 *African Human Rights Law Journal* 89.

Mujuzi, J "The Ugandan Transfer of Convicted Offenders Act, 2012: A commentary" (2012) 2 *African Human Rights Law Journal* 599.

Mujuzi, J "Towards the establishment of a prisoners transfer legal regime in South Africa: Failed attempts, available options and critical issues to consider" (2012) 20(3) *African Journal of International Comparative Law* 281.

Muntingh, L "The state of civil society participation in Parliament" 16 *Law, Democracy & Development*.

Ntliziywana, P "Insulating administrative decision-making relating to individual staff appointments from political meddling: *Manana v King Sabatha Dalindyebo Municipality*" 129 *South African Law Journal*.

Sloth-Nielsen, J "A foreskin too far? Religious, "medical" and customary circumcision and the Children's Act 38 of 2005 in the context of HIV/Aids" 16 *Law, Democracy and Development* 69.

Sloth-Nielsen, J & Mwambene, L "Talking the talk and walking the walk: How can the development of African Customary Law be understood?" (2012) *Law in Context* 27.

Steytler, S "The legal instruments to raise property rates: Policy, by-laws and resolutions" 25(2) (2011) *SA Public Law* (2012) 482-494.

Steytler, N & Williams, R "Squeezing out provinces' legislative competence in *Premier: Limpopo Province v Speaker: Limpopo Provincial Legislature & others I and II*" 129(4) *The South African Law Journal* 621.

Conference papers

Chigwata, T "Decentralisation a peace strategy for Zimbabwe" *Summer School on Decentralisation, Federalism and Conflict Management* (Institute of Federalism: Fribourg University, Switzerland) September.

Chofor Che, C "A Constitution devoid of constitutionalism: The case of Cameroon" *Annual Conference of the African Network of Constitutional Lawyers* (Lagos) 17-19 May.

Chofor Che, C "An institutional government design for curbing identity and language conflict in states: An analysis of the 1996 Constitution of Cameroon" *Summer School on Decentralisation, Federalism and Conflict Management* (Institute of Federalism: Fribourg University, Switzerland) September.

Dereymaeker, G (with Ballard C) "Judicial accountability and the role of Judges in the monitoring and oversight prisons in Southern Africa: a particular focus on pre-trial detention, overcrowding and conditions of detention" *Annual Conference of the African Network of Constitutional Lawyers* (Lagos) 17-19 May.

De Visser, J "Addressing climate change through provincial planning in South Africa – A case study of the Western Cape" *Strengthening Green Federalism – Sharing Best Practices* (TERI/Forum of Federations: New Delhi) October.

De Visser, J "Delineating municipal power over land use planning: The post DFA era" *Conference on Local Government Law* (Nelson Mandela Bay University: Port Elizabeth) November.

De Visser, J "Subnational governments and socio-economic rights" *Subnational constitution, rights and minorities* (Centre of Federal Studies/Community Law Centre/Louis Favoreu Institute: Addis Ababa) May.

De Visser, J (with Steytler, N & Fessha, Y) "The role of ethnicity in the demarcation of internal boundaries in South Africa and Ethiopia" *International Association of Centres for Federal Studies* (Rome) September.

Durojaye, E "Civil Society and accountability" *Forum on Improving the Relationship between Civil Society and the State* (Cape Town) November.

Durojaye, E "Monitoring the Right to Health at the National Level" *People's Health Movement International Assembly* (University of the Western Cape: Cape Town) July.

Durojaye, E "Realising Access to Housing for Vulnerable and Marginalised Groups in South Africa" *International Housing Summit* (National AIDS Housing Coalition: Washington D.C.) July.

Durojaye, E "The right to health under the African Human Rights systems: Lessons for South African Courts" *Colloquium on the Application of the African Charter by South African Courts* (Community Law Centre: Cape Town) November.

Kangu, M "Kenyan devolution and the implementation challenges" *RTI Conference* (Nairobi).

Mandlate, A "Adoption by foreign national: Exploring the law and the practice in the face of the recent judgement of the Supreme Court of Mozambique" *Family Law Miller du Toit Conference* (Cape Town) March.

Muntingh, L "Guidelines and principles on imprisonment and the prevention of torture under the African Charter – how relevant are they for South Africa?" *Colloquium on the Application of the African Charter by South African Courts* (Community Law Centre: Cape Town) November.

Muntingh, L "The feasibility of norms and standards for conditions of detention in SADC" *SADC Lawyers Association Seminar* June.

Muntingh, L & Long, D "The Committee for the Prevention of Torture in Africa (CPTA) as regional catalyst in the prevention of torture" *10th Anniversary of the Robben Island Guidelines* (Johannesburg) August.

Murungi, N "The significance of article 24(2) of the UN CRPD for primary education of children with disabilities: potential and challenges to ensure social justice" *Annual Research Seminar of the Working Group on Economic and Social Rights* (The Hague) November.

Ntliziywana, P "Models for Professionalisation of Municipal Administrators" *14th Imasa Annual National Conference* (IMASA: Johannesburg) September.

Ntliziywana, P "Models for Professionalisation of Municipal Administrators: Consequences of not meeting the competency levels prescribed in terms of the Municipal Regulations on Competency Levels" *Conference on Local Government Law* (Nelson Mandela Bay University: Port Elizabeth) November.

Ntliziywana, P "The State of Local Government in South Africa" *Local Government Indaba* (Durban) October.

Steytler, N "Public safety in federalism systems"

Steytler, N "South Africa: A unitarist court in a hybrid federal system" *International Roundtable* (Forum of Federations/Government of Quebec: Montreal) March.

Steytler, N "Subnational constitutionalism: the South African experience" *Subnational constitution, rights and minorities* (Centre of Federal Studies/Community Law Centre/Louis Favoreu Institute: Addis Ababa) May.

Wakefield, L "Child Justice in South Africa: Reaching new frontiers or facing systemic implementation hurdles?" *Investing in Children Conference* (Parliament: Cape Town) May/June.

Waterhouse, S "Public Participation in South Africa's Legislatures: The South African Experience and Lessons Learnt" *Technical Forum on the Development of a Framework on Public Participation in Kenya* (Commission for the Implementation of the Constitution: Nairobi) September.

Other substantial research reports/outputs

Ben-Zeev, K & Waterhouse, S *Not Waiting for an Invitation: Lessons from South African Civil Society Engagement with National Parliament in 2011*.

De Visser, J *Service Delivery Protest Barometer* (with D Powell) www.mlgi.org.za (2012) (Online barometer of trends in service delivery protests in South Africa).

Foley, E & Wakefield, L *Civil Society Report on South Africa's progress towards realising an Africa fit for Children* (Nelson Mandela Children's Fund).

Mandlate, A (with Kamga, S) *The possibilities of impact litigation to promote children's rights in Portuguese and French speaking African countries* Research report for the Centre for Child Law of the University of Pretoria.

Mirugi-Mukundi, G *The Need for a Special Needs Housing Policy Framework in South Africa: A Literature and Policy Review* (Community Law Centre: Cape Town).

Mirugi-Mukundi, G (with Mathiang, M) *Women's Guide to the Transitional Constitution of the Republic of South Sudan*.

Steytler, N, De Visser, J & Powell, D (with PDG Consultants & Wendy Ovens) *Allocation of Powers and Functions across the Three Spheres of Government for the Department of Cooperative Governance*.

LLDs awarded in 2012

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Mission statement

The Community Law Centre is founded on the belief that constitutional orders must promote good governance, socio-economic development and the protection of the rights of vulnerable and disadvantaged groups. Through engaged research, engaged teaching and advocacy, the Centre supports processes in South Africa and the region to build inclusive, resilient states that are accountable to citizens and responsive to human rights. The Centre aims to be the leading think tank on multi level governance and human rights in Africa.

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