

# University of the Western Cape

COMMUNITY LAW CENTRE  
UNIVERSITY OF WESTERN CAPE  
PRIVATE BAG X17  
BELLVILLE, 7535



## Community Law Centre Annual Report January 1991-December 1991

*Director: Adv. A.M. Omar*

ANNUAL REPORT FOR THE  
PERIOD  
JANUARY 1991 TO DECEMBER 1991

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1. INTRODUCTION

This report covers the activities of the Community Law Centre during the period 1 January 1991 to 31 December 1991. The background and context in which the Community Law Centre was established were referred to in our report of the previous year. Whilst the factors referred to therein need no repetition, it is perhaps necessary to remind ourselves that in legal and constitutional terms not much changed during the year under review. It is true that the political situation became more fluid and that it had become possible for greater openness in discussion and debate to take place at many levels. At the same time certain negative factors also assumed greater and greater proportions. One of these is the violence which enveloped the country and took its toll in terms of human life and damage to property. Whilst the overwhelming majority of the people of South Africa yearned for a peaceful transition to a democratic order, it became apparent during the year under review that there were reactionary forces at work bent upon obstructing and undermining the transition to democracy. The Centre proceeded with its work in its defined areas in a context, therefore, which impacted on the Centre itself. The Centre is community orientated and cannot ignore the trials and tribulations of the disadvantaged communities. At the same time the Centre is required to make a contribution at a theoretical and intellectual level which is broadly democratic. This objective we tried to achieve during the year under review.

Taking all factors into consideration, the Centre enjoyed another highly successful year. A negative feature of a serious nature, however, lies in the fact that during the year under review we failed to secure adequate funding to cover the

full activities of the Centre during that year. As will appear from the financial statements, the funding situation improved in the year following.

#### STAFF SITUATION

The following persons are employed by the Centre:

1. ADV. A M DULLAH OMAR, Director
2. DR ZOLA SKWEYIYA, Senior Research Fellow and Adviser
3. MR BULELANI NGCUKA, Senior Research Fellow, also acting as Assistant Director
4. MS BRIGITTE MABANDLA, Research Fellow
5. MS SUNITA DALLA, Secretary

In addition the Centre employed a number of student assistants who were drawn from the Law Faculty of the University.

The Legal Aid Clinic functions autonomously under the direction of Ms Gadija Khan. In 1991 Mr Peter Volmink took over the directorship of the Street Law Project and he continues to act in that capacity.

Finally, the Centre has had the benefit of the presence of Prof. Clifford Shearing, world renowned expert on policing. He started a policing project at the Community Law Centre and has remained at the head of the project.

#### ACCOMMODATION

During the year under review the accommodation situation remained unchanged. The congestion in the Centre was relieved, however, by the assistance given by the University's German Department, to which the Centre expresses its gratitude.

#### EQUIPMENT AND FACILITIES

The inventory annexed hereto marked 'A' sets out the furniture, equipment and other assets of the Centre as at 31 December 1991. The Centre continues its efforts to build up the resources and assets of the Centre.

ACHIEVEMENTS AND WORK PERFORMANCE FOR THE YEAR  
ENDING DECEMBER 1991

1. Legal Aid Clinic

As indicated, the Legal Aid Clinic now operates autonomously. It is under the directorship of Ms Gadija Khan, a qualified attorney. She has proved herself to be dedicated to her work, is extremely hard-working and has produced very good results. The clinic has continued to render excellent service to the deprived communities in a large variety of cases. This service takes the form of advice and guidance as well as the handling of a large variety of civil cases. We consider the work of the Legal Aid Clinic to be extremely important because large numbers of people are not able to afford legal representation. In South Africa the inadequacy of the present system is reflected by the fact that many thousands of people are unable to pay for legal services and therefore are not able to pursue their rights. In countless instances throughout the country ordinary women and men often face attacks upon their rights at many levels. Because they are not able to afford legal representation, they often find their rights trampled upon and destroyed. Whilst legal representation in itself will not cure the problems, it is very clear that legal representation can make a difference in many instances. Whilst recognising the limitations inherent in the situation, the Legal Aid Clinic represents a very important arm of our work. The report of the Legal Aid Clinic's director, Ms Khan, speaks for itself in this regard. The Centre commends Ms Khan and her team for the excellent work they have performed.

2. Street Law Project

In 1991 the Street Law Project fell under the directorship of Mr Peter Volmink. The choice of Mr Volmink as Director has turned out to be an excellent one because he has tackled his job with great enthusiasm and originality. The standing of the project as well as the Centre and therefore the university

itself has been raised as a result of the excellent work done by the Street Law Project during the year under review. Many schools and institutions were serviced. The Street Law Project did not however limit itself to these institutions but sought to make an impact at a public level as well. It continued during the year under review, to play the role of empowering the disempowered, the poor and the deprived. Educating people about their rights is an extremely important aspect of our work and there is no doubt that the Street Law Project will play an important role in the future as it has done in the past.

Due to the location of the Street Law Project - some distance away from the rest of the Community Law Centre - the work of the project is insufficiently integrated with the rest of the work of the Centre. With the prospect of alternative accommodation for the Centre, this problem can be easily resolved.

#### HUMAN RIGHTS AND CONSTITUTIONAL MATTERS

During the year under review, the Centre continued its endeavour to establish communication and contact with human rights and constitutional experts not only in other parts of South Africa and Africa itself, but the rest of the world. As a result we have strengthened our links with constitutional and human rights lawyers in the United States of America, Britain, Germany, Netherlands, Zimbabwe, Zambia and Australia. These are additional to the contacts which we have been trying to establish in the so-called third world countries.

Inside the country we have succeeded in establishing links with centres in other parts of the country and have built have special relationships with universities such as Fort Hare and the University of Transkei.

During the year under review, constitutional issues and issues relating to a future Bill of Rights for South Africa dominated the discussions. The Centre has participated in these debates.

All our personnel have been travelling to different parts of the country to benefit from discussions and to contribute. We have spoken at numerous seminars and workshops in different parts of the country.

We also organised events at the campus itself. They are as follows:

1. Early in 1991 we had the privilege of receiving as our guest, Prof. Michael Tigar, former Chair of the Litigation Section of the American Bar Association and Professor of Law at Texas University. He delivered three lectures at the university, dealing with the role of law, lawyers and judges in a period of transition.
2. In March 1991 a joint conference was organised by the Community Law Centre of progressive lawyers in South Africa with lawyers in the United States who are members of the National Lawyers Guild and the National Conference of Black Lawyers. Various issues affecting the constitution-making process were raised and discussed. The conference considered parallels between the situation in the United States and the current political juncture in South Africa. This was a highly successful conference.
3. We also received at the university the former Chief Justice of India, the Honourable Justice Bhagwati, who addressed a meeting on campus "Social and Economic Rights - Methods of Enforcement". His lecture was attended, inter alia, by the Chief Justice of South Africa as well as ten other judges of the Cape Provincial Division of the Supreme Court.
4. The Community Law Centre also participated in the organising of a conference in Port Elizabeth in October 1991 on Affirmative Action. This workshop was attended

by over 200 representatives from a variety of organisations from different parts of South Africa. It also drew representatives from other countries who also participated in the discussions. The objective of the conference was to focus debate on the constitutional framework for Affirmative Action in order to address the historical imbalances created by the apartheid system. These are some of the major events organised by the Community Law Centre.

#### WORKER RIGHTS

The Centre has continued to support workers and trade unions in their struggles for recognition and justice at the work place.

We have continued to assist and advise the South African Municipal Workers Union on an ongoing basis. This Union (Samwu) represents in particular black workers throughout the country. In many areas they have been some of the most exploited of the workers in the public service. White municipalities as well as their black authority counterparts, with the support of provincial administration, have often resisted unionisation of workers in their employ. There have also been cases of dismissals and victimisation of workers involved in union activity. The Centre has been called upon from time to time to advise the Union with regard to specific situations at places throughout the country. The Director has also represented Samwu in the Supreme Court as well as in the Industrial Court in respect of certain of its disputes.

We have continued to render services to other unions, sporting organisations, civic, women and youth organisations in terms of advice, guidance and drafting.

#### ESTABLISHING LINKS WITH UNITED NATIONS ORGANISATIONS

During the year under review the writer was invited to attend sessions of the Human Rights Commission of the United Nations

Organisation, both at New York and Geneva. Contact has been established with the personnel of the Human Rights Commission and arrangements made for the Centre to receive literature and other information relevant to human rights.

#### FINANCE

The financial statement reveals that during the year under review, the Centre did not receive the requisite funding to enable it to balance its books. It was compelled to rely on university facilities. As will appear from the post 1991 financial statements, the position since then has improved. There is a real problem with regard to funding because it seems that funders are generally prepared only to fund projects and not the Centre as such. The major funder of the Centre has been the Ford Foundation, without whose support the Centre would not have been able to function.

#### APPRECIATION: DONORS AND OTHERS

We would like to extend a special word of appreciation to all our donors. Special thanks is due to the Ford Foundation for continued and sympathetic support. We also wish to record our appreciation to the Dialogue Fund of the Government of Canada, the Friederich Ebert Foundation of Germany and the Netherlands Government. The Centre is also indebted to the Centre for Development Studies, which has been a pillar of strength assisting the Centre in all its endeavours. We also thank the university administration for all its support and co-operation. This support has lightened the burden of the Centre considerably. Our thanks is also due to the Dean of the Law Faculty of the Management Committee for constant encouragement, advice and support.

#### CONCLUSION

This report covers the period January to December 1991. The time of presenting the support takes us into the latter part of 1992. During 1992, the financial situation of the Fund improved. At the same time a considerable amount of work has



been done. These will be the subjects for the 1992 Annual Report. It is hoped that the next Annual General Meeting will be held in the first quarter of 1992.



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ADV. A M (DULLAH) OMAR  
DIRECTOR

AUGUST 1992

CONSTITUTION OF THE COMMUNITY LAW CENTRE  
OF THE UNIVERSITY OF THE WESTERN CAPE

1. NAME AND STATUS

- 1.1 The name of the Centre shall be "Community Law Centre of the University of the Western Cape" (hereinafter referred to as "the Centre").
- 1.2 The Centre shall not be a legal person but shall form part of the University of the Western Cape (hereinafter referred to as "the University") and shall operate under the auspices of the Council of the University.

2. AIMS AND OBJECTIVES

- 2.1 The aims and objectives of the Centre shall be:
  - 2.1.1 To monitor, research and publish on human rights issues.
  - 2.1.2 Generally, to render assistance and to give support to persons and agencies involved in human rights in the region.
  - 2.1.3 To conduct limited litigation in human rights matters of a public interest nature.
  - 2.1.4 To teach within the University and to organize seminars and conferences to draw attention to the human rights issues of the day.
  - 2.1.5 To run community education programmes including the conduct of the street law project.

3. SUPERVISION BY THE DIRECTOR

- 3.1 The Director of the Centre (hereinafter referred to as "the Director") shall be an advocate or attorney and shall be appointed by the Council of the University as a member of the academic staff of the Faculty of Law.
- 3.2 The Director shall:
  - 3.2.1 Supervise the activities and the day to day running of the Centre;

- 3.2.2 Carry out those duties and perform those functions imposed upon him in terms of this Constitution;
- 3.2.3 Implement and give effect to the policies and directives laid down by the Board of Trustees and;
- 3.2.4 In general, perform those duties and functions necessary to give effect to the aims and objectives of the Centre.

#### 4. BOARD OF TRUSTEES

- 4.1 A Board of Trustees (hereinafter referred to as the "Board") shall be constituted and shall consist of:
  - 4.1.1 The Director;
  - 4.1.2 The Chancellor of the University;
  - 4.1.3 The Rector;
  - 4.1.4 The University Community Liaison Officer;
  - 4.1.5 The Dean of the Faculty of Law;
  - 4.1.6 Three further members of the teaching staff of the Faculty of Law nominated for a period of three years by the Board of the Faculty of Law of the University;
  - 4.1.7 The chairman of the Law Students' Council of the University;
  - 4.1.8 One practising attorney and one practising advocate who shall be elected at a meeting of the persons referred to in paragraph 4.1.1 to 4.1.7 above for a period of three years;
  - 4.1.9 Two members of the public, who shall be elected at a meeting of the persons referred to in paragraph 4.1.1 to 4.1.7 for a period of 3 years and who shall preferably be engaged in community work or be members of the legal profession;
- 4.2 The Board shall elect its own chairman.
- 4.3 The Director shall be the secretary of the Board.

- 4.4 The Board shall meet at least twice a year at a time and place determined by the secretary who shall give ten days written notice of such meeting to all members of the Board: provided that written notice of seven days will suffice in respect of an extra-ordinary meeting as envisaged in paragraph 4.7 below.
- 4.5 Seven members of the Board shall constitute a quorum.
- 4.6 The Board shall determine policy on matters pertaining to the aims and objectives as set out in paragraph 2.
- 4.7 The Director shall convene an extra-ordinary meeting upon receipt of a written request signed by seven members of the Board.
- 4.8 Each member of the Board shall be entitled to appoint an alternate to represent him/her and to exercise the right to vote on his/her behalf at any meeting of the Board.
- 4.9 The Board may designate a management committee and shall determine its composition and function.

5. FINANCIAL AFFAIRS

The financial affairs of the Centre shall be administratively handled by the central administration of the University.

6. ANNUAL REPORT

- 6.1 The Director shall compile an annual report on the activities and finances of the Centre.
- 6.2 The annual report shall be completed within the first quarter of each year following upon the previous calendar year.
- 6.3 Copies of the annual report shall be submitted to:
  - 6.3.1 The Council of the University;
  - 6.3.2 The Board of Trustees;
  - 6.3.3 The Senate through the Board of the Faculty of Law.

7. AMENDMENTS TO THE CONSTITUTION

Amendments to this constitution shall be effected by a decision of the Board; provided that no amendment shall have any force or effect unless it is \ratified by the Council of the University.

**MINUTE OF MEETING OF BOARD OF TRUSTEES OF COMMUNITY LAW CENTRE  
HELD AT THE COUNSEL CHAMBERS, ADMINISTRATION BLOCK, UWC, ON 28  
MAY 1991**

1. **ATTENDANCE:**

Chair, the Rector, Prof. J G Gerwel  
Prof. P C Smit, Dean of Law Faculty, J Murphy, J Sarkin-  
Hughes, N Steytler, C Tinto, Rev. M Tisane (for  
Archbishop Tutu) and A M Omar (Director and Secretary)  
Also present Prof. Renfrew Christie and B Ngcuka on  
invitation of Director. Their presence is approved by  
the meeting.

2. **APOLOGIES:**

Apologies were received from S Majiedt, L Nyembe, G  
Aboobaker and the Archbishop.

3. **MINUTES:**

Minute of meeting held on 5 November 1990 adopted.

Matters arising:

The Rector asked whether steps had been taken to  
recommend appointment of the Director to the Senate.  
After discussion, it was agreed that the Dean should  
propose at the Faculty Board meeting (to be held on  
Tuesday 4 June 1991) that the Faculty Board make such  
recommendation.

It was also agreed that membership of all full-time  
research fellows on contract to the Faculty Board be  
raised at the Faculty Board meeting. It was felt that  
all of them should be full members of the Faculty Board -  
like the Director and the Head of the Street Law Project.  
The Faculty Board should be asked to make such a  
recommendation.

4. **DIRECTOR'S REPORT**

The report, previously distributed to members of the  
Board, was adopted.

The following matters arose in discussion:

Accommodation:

Arrangements have been made for accommodation in the  
building which will house the Law Faculty. Provision has  
been made for at least 6 offices. Library facilities  
were also discussed.

Publications:

At the suggestion of Prof. Smit, it was agreed that publications by members of the Centre should indicate their address as care of Community Law Centre.

Publications in popular and serious journals should receive attention.

Prof. Steytler informed the meeting that the book on the Freedom Charter edited by him will be published also under the aegis of the Community Law Centre.

Legal Aid and Street Law Project:

It was noted that the Legal Aid Clinic already operates independently with a separate Board. Both Legal Aid Clinic and Street Law Project must also make a theoretical contribution and the possibility of research in these areas should be considered.

It was agreed that with regard to the work of the CLC, Street Law Project and Legal Aid Clinic, a report should be submitted to the next meeting with regard to their operation, autonomy and functioning. Consideration should also be given to cross representation by the respective directors in each Board.

Position of Prof. K Asmal:

Every endeavour is to be made to retain the services of Prof. Asmal at UWC.

5. **FINANCES**

Statements for 1.1.1990 to 31.12.1990 and 1.1.1991 to 31.3.1991 were tabled.

Prof. Smit reported:

- i). Expenses debited to the Law Faculty of ± R7000 should have been debited to the Community Law Centre.
- ii) On the basis of figures in the financial statements, funds would be depleted by end of June. R23000 approximately per month is required to operate the Centre.
- iii) Debit of R59890 appearing in the accounts was not clear.  
It was pointed out that this debit was incorrect. The Director will raise the issue with the Rector (who had earlier been excused from the meeting).

Ford Foundation Funding discussed. Murphy explained that agreement was for 3 years but we signed contract for one year and received funding for 1 year. A report should be

submitted in terms of the contract and application be made for a new one. Report should have been made by February. It was agreed that a sub-committee of Murphy,

Sarkin-Hughes, Ngcuka and Omar to prepare report for submission to Ford.

Prof. Smit suggests that if necessary Omar should visit the USA to meet with Ford Foundation people to negotiate further funding.

6. **ACTIVITIES FOR 1991**

Aspects were dealt with in the Director's report. Prof. Smit indicated that university including the CLC should concentrate on forging links with other institutions in Southern Africa as well. The meeting agreed. Mr Tinto, as representative from the oppressed community, emphasised the importance of creating links in Africa. Rev. Tisane emphasised the need to liberate the legal system as part of the process of liberation in South Africa.

7. **GENERAL MATTERS**

Omar raised the problem which presently exists because salaries are not market related. The Centre will experience difficulties in retaining the services of outstanding persons who have been recruited due to attractive offers emanating elsewhere. In negotiations with funders who had already been approached for funding for the Centre, provision was to be made for market related salaries.

Prof. Smit agreed that the question of salaries which were not market related presented a problem. The Law Faculty was also investigating the matter. There were no other matters and the meeting was closed by Prof. Christie who had earlier replaced the Rector in the Chair.

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A M OMAR  
DIRECTOR  
COMMUNITY LAW CENTRE