

EQUAL EDUCATION LAW CENTRE
.....
ANNUAL REPORT
2016



EELC

EQUAL
EDUCATION
LAW CENTRE

EQUAL EDUCATION LAW CENTRE

Address: Isivivana Centre, 3rd Floor
8 Mzala Street
Khayelitsha
7784

South Africa

Website: www.eelawcentre.org.za

Email: info@eelawcentre.org.za

Tel: +27 21 461 1421

Fax: +27 86 572 4675

PBO Exemption No: 930038683

NPO No: 099-658-NPO

Trust Reg No: IT2966/2011



EQUAL
EDUCATION
LAW CENTRE

CONTENTS

ABOUT THE EELC	7
LETTER FROM THE CHAIRPERSON	8
LETTER FROM THE EXECUTIVE DIRECTOR	9
OUR WORK	10
MOVEMENT LAWYERING	11
COMMUNITY LAWYERING	19
LEGAL RESEARCH AND ADVOCACY	24
SUPPORTERS	33
EELC TEAM	35
ANNUAL FINANCIAL STATEMENTS	37
ACKNOWLEDGEMENTS	39

ABOUT THE EELC

VISION AND MISSION



The Equal Education Law Centre (EELC) was founded in 2012, and is registered as a law clinic with the Cape Law Society. Its staff of social justice lawyers specialise in education policy, legal advocacy, community lawyering and public interest litigation. The EELC is committed to building a society in which the quality of education received by learners is not dependent on any aspect of their identity, socio-economic status, or their parents' ability to pay school fees. The EELC's overriding goal is to use the law as a tool to ensure the realisation of every learner's right to an equitable, safe and quality basic education.

WHERE WE WORK



In August 2016, the EELC moved its office at the new Isivivana Centre in Khayelitsha, Cape Town. The centre accommodates a number of social justice movements and organisations, working together to address structural and systemic inequalities in South Africa.

The new office has reinvigorated the EELC's activist work, making the services of our attorneys more accessible to the Khayelitsha community, and bringing us closer to our comrades and clients at Equal Education, which has also moved its head office to the building.

The spirit of comradeship and community at the Centre is inspiring, and the space encourages thoughtful debate and coordination between activists working in health, education, safety and several other issues.

Our sincere gratitude to all our supporters who contributed towards our office move.



MESSAGE FROM OUR CHAIRPERSON

It is a pleasure to write my first introduction to an annual report of the Equal Education Law Centre (the EELC).

EELC was fortunate indeed to have as its inaugural chair of the board of the EELC former Chief Justice Arthur Chaskalson, with whom I had the privilege to serve on the Constitutional Court. After his untimely passing, Kerry Williams and Ursula Hoadley both served for periods as interim chairperson. Thanks to their conscientious caretaking of EELC, the current board oversees a financially sound and intellectually robust organisation.

The EELC is the only public interest law firm in South Africa that specialises exclusively in education law and policy. Its focus enables it to develop specialist expertise in the jurisprudence, policy and academic literature relating to education law. EELC's close ties to Equal Education (EE), a national membership-based mass-movement, provides EELC's staff with a grounded understanding of the social and political context of education, as well as informing the development of its litigation strategy. The daily walk-in law clinic run by EELC, which offers specialist legal advice and support to individuals and communities in relation to education issues, further enables the team to appreciate the day-to-day challenges faced by learners, parents and teachers in our schools. EELC's offices are in Khayelitsha, and so it is the only national public-interest law firm head-quartered in a working-class township community, a valuable vantage point for its work.

Although the EELC values its close ties to EE, it also values its independence. The two organisations are distinct legal entities, each with its own governance structure, finances and strategic plan. EE benefits from its relationship with EELC in

receiving independent-minded legal advice, while the EELC benefits by being able to take on other clients and explore new areas of work.

Transformation is taken seriously within the centre. Both the staff and board have a majority black composition, and importantly a young, black woman, Nurina Ally, leads the centre. A recently adopted briefing policy will also ensure that the EELC contributes to transformation in the legal profession more broadly.

This annual report shows the range and complexity of EELC's work, and its engagement with the practice of democratic accountability and the Constitution's vision of equality. Looking ahead, EELC plans to bring important cases before the courts, and to extend f access to justice through its work.

On behalf of the board, I congratulate and thank Nurina, Daniel and the EELC team for their hard work and commitment in the year behind and also wish them well for their work in the year ahead.

Kate O'Regan
April 2017

Kate O'Regan served as a judge of the Constitutional Court of South Africa from 1994-2009, and has been serving as an ad hoc judge of the Supreme Court of Namibia since 2010. From 2008-2012, she served as the inaugural chairperson of the United Nations Internal Justice Council, a body established to ensure independence, professionalism and accountability in the internal system of justice in the UN. She is an honorary Professor at UCT and a visiting Professor in the Faculty of Law at the University of Oxford. She also serves on the boards of many non-governmental organisations working in the fields of democracy, the rule of law, human rights and equality.



MESSAGE FROM OUR EXECUTIVE DIRECTOR

The year 2016 marked the 20th anniversary of South Africa's final Constitution. Well-known for its generous and detailed array of rights and freedoms, the Constitution provides particularly special protection for the right to basic education. Unlike other socio-economic rights, there is no internal limitation requiring that the right be progressively realised within available resources. The right to basic education is immediately realisable.

For education activists and lawyers, this is a significant tool for social mobilisation and litigation. In April 2007, the former Deputy Chief Justice Moseneke remarked:

"I am surprised that we haven't had one case on right of access to education in this court in 13 years. If one were to come before this court I am sure the court would apply its mind and come up with a judgment that is consistent with the Constitution..."

[N]obody has come to me and said, 'My son is studying under a tree, there's no chalk, there's no blackboard, the teachers don't come to school every day.' Nobody's come here to say that."¹

In 2008, the social movement Equal Education (EE) was founded. Its members (predominantly high school learners called "Equalisers") campaign for equal and quality education in South Africa. A key component of EE's advocacy arsenal is the use of the law. Indeed, so crucial is the link between legal advocacy and social mobilisation, in 2012 the Equal Education Law Centre (EELC) was established as a sister to the social movement.

The EELC's formation was out of recognition that legal strategies and support are not only needed at the moment of drafting papers and going to court. Rather, effective use of litigation would best be served if lawyers and activists worked together and consistently. Since its founding then, a key and unique aspect of the EELC's

vision for social change is its approach to "movement lawyering". As movement lawyers, the EELC plays an important role in defending the space within which social movements such as EE can operate, and expanding the space within which social movements can advance their goals.

Geoff Budlender, one of South Africa's respected social justice lawyers puts it as follows:

"The struggle for a better society is essentially a political struggle. A critical question is how we can use the courts and the law to open the political process, and make the political process more responsive to ordinary people. In that way the courts will play their part in ensuring that the people do govern."²

As this annual report shows, the EELC has used a wide variety of legal tools and strategic interventions to defend and expand the space for EE as a social movement. This includes, but is not limited to, the use of litigation, submissions to legislatures, engagements with government officials and expanding legal literacy. In addition, and perhaps most profoundly, this also includes EELC lawyers standing side by side with activist learners, parents and teachers providing "on the ground" assistance and support when needed.

Whilst the EELC's model of movement lawyering is a key component of its work, as an independent organisation, the EELC also provides advice and legal support to a range of other clients, including institutional partners, individuals and communities. Through community lawyering, the EELC resolves hundreds of cases and advances access to justice through consistent and specialised interventions. Established as a "repeat-player" in the education landscape, the EELC has a network of relationships with education stakeholders who work together to advance equal and quality education.

Seeking to advance education justice at a systemic and structural level, the EELC also uses targeted and specialist legal research and advocacy to reform and build the education system. The EELC's work in 2016 around inclusive education, gender identity and sexual orientation, and school funding are just some examples. Importantly, the EELC seeks to empower individuals and communities and we were proud to have launched an online education case library and initiated a series of education law pamphlets in 2016.

Since joining the EELC in 2015 - alongside the Deputy Director, Daniel Linde - we have been supported and encouraged by a humbling number of colleagues and comrades. We are grateful to everyone for their advice and assistance as we work collectively to strengthen the EELC and the struggle for education justice. In particular, we thank the young activist lawyers and staff of the EELC who work tirelessly and passionately for a cause they believe in; our board of trustees for their advice and guidance; our funders and individual supporters who make our work possible; and our comrades at Equal Education who inspire us daily. My personal appreciation to Daniel Linde, an exemplary activist lawyer, with whom it is a pleasure to lead and serve the EELC. Finally, we recognise that our organisation has been built on strong foundations - particularly under the leadership of the former Director, Dmitri Holtzman - we thank all those who have previously been part of growing the EELC.

Apartheid's legacy of skewed resource distribution cannot be undone overnight. The struggle towards equal and quality education will be a long road and it is the greatest privilege to have joined the Equal Education Law Centre team and work towards that goal.

Nurina Ally- Executive Director
April 2017

¹ Chris Barron, 'From Courtroom to Campus: this is a man in his element' *Sunday Times* (1 April 2007).

² Geoff Budlender, 'People's Power and the Courts'. *Bram Fischer Memorial Lecture* (2011).

OUR WORK

THE EELC ENGAGES IN MOVEMENT LAWYERING, COMMUNITY LAWYERING, AND LEGAL RESEARCH & ADVOCACY.

MOVEMENT LAWYERING

The EELC is closely connected to the campaigns of its sister organisation, Equal Education (EE), a social movement of learners, parents, teachers and community members, working for quality and equality in South African education. As movement lawyers, EELC attorneys provide legal advice, interventions, and where necessary, strategic litigation to support the campaigns led by EE's learner members, known as "Equalisers".



COMMUNITY LAWYERING

As a legal centre which prioritises access to justice for marginalised communities, the EELC provides legal services and representation free of charge to persons who would not otherwise be able to afford them. Through the EELC's walk-in clinic, we provide advice and support to learners, parents and teachers, on a wide range of matters such as expulsions, discrimination and access to schools.

LEGAL RESEARCH AND ADVOCACY

As experts in education law and policy, the EELC's team of lawyers produce in-depth research reports and submissions on the right to education. This includes submissions to relevant government institutions, conducting legal and policy research related to our objectives and, where possible, assisting communities, community-based organisations and other institutions in formulating their own policy and legal perspectives.

MOVEMENT LAWYERING

THE EELC'S TEAM OF MOVEMENT LAWYERS PROVIDES SUPPORT TO THE CAMPAIGNS AND ACTIVITIES OF OUR SISTER ORGANISATION, EQUAL EDUCATION (EE). EE IS A MEMBERSHIP-BASED, DEMOCRATIC SOCIAL MOVEMENT COMPRISED MAINLY OF HIGH SCHOOL LEARNERS, CALLED "EQUALISERS", WHO DRIVE EE'S CAMPAIGNS IN FIVE PROVINCES ACROSS THE COUNTRY. AS ACTIVIST LAWYERS, THE EELC IS CLOSELY ENGAGED IN THE STRUGGLES OF EE AROUND THE COUNTRY, AND IS ON HAND TO PROVIDE LEGAL ADVICE ON A DAY-TO-DAY BASIS, AS WELL AS PROVIDING STRATEGIC SUPPORT THROUGH LITIGATION. THROUGH ACTIVISM AND ADVOCACY, OUR ORGANISATIONS COLLABORATE TO ADDRESS SYSTEMIC INEQUALITIES IN THE SOUTH AFRICAN EDUCATION SYSTEM AND FURTHER THE MOVEMENT FOR EQUAL AND QUALITY EDUCATION.

FIX OUR SCHOOLS: SCHOOL INFRASTRUCTURE CAMPAIGN

Many South African schools lack the basic infrastructure to ensure that teachers and learners are equipped with conditions suitable for the provision of quality education. Learners from low-income families are forced to learn in poorly-built structures, often with broken toilets and no running water, electricity, or security. Stocked and functioning libraries, computer rooms, science laboratories, and sports fields are scarce. These unsafe and inadequate conditions make teaching and learning difficult, if not impossible.



The demand for better infrastructure in schools has been central to the work of EE since 2008, when it launched its first campaign, calling for broken windows in Khayelitsha schools to be fixed. Since then, sustained public pressure was placed on the Department of Basic Education ("DBE") through campaigning, community mobilisation, and eventually, litigation, which successfully resulted in the publication of Regulations Relating to Minimum Uniform Norms and Standards for Public School Infrastructure in 2013 ("the Infrastructure Norms").

Since the publication of the Infrastructure Norms, the EELC has worked closely with EE to ensure that the state is held accountable to its obligations in terms of the law. Whilst there has been some progress toward implementation, EE continues to mobilise to ensure the full implementation of the basic standards the Constitution requires.

In order to secure effective implementation of the Infrastructure Norms, it is vital that the law is clear and comprehensive. From 2014, EE and the EELC have worked together to highlight loopholes and ambiguities in both the Infrastructure Norms and provincial implementation plans. These concerns include the fact that the regulations do not apply to all schools, and fail to hold the Minister and the DBE specifically accountable. The regulations also do not require that progress

reports be made accessible to the public, and do not place a sufficiently clear positive obligation on the DBE to fix schools. The law merely states that worst-off schools must be 'prioritised'.

For almost two years, EE and EELC sought to engage with the DBE around its concerns. The lack of responsiveness by the Minister of Basic Education eventually pushed EE to litigate. In 2016, EE represented by the EELC, launched an application in the Bhisho High Court seeking a court order which requires the Minister to remedy deficiencies in the Infrastructure Norms so as to ensure effective implementation and accountability. The EELC has supported EE in its ongoing mobilisation around the court case, including training with EE facilitators across the country. The matter will be heard in the Bhisho High Court, Eastern Cape in 2017.

Advocates Geoff Budlender SC and Aymone du Toit are instructed by the EELC in this matter.



"When the wind blows it feels like the whole classroom is shaking. I fear for my children because it is dangerous for us to be inside the mud classrooms when the wind becomes strong. I also become very scared. The noise that picks up is shocking and it becomes impossible to teach anybody. Everybody becomes so afraid of the wind. The learners complain because sometimes it is so bad that we are forced to leave the classroom."

-A Teacher at Kalalo Junior Secondary School in Mthatha.



FIX OUR SCHOOLS: *KOMAPE AND OTHERS V MINISTER OF BASIC EDUCATION AND OTHERS*



In January 2014, 5-year-old learner Michael Komape tragically died when he fell into a dilapidated pit toilet at his school in Chebeng Village, Limpopo. The Komape family is seeking damages, arising from Michael's death, from the Minister of Basic Education and the MEC for Education in Limpopo. In March 2016 EE, represented by the EELC, made an application to join the case as *amicus curiae* (friend of the court). EE's submissions focused on the foreseeability of harm and the development of the common law, and stressed that the matter raises constitutional issues, including the breach of public law duties such as the duty to keep learners safe at school. On 13 June 2016, Judge Mokgohloa of the Limpopo High Court handed down judgment ordering that EE be admitted as *amicus*. It is rare for judgment to be handed down in *amicus curiae* applications, and the Judge's decision to do so reflects the importance of the constitutional arguments brought to the court's attention by EE in the case. This matter is currently awaiting trial.

Advocates Kate Hofmeyr and Ndumiso Luthuli are instructed by the EELC in this matter.

I find the respondents' argument without substance. The respondents concede that the plaintiffs' action raises the question whether common law should be developed in light of section 39(2) of the Constitution. Furthermore, the plaintiffs' claims are based on the defendants' breach of certain public duties that give rise to private law claims for damages. The question of what those public duties were and whether they were breached to an extent that would give rise to a private law claim for damages is in my view, a constitutional issue."

- Judge Mokgohloa, in her judgment of 13 June 2016 (*Equal Education: in Re Komape v Minister of Basic Education*)

#LONGWALKTOSCHOOL: SCHOLAR TRANSPORT CAMPAIGN

Across the country, particularly in rural provinces, thousands of learners walk long distanced and face dangerous conditions to get to school every day. For Equalisers in the village of Nquthu, KwaZulu-Natal the situation has become intolerable. The village of Nquthu is located in the Umzinyathi District, tucked into the northern corners of the province. Without scholar transport, learners arrive at school exhausted and unable to concentrate. The walk to school is often treacherous, as learners have to cross rivers and are exposed to the threat of crime.

After sustained advocacy and action by EE and EELC, the National Scholar Transport policy was

finally adopted on 23 October 2015. Adding to this success, in March 2016, the Standing Committee on Appropriations included EE and the EELC's submissions on ring-fenced funding for scholar transport in its recommendations to the Minister of Finance.

In a victory for learners, EE and EELC, after various engagements and the threat of litigation, finally confirmed that 3 schools in Nquthu (Mangeni High, Esikhumbuzweni High, and Nhlalakahle High) were provided with buses. Hundreds of learners now have scholar transport. However, the struggle for thousands of children continues.

"On my journey to school I have to cross the Gunwane River. I take my shoes off to walk through the water. There is no bridge for us to cross. There are also snakes that live close to the river. When it rains the river gets too full for us to cross, we then have to turn around and use another route which is about 20 minutes longer. Our clothes get wet when crossing the river and then we have to sit in class with those wet clothes."

- A Grade 11 learner at Hlubi High School

In March 2016, in a historic long march, 300 EE members – supported by EELC lawyers - walked 38km from New Hanover to Pietermaritzburg over two days to symbolically protest the lack of scholar transport faced by learners every day. At the end of 2016, EE resolved to litigate against the national and provincial departments of basic education and transport to secure the rights of learners. In 2017, EELC will continue to represent and support EE in the struggle for scholar transport.

Advocates Andrea Gabriel and Deborah Ainslie are instructed by the EELC in this matter.



SPATIAL INEQUALITY AND EDUCATION INJUSTICE

FEDSAS v MEC for Education, Gauteng and Another

MEMBER OF THE EXECUTIVE COUNCIL FOR EDUCATION, GAUTENG AND ANOTHER

On 5 May 2016, Equal Education, represented by the EELC, presented argument as amicus curiae before the Constitutional Court in the matter of FEDSAS v MEC for Education, Gauteng and Another. The matter involved a challenge to the validity of the Regulations for Admission of Learners to Public Schools in Gauteng. One of the issues before the court was the lawfulness of a default feeder zone regime for schools based solely on proximity. EE's submissions highlighted that spatial apartheid in South Africa is amplified when proximity to a school is the sole criterion used to determine feeder zones. EE also submitted that the Infrastructure Norms should apply to the question of school capacity limits and unplaced learners until norms and standards on school capacity are published. Judgment was handed down by the court on 20 May 2016. The Court ordered the Gauteng Department of Education formulate new rules for feeder zones within one year of the date of judgment.

Advocates Tembeka Ngcukaitobi and Frances Hobden were instructed by the EELC in this matter.

"...today we finally broke the backbone of apartheid planning. Today, all our schools belong to all our children, NOT the privileged few! The judgement empowers us, as government, to declare new feeder zones thus, burying the transitional 5km radius! No parent will be asked a salary slip before their children are admitted in our schools!.."

-Facebook Post by Gauteng MEC for Education, Panyaza Lesufi on 20 May 2016



#RECLAIMTHECITY CAMPAIGN

In 2016, EE and EELC supported the Reclaim the City campaign to stop the Western Cape Government selling public land to private entities. In June 2016, EE and the EELC made a joint submission against the proposed sale of a state-owned property in Sea Point, the site of a former public school, to a private buyer for the development of a private school. This submission emphasised the effect of apartheid spatial planning, which persists today, on the perpetuation of inequality in education. It argued that the Constitution places a duty on the state to promote access to the city centre for excluded communities, who are overwhelmingly poor and black. After extensive mobilisation by Reclaim the City, supported by Ndifuna Ukwazi, the sale of the property has since been halted.



THE RIGHT TO PROTEST



In September 2013, ten Social Justice Coalition (SJC) activists were convicted of contravening the Regulation of Gatherings Act 205 of 1993, following a peaceful protest at the Cape Town municipal headquarters. The SJC appealed the conviction, arguing that the criminalisation of peaceful protest, for mere failure to have given notification of the protest, is an unreasonable and unjustifiable limitation on the right to protest.

The EELC represents EE as *amicus curiae* in the criminal appeal. EE argues that the criminalisation of peaceful protest action is not in the best interests of children and is an unconstitutional limitation on their freedom of political expression. EE's high school members regularly organise protests to campaign for improvements in their schools and changes to the education system more broadly. EE's submissions highlight the importance of the right to protest for children, the particular burdens of notification requirements for children, and the negative effects of criminalisation of protest on EE's learner members. The matter is due to be heard in the first half of 2017.

Advocates Thembalihle Sidaki and Ria Matsala are instructed by the EELC in this matter.

SAHRC SUBMISSION

In June 2016, EE was called to provide submissions to the South African Human Rights Commission (SAHRC) in its National Investigative Hearing on the Right to Protest and Basic Education. The EELC assisted EE in preparing its submissions, which focused on the importance of peaceful protest action in enhancing the right to education as well as the dangers of stifling peaceful protest. A key focus in these submissions was placing emphasis on the drivers of community protests, particularly in the context of basic education.

PUBLIC SCHOOLS ON PRIVATE LAND

JACOBUS DUPLESSIS NO & OTHERS V MEC FOR EDUCATION, WESTERN CAPE AND OTHERS

Under Apartheid, public schools were often located on privately-owned farm land as part of a broader project of preventing black and coloured workers from moving to cities. Farm schools continue to be vulnerable to the private property rights of farm owners and the state's reluctance to interfere with these rights, even in situations of eviction.

Since 2012, EE and the EELC have been engaged in a matter concerning Grootkraal Primary, a farm school in Oudtshoorn in the Western Cape. This school has been under threat of eviction since new landowners expressed their desire to develop the land into a game farm in 2011. The Western Cape Education Department (WCED) responded with a decision to close Grootkraal Primary and relocate the learners to Voorbedag Primary, another school 17km away. However, the Western Cape High Court granted an interdict in June 2011, preventing the school from being closed and ordering mediation between the WCED and the owners. This was fruitless however, and eviction proceedings were initiated six months later.

EE, represented by the EELC, intervened as amicus curiae (friend of the court) in 2012 to argue for the serious consideration of expropriation by provincial MECs. This is authorised by section 58 of the South African Schools Act (SASA), and would prevent the disruption to the Grootkraal community and the

learners' education that would come with eviction and relocation. Grootkraal Primary is at the critical intersection of land, private ownership, education, and the best interests of the child. Given the constitutional rights at stake in this case, EE's submissions have the potential to impact the development of important jurisprudence in education, as well as the balancing of private rights and the public interest. This case is to be heard in the Western Cape High Court in April 2017.

Advocates Zeynab Titus and Luis Ostler are instructed by the EELC in this matter.

"In my view the proposed move ('relocation') runs the risk of possible violations to the rights of these children. It seems that the department's failure to provide sufficient information regarding transport arrangements and other significant details in relation to the move may lower the access to and/or standard of education these children receive. The lack of detail in the WCED's plan means that an assessment as to the impact of the move on learners and what would be in their best interest remains indeterminable."

Excerpt from the expert affidavit of Dr Adele Gordon, submitted to the court in Jacobus du Plessis Botha N.O. & Others v MEC for Education, Western Cape & Others



MOVEMENT LAWYERING

GENERAL LEGAL SUPPORT



Beyond the larger campaign work of EE and litigation, the EELC provides advice and support in EE's day-to-day work. This includes advice on, amongst others, media engagements, submissions on draft legislation, submissions to legislatures, drafting of contracts, filing of access to information requests, legal assistance during protest actions and Equaliser-related cases.

The experience of Equalisers at iQhayiya Secondary School is one example of the legal support that EELC provides to Equalisers on a daily basis. In November 2015, EE members at iQhayiya Secondary School in Khayelitsha approached EE after protesting various issues at their school, including corporal punishment, and victimisation by the principal for their involvement in EE. EELC lawyers assisted Equalisers in laying official complaints against the offending educators, and helped learners prepare for hearings.

In addition to direct legal support for Equalisers, EELC also supported EE's ongoing campaigns through various forms of legal advocacy. By way of example, EELC assisted EE in conducting a social audit in the Western Cape through the filing of access to information requests concerning, amongst others, public schools on private land, school budgets and inappropriate building structures. EELC also provided legal support to Equalisers who eventually staged an early-morning protest in order to obtain a response to the findings of their social audit.

EELC lawyers work hand-in-hand with EE to ensure that Equalisers, as well as parent and teacher members of EE, are fully informed and prepared for legal-related aspects of EE's campaigns. For instance, the EELC hosted training sessions across various provinces on the Fix Our Schools litigation, which involved EE members taking part in a mock trial. Participants had to familiarise themselves with EE's arguments around the unconstitutionality of the Regulations, as well as consider the opposing party's arguments.

The unique "movement lawyering" model of EELC allows for a synergy between legal activism and a broad-based social movement that is directed by the lived experiences of learners across the country.

COMMUNITY LAWYERING

THE EELC PROVIDES DAILY LEGAL SUPPORT AND ADVICE TO INDIVIDUALS AND COMMUNITIES TO ADVANCE THE RIGHT TO EDUCATION. THROUGH OUR UNIQUE, SPECIALIST "WALK-IN" CLINIC, THE EELC'S LAWYERS PROVIDE ADVICE, ON THE GROUND INTERVENTION, AND WHERE NECESSARY ENGAGE IN LITIGATION TO ASSIST AND EMPOWER MARGINALISED LEARNERS AND COMMUNITY MEMBERS IN REALISING THE RIGHTS TO EQUALITY, DIGNITY AND EDUCATION. IN ADDITION, THE EELC ACTS AS A SOURCE OF REFERRAL FOR EE MEMBERS AND SUPPORTERS WHO ENCOUNTER PREJUDICIAL OR OTHERWISE UNLAWFUL CONDUCT IN THEIR SCHOOLS. THE EELC'S COMMUNITY LAWYERING ENABLES THE LAW CENTRE TO IDENTIFY SYSTEMATIC ISSUES AFFECTING LEARNERS IN SCHOOLS, AND TO SUBSEQUENTLY DEVELOP STRATEGIC INTERVENTIONS TO ADDRESS THOSE ISSUES.

WALK-IN LAW CLINIC

Parents, teachers, and learners are able to access practical legal assistance through emails, social media queries, phone calls and in-person consultations. These cases reveal the daily bureaucratic inefficiencies, as well as discriminatory practices experienced by communities which frustrate the realisation of the right to a basic education.

Taking instruction from its clients, the EELC is able to ensure implementation of legislation and constitutional rights relating to education and secure the best interests of the child concerned. In

2016, the EELC's walk-in clinic assisted more than 170 clients. The matters dealt with a wide range of systemic issues, including, amongst others: discrimination against foreign nationals; complaints against teachers of abuse or victimisation of learners; no-fee schools requiring contributions from parents; irregular disciplinary processes against learners; and allegations of corruption and maladministration in schools. A summary of some notable matters dealt with by the EELC walk-in clinic in 2016 can be found below.



ADMISSIONS

At the beginning of each school year, the EELC deals with a number of cases concerning learners who have been refused admission to a public school. Due to a shortage of schools or available places within schools, many families struggle to get their children admitted to a school. In some cases, applications for admissions are rejected on grounds that are unfairly discriminatory.

The EELC assists in writing letters to schools, and appealing the admission decisions to the MEC for Education. In addition to individual cases, the EELC has assisted communities in need, who have significant numbers of unplaced children. This involves lawyers being present in communities, documenting experiences, compiling detailed lists of the names and contact details of the unplaced children, as well as their educational needs. Through EELC's interventions, including engagements with the relevant provincial departments, cases concerning individual admissions as well as community-wide issues have been effectively resolved.

FEEDBACK FROM CLIENTS WHO RECEIVED ASSISTANCE AND RELIEF THROUGH THE WALK-IN CLINIC:

"The problem regarding my twins' progression to the next grade was finally resolved ... after I had a meeting at the school with both the principal and the district inspector... This was a success thanks to the EELC, because I have been getting all the advice and support from [the attorney]."

In 2016, the South African Human Rights Commission approached the EELC seeking advice on the admission of learners to school without a birth certificate. A learner had been taken out of school at the start of the second term in 2016, after his guardian could not produce his birth certificate. The EELC advised the SAHRC on the process and relevant agreements between the Department of Education and the Department of Home affairs. The EELC was advised that the learner was placed back into school after the SAHRC met with the Free State Education Department.

SOME CASES FROM 2016

- In the Eastern Cape, the EELC has ensured that the provision of additional mobile classrooms at Parkland Special School in the Eastern Cape, and has ensured the placement in a school of a learner with autism whom the ECDoE had not provided for.
- In the Western Cape, the EELC assisted the parent of a 6-year-old autistic boy with a severe peanut allergy in placing him in school. The EELC assisted the school in drafting indemnity forms and arranging training for administration of an epipen, thus facilitating the learner's continued attendance at the school.
- After receiving complaints of severe abuse and neglect of learners with special needs at a school in KwaZulu-Natal, the EELC obtained statements from staff at the school and approached the South African Human Rights Commission. The SAHRC subsequently launched an investigation into the complaint and the EELC is monitoring the outcome. However, the client has informed the EELC that the situation continues to deteriorate and urgent intervention may be required.

INCLUSIVE EDUCATION



The EELC regularly deals with inclusive education cases. These cases concern failure of schools provide for children with learning or health barriers despite being obligated to, and families seeking intervention for learners with learning or health barriers that are not being accommodated at mainstream schools and are placed on waiting lists for years without being placed in a special school. These issues place severe limitations on the child's right to education.

VICTIMISATION & DISCRIMINATION

The EELC regularly deals with cases where learners experience victimisation and discrimination in various forms, including discrimination based on race or nationality, pregnancy, HIV status, gender or sexual orientation.

As just one example, a migrant learner from the Democratic Republic of Congo approached the EELC after being refused admission to school. The learner had valid asylum seeker papers at the time of her application to a school. Despite this, and despite the fact that her papers were subsequently renewed, her application was rejected by the school which cited her expired asylum-seeker papers as the reason. The EELC intervened, sent letters to the school, and assisted the learner in submitting proof of her now valid documentation. While the school still refused to admit the learner, an appeal to the Provincial Department of Education eventually overturned the school's decision.

APPLICATION



UNSAFE SCHOOLS

The EELC is regularly approached with cases relating to dangerous school infrastructure and unsafe learning environments. Principals and parents experiencing difficulty obtaining relief from the Department of Education will seek assistance from the EELC.

As one example, in 2016, the EELC provided assistance to Avondale primary in Atlantis. Avondale Primary suffers from chronic infrastructure issues. The parents, in protest, closed the school down and demanded a replacement school. The EELC met with both the school governing body and Western Cape Education Department, and ultimately assisted in brokering an undertaking from the Head of Department that a replacement school will be built.



CORPORAL PUNISHMENT

Corporal punishment remains prevalent in schools, and constitutes a serious violation of learner's rights. Amongst other matters, in 2016, the EELC assisted learners at iQhayiya Secondary School who protested the continued use of corporal punishment at their school. EELC lawyers supported learners in laying official complaints against the offending educators, and helped learners prepare for hearings. Subsequent to investigations and sanctioning of the educators involved, the EELC was informed that corporal punishment has been limited at the school.

SCHOOL RESOURCES



Schools often face severe resource shortages, which sometimes require urgent intervention. In 2016 the EELC provided legal support to schools by engaging on their behalf with relevant officials. An illustrative example of successful engagement is the case of Danie Ackermann Primary School, which had been suffering from a sanitation crisis owing to a broken pipe at the school. The EELC's assistance in engagements with the Western Cape Education Department resulted in the delivery of 22 portable toilets and restoration of the school's ablution facilities.



SCHOOL CLOSURES

Despite clear procedures that have to be followed when a provincial education department decides to close a school, the EELC regularly receives complaints about the failure of authorities to comply with the relevant legal framework. In January 2016, the EELC assisted Educar Primary and Pica-Pau Secondary School in the North West after the schools were threatened with closure. The EELC's intervention resulted in the schools remaining open.

ADULT BASIC EDUCATION

The Constitution guarantees the right to basic education, including adult basic education. In 2016, the EELC provided support to adult clients seeking to obtain adult basic education.

In one case, a concerned Khayelitsha resident approached the EELC for legal advice in respect of three young adults all above the age of 18 who dropped out of school in grade 9 and are out of compulsory school going age. Even though they are orphans and without ID documents, the EELC managed to advise them on registering for Adult Basic Education and Training school (ABET) without costs.



STRATEGIC LITIGATION: FEE EXEMPTIONS & DISCRIMINATION AGAINST DIVORCED MOTHERS

The EELC has taken legal action in two cases to enforce the rights of divorced parents, particularly single mothers, when applying for fee exemptions. These cases demonstrate the systemic issue of divorced, single parents being told that, in applying for financial assistance, they are required to submit the gross income of both the learner's parents.

In *Michelle Saffer v HOC, Western Cape Education Department and Five Others*¹, the EELC represents Ms Michelle Saffer, who applied for her daughter to be admitted to Fish Hoek High School. Ms Saffer was unable to pay the full amount of school fees, and sought a fee exemption. The fee exemption form had to be completed by Ms Saffer and her ex-husband. Ms Saffer is the custodian parent, and has a very difficult history with her ex-husband. Accordingly, she regarded it as unreasonable of the school to expect her exemption application to be conditional upon securing his co-operation. She submitted her fee exemption application and explained that her financial position should be considered separately from that of her ex-husband.

The governing body's view, however, was that Ms Saffer and her ex-husband are a 'family unit' and when applying for financial assistance the 'annual gross combined income' and financial information of both biological parents have to be taken into account. Ms Saffer felt that the school's insistence to treat her and her ex-husband as a 'family unit', and its making the outcome of her fee exemption application dependent on his co-operation, was deeply humiliating. The Head of Department of the

Western Cape Education Department refused to overturn the school governing body's decision.

After failed attempts at engagement, the EELC filed an application in the Western Cape High Court seeking relief for Ms Saffer and similarly placed applicants. On 25 May 2016, Ms Saffer's case was heard by Justice Le Grange at the Western Cape High Court. The Court granted part of the relief sought by the EELC on behalf of Ms Saffer, declaring that divorced and separated biological parents, are jointly, rather than severally liable for payment of school fees for their children attending state schools. However, the Court maintained that fee exemptions should be determined on the basis of both parents' income.

The Western Cape Education Department has appealed this decision, with the EELC cross-appealing on behalf of Ms Saffer. The appeal and cross-appeal are expected to be heard by the Supreme Court of Appeal in Bloemfontein during 2017.

The outcome of this matter will have a significant impact on divorced parents struggling to receive financial assistance despite having legitimate financial need. In particular, the EELC is acting for another parent in the case of *Hilde Kern v HOD, Western Cape Education Department and Four Others*, which was launched in 2016 and has been stayed until the outcome of the Saffer matter is finally determined.

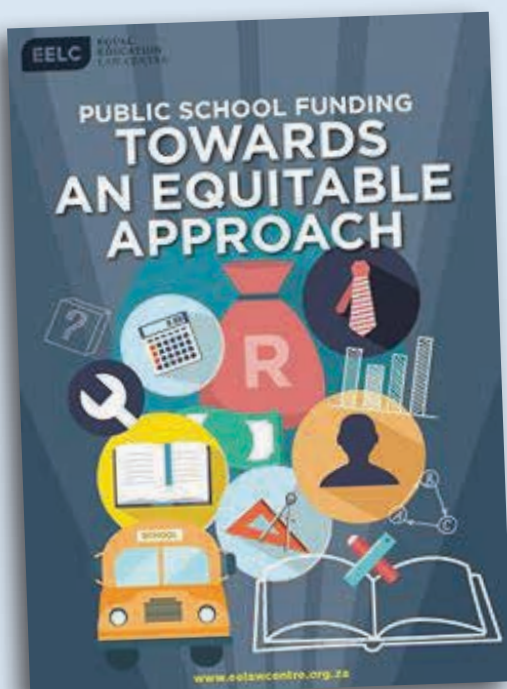
Advocates Pete Hathorn SC and Ncumisa Mayosi are instructed by the EELC in this matter.



LEGAL RESEARCH AND ADVOCACY

THE EELC'S TEAM OF EDUCATION LAW EXPERTS USE LEGAL RESEARCH AND ADVOCACY TO ADVANCE THE RIGHT OF ACCESS TO EDUCATION. THE EELC REGULARLY MAKES SUBMISSIONS ON THE DEVELOPMENT OF LAWS AND POLICY IN THE EDUCATION SECTOR, CONVENES SEMINARS AND DISCUSSIONS ON TOPICAL ISSUES IN EDUCATION, AND DEVELOPS ACCESSIBLE LEGAL MATERIALS ON THE RIGHT TO EDUCATION.

WE SHARE OUR 2016 HIGHLIGHTS BELOW.



PUBLIC SCHOOL FUNDING ROUNDTABLE

On the 12th and 13th of May 2016 the EELC, with the support of the Bertha Foundation, convened a roundtable between education activists, social justice lawyers, academics, and journalists, as well as government officials and advisors. Forty years after the Soweto Uprising, and twenty years after the adoption of the South African Constitution, the Roundtable provided a timely space for critical reflection and debate on inequality of funding in public schools.

The sessions ranged from explanations of the technical aspects of school funding, to an unpacking of administrative and bureaucratic challenges in the implementation of school funding frameworks. The Roundtable enabled engagement and collaboration between individuals and organisations involved in education work, and paved the way for future advocacy work across the sector.

PUBLIC ADMINISTRATION BLACK HOLE: WHO RUNS THE EASTERN CAPE DEPARTMENT OF EDUCATION?

In 2011, the national government placed the The Eastern Cape Department of Education (ECDoE) under intervention in terms of section 100 of the Constitution. Section 100 of the Constitution empowers the National Executive to intervene in a provincial government department, when that department fails to meet its obligations in terms of the Constitution or other legislation.

In December 2016, with the support of the Heinrich-Böhl Foundation, the EELC hosted a seminar to interrogate the status of the national intervention in the Eastern Cape. The seminar traced the history of the section 100 intervention and the contradictions between public assertions by the Minister of Basic Education (that the that the ECDoE was still operating under national intervention) and the ECDoE (which went on record in court in September 2016 stating that the national intervention had ended as far back as 2014).

The event allowed for an examination of the unclear status of public administration in the province, and the efficacy of the intervention. In addition, the seminar allowed for critical discussion on ways that community members and education activists can move forward in addressing the Eastern Cape education crisis.



BOOK LAUNCH: *MY OWN LIBERATOR*

The EELC was proud to co-host former Deputy Chief Justice Dikgang Moseneke for the launch of his memoir 'My Own Liberator' in November 2016. This event, which the EELC jointly hosted with the Book Lounge and Pan Macmillan, was held at the Isivivana Centre in Khayelitsha, and was attended by young leaders from social justice organisations and student movements. The event was a valuable opportunity for those in attendance to learn from and engage with the former Deputy Chief Justice.

REGIONAL & INTERNATIONAL EVENTS

In 2016, The EELC has in various international and regional events on education and the transformative capacity of the law.

From the 4th to the 10th of September 2016, the EELC participated in East African and global consultations in Nairobi, which focused on the challenge of growing privatisation in education. The consultation discussed the ways in which the lack of accountability and abuse of power in the private sector can manifest in substandard quality and discrimination in schools, as well as strategies for finding solutions to this international phenomenon. The EELC was able to make valuable connections with education activists in Kenya, Uganda, Ghana, Palestine, India, Pakistan, the Philippines and elsewhere.

In October 2016, the EELC's Mbekezeli Benjamin participated in the 2016 Pan African Social Accountability (PASA) Learning Lab held in Swaziland. This provided a valuable opportunity for EELC to engage with fellow activists in Southern Africa and the continent.

Also in October 2016, the EELC's Executive Director delivered an address on the opening panel of the Litigating for Social Change conference. The conference held in Belfast was hosted by the Social Change Initiative, Law Centre (NI) and Atlantic Philanthropies. Sessions at this conference focused on the ways in which strategic litigation can have a transformative effect on people's lives, through the realisation of the rights of individuals and communities.



TEAM DEVELOPMENT

The EELC is committed to developing its team of activist lawyers. Our team holds regular training and team development activities on issues relevant to our work and activism.

In 2016, one of our training highlights included a week-long workshop on the use of international law as a tool for social justice, held by renowned international lawyer Mónica Feria-Tinta. Other highlights included a workshop on bail applications hosted by the Right to Protest project. Given the rise in student protests and arrests over the past two years, it is essential that lawyers working toward education justice are armed with adequate knowledge of the law of criminal procedure and the ways in which it can be used both in the abuse of power, and as a tool to protect protestors. The EELC team also attends a range of events hosted by partner organisations, which ensures that our work remains informed by developments in South Africa's socio-economic and legal climate.

SUBMISSIONS

A significant portion of the EELC's advocacy work takes the form of submissions to relevant public bodies. In 2016, the EELC made various submissions, including those listed below.

ACCESS TO FOOD: THE NATIONAL SCHOOL NUTRITION PROGRAMME



In January 2016, the EELC made submissions to the Departments of Basic Education, Social Development, and Agriculture, Forestry and Fisheries on the National School Nutrition Programme, the EELC made submissions on how gaps and challenges in the programme could be improved through looking to the much more effective National Policy on Food and Nutrition Security. The submission also suggested more thorough quality controls and financial transparency, as well as sound procurement practices, as mechanisms to contend with corruption.

SUBMISSION ON THE 2016 DIVISION OF REVENUE BILL

In March 2016, EELC and EE made submissions on the 2016 Division of Revenue Bill before the Standing Committee on Appropriations in Parliament. These submissions provided critical analysis of the 2016 budget and the allocations to education, particularly in relation to school infrastructure and scholar transport. The submissions were adopted by the Committee in its report and recommendations to the Minister of Finance.



SUBMISSION ON SANITATION AND SOUTH AFRICA'S SCHOOLS

In March 2016, the EELC and EE made a joint submission to the Department of Water and Sanitation, commenting on its Draft National Water and Sanitation Policy. Our submission identified the need for soap, toilet paper and feminine hygiene products to be included in the policy's definition of 'basic sanitation', and asked for specific timeframes to be set within which the Minister should adopt norms and standards for sanitation at public institutions.



SUBMISSION ON SPATIAL JUSTICE & EDUCATION JUSTICE

In June 2016, EELC and EE made a joint submission against the proposed sale of a state-owned property in Sea Point, the site of a former school, to a private buyer for the development of a private school. This submission emphasised the effect of apartheid spatial planning, which persists today, on the perpetuation of inequality in education. It argued that the Constitution places a duty on the state to promote access to the city centre for excluded communities, who are overwhelmingly poor and black. This submission contributed to the work of Reclaim the City, supported by Ndifuna Ukwazi, whose successful mobilisation work resulted in the sale of the property being halted.



SUBMISSIONS ON SECTION 100 INTERVENTIONS

The national intervention into education departments in the Eastern Cape and Limpopo have yielded limited results and significant confusion regarding the status and division of responsibilities for delivering quality education to learners in those Provinces. In May 2016, the EELC and Equal Education made a submission to the National Council of Provinces (NCOP), the body mandated by section 100 of the Constitution to play an oversight role in these types of interventions. The submission focused on the need for more regular and comprehensive oversight and emphasised the lack of public accountability and identifiable progress in national interventions, particularly in the Eastern Cape, in respect of which the NCOP had last exercised oversight in 2013.

In the same month, EELC and EE made a separate joint submission to the Constitutional Review Committee, setting out the need for the Constitution to give more guidance to the reporting and oversight functions of the executive and legislature respectively, and to require the adoption of legislation setting out the parameters and processes to be followed when a national intervention is initiated.

THE RIGHT TO PROTEST - SUBMISSION TO THE SAHRC

EE was called to provide submissions to the South African Human Rights Commission (SAHRC) in its National Investigative Hearing on the Right to Protest and Basic Education in June 2016. The EELC assisted EE in preparing comprehensive written submissions, which focused on the importance of peaceful protest action in enhancing the right to education and the dangers of stifling peaceful protest.

DRAFT CRITICAL INFRASTRUCTURE BILL

EELC supported the June 2016 submissions of Right to Know on the fatal flaws of the Draft Critical Infrastructure Bill. These submissions identified problematic provisions which will limit freedom of association and protest.

COMMENT ON THE DRAFT NATIONAL ACTION PLAN TO COMBAT RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

In submissions to the Department of Justice and Constitutional Development on the Draft National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance made in July 2016, the EELC focused on the need for SGBs, as well as teachers, to be recognised as central role-players in the implementation and success of the Plan. This was done through highlighting that SGBs are mandated by legislation and the Constitution to be a key role player in combating these systematic prejudices, including those against foreign and LGBTI learners. SGBs and teachers must work specifically toward the creation of racially integrated and diverse schooling, and the integration of learners with learning barriers into mainstream schools.

JOINT SUBMISSIONS ON THE IMPACT OF KEY LEGISLATION ON QUALITY AND EQUALITY IN EDUCATION

In August 2016, the EELC together with EE, made submissions to Parliament's 'High Level Panel on the Assessment of Key Legislation'. Our submissions examine the impact of key legislation on basic education, and make recommendations on areas in need of review, particularly school funding models, powers of SGBs, sexual violence in schools, and Minimum Norms and Standards Regulations.

SUBMISSIONS ON THE DRAFT WESTERN CAPE PROVINCIAL SCHOOL EDUCATION AMENDMENT BILL, 2016

The EELC assisted EE in drafting submissions on the draft Western Cape Provincial School Education Amendment Bill 2016. The submissions highlighting legal deficiencies of provisions relating to, amongst others, the composition of school governing bodies and the selling and use of alcohol on school premises. The draft legislation is currently on hold, while these submissions are being considered.

MEDIA ADVOCACY

THE EELC MAINTAINS A PERSISTENT MEDIA PRESENCE, PROVIDING COMMENTARY ON AND EXPANDING KNOWLEDGE ABOUT EDUCATION RIGHTS.

THE EELC WEBSITE AND CASE LIBRARY



The EELC's new website was launched in January 2016. The website contains information about past matters dealt with by the EELC, and is kept updated with current matters, submissions, news articles, and other contributions by our team.

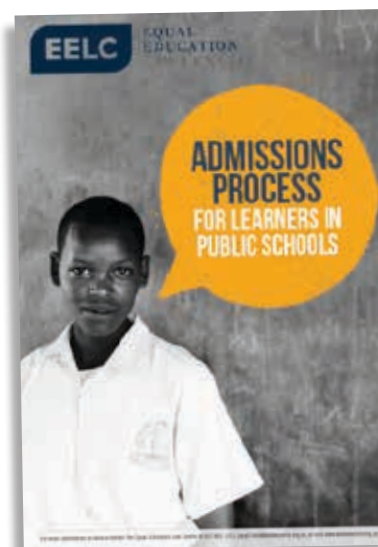
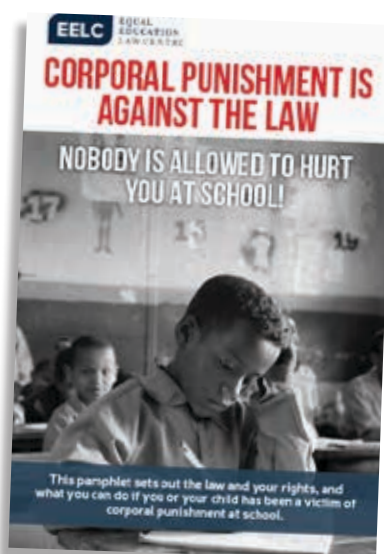
In 2016, the EELC also launched a unique online Education Case Library, which is a useful resource for members of the public looking for education cases in South Africa.

LEGAL RIGHTS AWARENESS



Towards our goal of making the law and our work as accessible as possible, the EELC has produced a number of accessible easy to read legal pamphlets. These include useful resources on corporal punishment, admissions, and school fee exemptions. In addition, The EELC is working with other public interest law organisations and experts to develop a jointly published Education Rights Handbook. These are valuable resources for parents, teachers and learners to empower themselves through knowledge of the law.

The EELC has also published substantive legal reviews and reports on issues in education. In 2016, this has included a comprehensive legal review of the legislative and policy framework affecting LGBTI learners in schools, as well as a review of the position of learners with learning barriers in schools.



OP-EDS & PRESS RELEASES

MEMBERS OF OUR TEAM REGULARLY WRITE OPINION PIECES WHICH ARE PUBLISHED IN PRINT AND ONLINE FORA. OUR OPINION PIECES ON THE FOLLOWING ISSUES HAVE BEEN PUBLISHED IN SOUTH AFRICAN MEDIA:



- *The necessity for a national policy to address legal and implementation gaps in relating to learners facing health barriers in schools ('School students with allergies can't always count on help', by the EELC's Solminic Joseph and Chandre Stuurman. Published in Groundup on 9 March 2016.*

- *The challenges and consequences of the current state of sanitation in basic education in relation to the essential right to dignity ('There's no dignity in education without proper sanitation', written by Chandni Gopal, EELC legal adviser, and Zandile Ngubeni, head of EE Gauteng. Published in the Mail & Guardian online on 31 March 2016).*

- *The slow government response to demands about weaknesses in the Norms and Standards Regulations, and provincial plans for implementation. ('Minister Angie Motshekga's ugly lesson for learners' by Lisa Draga and Chandre Stuurman. Published in Groundup on 5 April 2016).*

- *The requirements of the Constitution in affording equal rights to asylum seekers, particularly in the context of schooling ('Refugees have an equal right to schooling' by the EELC's Amanda Rinquest. Published in Groundup on 29 June 2016).*

- *Government failure to ensure effective access to condoms in a draft policy by the Department of Basic Education on HIV, STIs and TB. ('Condoms in schools: it's a human right' by Lisa Draga. Published in Groundup on 25 July 2016).*

- *The impact of the failure to implement policy on inclusive education ('Education that caters for disabled learners is attainable' by the EELC's Chandre Stuurman and Solminic Joseph. Published in Groundup on 16 August 2016).*

- *The state of schools in the Eastern Cape, and the crisis within the ECDoE ('When learning is both difficult and dangerous' by the EELC's Lisa Draga, published in The Star on 19 September 2016).*

- *A reflection on the second annual Bertha Convening on social justice lawyering ('Defining the role of social justice lawyers' by the EELC's Mbekezeli Benjamin, October 2016).*

The EELC's Executive Director Nurina Ally and Daniel McLaren, Senior Researcher at the Studies in Poverty and Inequality Institute, released a series of op-eds titled 'Towards equality in school funding' in Groundup on the issue of school funding:

- *PART 1: 'Towards equality in school funding', 27 July 2016.*
- *PART 2: 'Education funding formula needs to be fixed', 29 July 2016.*
- *PART 3: 'Making sure all our schools have enough teachers', 10 October 2016.*
- *PART 4: 'Fees are an issue at school too, not just university', 17 November 2016.*
- *Part 5: 'School funding: South Africa can learn from the world', 9 December 2016 (co-authored by Birgit Weyss, who is a researcher on school funding at the EELC and an Honorary Research Associate at the UCT Children's Institute).*

In November 2016, EE and the EELC released a shadow report in response to the Department of Basic Education's (DBE) Annual Report for the 2015/2016 period. This report focused on school infrastructure, scholar transport, and section 100 interventions in the Eastern Cape, as these are areas directly relevant to EE and the EELC's work. The vagueness of the annual report and its silence on many important issues in basic education was highlighted to show that the report was of little use to the public and did not invite serious engagement.



RADIO INTERVIEWS



In February 2016, EE launched the Equal Education Radio. Its first episode dealt with the growing trend of parent activism and involved interviews with Themba Mola, acting CEO of Kagiso Trust, and the EELC's Solminic Joseph. In addition to this, members of our team regularly take part in radio interviews to explain some of the work done by the EELC so that members of the public remain informed about developments in the law, and their rights regarding education.

- Our Executive Director, Nurina Ally, spoke to Wits Radio Academy to provide on the issue of fees for tertiary education, in the midst of the #FeesMustFall protests.
- EELC lawyer Solminic Joseph spoke with Cape Talk's Redi Tlhabi and Department of Basic Education Spokesperson Elijah Mhlanga about what the law says about public school closures.
- EELC's Deputy Director Daniel Linde was interviewed on Radio 702 to discuss the state's failure to implement the Minimum Norms and Standards School Infrastructure Regulations thus far.

SUPPORTERS

THE BERTHA FOUNDATION WWW.BERTHAFOUNDATION.ORG

The Bertha Foundation believes that bright ideas, combined with resources and strong leadership, can create profound social impact. The Bertha Foundation supports social activism as a means to generate social, political, economic and environmental change, and believes in the capacity of passionate individuals and projects to effect change on a local and global scale. It is the Bertha Foundation's hope that those touched by the foundation will in turn be inspired and motivated to create meaningful opportunities for others.



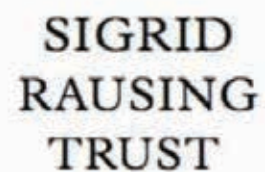
THE CLAUDE LEON FOUNDATION WWW.LEONFOUNDATION.CO.ZA

The Claude Leon Foundation is a South African charitable trust, resulting from a bequest by Claude Leon (1884 – 1972). A key focus area of the Foundation is the defence of democracy, which includes attempts to enable ordinary people to access and achieve their basic socio-economic rights as defined by the South African Constitution.



SIGRID RAUSING TRUST WWW.SIGRID-RAUSING-TRUST.ORG

Sigrid Rausing Trust is a UK grant making foundation, founded in 1995 by Sigrid Rausing to support human rights globally. Since then, the Trust has given approximately £191.9 million to human rights organisations all over the world. The Trust runs nine programmes and it makes grants according to these programmes. The programmes are: 1) Advocacy, Research and Litigation, 2) Detention, Torture and Death Penalty, 3) Human Rights Defenders, 4) Free Expression, 5) Transitional Justice, 6) Women's Rights, 7) LGBTI Rights, 8) Xenophobia and Intolerance and 9) Transparency and Accountability.



CAMERON SCHRIER FOUNDATION WWW.CAMERONSCHRIER.ORG

The Cameron Schrier Foundation supports non-profit organisations primarily in the U.S. and South Africa. Since its inception in 2006, the Foundation has worked to develop young leaders, promote education equity, encourage an active civil society, support educational institutions, and help communities and individuals in need.



THE OPEN SOCIETY FOUNDATION FOR SOUTH AFRICA WWW.OSF.ORG.ZA

The Open Society Foundation is a grant making foundation founded by George Soros in April 1993 to promote the ideal of an open society in South Africa; an ideal which includes democracy, a market economy, a strong civil society, respect for minorities and tolerance for divergent opinions. The foundation has been established in the conviction that the collapse of a closed, apartheid society will not lead automatically to the emergence of an open society in South Africa. In its work the foundation encourages new approaches and ideas that contribute to the creating of an open society in South Africa. The foundation is committed to promoting the values, institutions and practices of an open, non-racial and non-sexist, democratic, civil society. It works for a vigorous and autonomous civil society in which the rule of law and divergent opinions are respected.



FORD FOUNDATION WWW.FORDFOUNDATION.ORG

The Ford Foundation works with visionaries on the frontlines of social change worldwide. Across eight decades, the Foundation's mission has been to reduce poverty and injustice, strengthen democratic values, promote international cooperation, and advance human achievement. In supporting human rights work, the Ford Foundation, which believes in the inherent dignity of all people, supports organisations helping those who are excluded from the political, economic, and social institutions that shape their lives.



HEINRICH BÖLL STIFTUNG SOUTHERN AFRICA WWW.ZA.BOELL.ORG

The Heinrich Böll Foundation (HBF) is a political institution affiliated to, but independent from, the German Green Party. The Foundation's foremost task is to support citizen participation that seeks to deepen democracy and social justice. This includes advocacy and action to uphold human rights, promote pro-poor development that is environmentally sustainable, realise gender equality, as well as protect the freedom of individuals against excessive state and economic power. The foundation works in more than 30 countries worldwide.



**WE ALSO THANK WEBBER WENTZEL ATTORNEYS
AND R B HAGART TRUST FOR THEIR CONTRIBUTIONS
TOWARD THE EELC**

THE EELC TEAM

BOARD OF TRUSTEES

Justice Kate O'Regan **Chairperson**

Professor Halton Cheadle

Dr Ursula Hoadley

Itumeleng Mahabane **Treasurer**

Doron Isaacs

Yoliswa Dwane

Janice Bleazard

Achmat Toefy

Sindiswa Lingela

Kameshni Pillay



Nurina Ally Executive Director

Daniel Linde Deputy Director

Lisa Draga Attorney

Chandre Stuurman Attorney

Demichelle Petherbridge Attorney

Mbekezeli Benjamin Legal Advice Officer

Amanda Rinquest Attorney

Melanie Boltman Operations Manager

Zusipe Batyi Communications and Fundraising Officer

EELC STAFF

We also thank Chandnni Gopal, Sherylle Dass and Solminic Joseph for being part of our team in 2016



ANNUAL FINANCIAL STATEMENTS

THIS IS AN EXTRACT OF EQUAL EDUCATION LAW CENTRE'S AUDITED FINANCIAL STATEMENTS FOR THE YEAR ENDED AT 31 DECEMBER 2015

DETAILED STATEMENT OF COMPREHENSIVE INCOME AND EXPENSES

INCOME	2015 R	2014 R
REVENUE		
Grants received	4 068 993	4 000 307
OTHER INCOME		
Gains on disposal of assets	4 903	-
Interest received	132 420	124 869
Legal fee recovery	163 759	-
Sundry income	76 639	125 951
TOTAL INCOME	377 721	250 820

OPERATING EXPENSES

Accounting Fees	15 122	18 900
Advertising	10 746	27 944
Annual Report	7 500	-
Auditors' remuneration	13 956	11 985
Bank charges	7 938	5 464
Board meetings	53 871	35 498
Cleaning	15 297	6 858
Computer expenses and website design	58 051	103 961
Conference costs	-	50 000
Consulting and professional fees	39 694	24 998
Depreciation	23 394	26 024
Electricity	37 314	28 402
Employee costs	2 902 598	2 636 232
Insurance	23 046	23 431
Lease rentals on operating lease	380 235	374 808
Legal material and resources	15 200	81 583
Office expenses	12 478	6 350
Payroll fees	7 474	6 774
Postage	739	4 256
Printing and stationery	23 395	26 125
Project litigation costs	147 037	57 123
Recruitment fees	-	40 310
Relocation costs	3 950	-
Repairs and maintenance	3 650	-
Small assets	799	12 116
Staff welfare	26 510	33 109
Subscriptions	26 966	11 905
Telephone and fax	40 440	29 847
Training	2 744	29 130
Travel - international	86 784	20 931
Travel - local	83 055	97 654
TOTAL EXPENSES	4 069 992	3 831 718

OPERATING SURPLUS	376 722	419 409
Finance costs	14 123	176
SURPLUS FOR THE YEAR	362 599	419 233

STATEMENT OF FINANCIAL POSITION

ASSETS	2015 R	2014 R
NON CURRENT ASSETS		
Property, plant and equipment	42 767	49 279
CURRENT ASSETS		
Trade and other receivables	188 980	726 211
Cash and cash equivalents	5 332 354	2 857 695
TOTAL ASSETS	5 564 101	3 633 185

TRUST FUNDS AND LIABILITIES

TRUST FUNDS		
Trust Capital - initial donation	500	500
Accumulated funds	885 585	522 986
	886 085	523 486

LIABILITIES

CURRENT LIABILITIES		
Trade and other payables	41 806	14 542
Provision	74 733	41 770
Deferred income	4 561 477	3 053 387
TOTAL LIABILITIES	4 678 016	3 109 699

TOTAL TRUST FUNDS AND LIABILITIES	5 564 101	3 633 185
--	------------------	------------------



ACKNOWLEDGEMENTS

The EELC would like to thank the following people for their valuable support:

ADVOCATES

Deborah Ainslie
Geoff Budlender SC
Aymone du Toit
Andrea Gabriel
Pete Hathorn SC
Frances Hobden
Kate Hofmeyr
Ndumiso Luthuli
Ria Matsala
Ncumisa Mayosi
Tembeka Ngcukaitobi
Luis Ostler
Thembalihle Sidaki
Zeynab Titus

CORRESPONDENT ATTORNEYS

Squire Smith and Laurie,
44 Taylor Street,
King William's Town

Legal Resources Centre,
15th and 16th Floor,
Bram Fischer Towers,
20 Albert Street,
Marshalltown,
Johannesburg

Polokwane Justice Centre,
1st Floor Al Smit Building,
26 Vorster Street,
Polokwane

GENERAL THANKS

DONATIONS

If you would like to make a donation to the EELC, please contact Melanie on +27 21 461 1421 or at melanie@eelawcentre.org.za

ACCOUNT NAME:	The Equal Education Law Centre Trust
ACCOUNT NUMBER:	62338566584
BRANCH CODE:	201409
ACCOUNT TYPE:	Business cheque account

DESIGNED BY: NAADIRA PATEL

COVER AND INSIDE COVER PHOTOGRAPH: NISHAL ROBB

PHOTO CREDITS: NISHAL ROBB AND ZANDILE NGUBENI (P15)



EQUAL
EDUCATION
LAW CENTRE