

SOUTHERN AFRICA
LITIGATION CENTRE

Biennial Report

2015-2017





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Mission

The Southern Africa Litigation Centre (SALC) promotes and advances human rights and the rule of law in the Southern Africa region primarily through strategic litigation and capacity building.

Vision

SALC envisions a region in which domestic and regional courts are strong, independent, and fully functional and in which they uphold and enforce the rule of law and human rights. To that end, SALC works with domestic lawyers in each jurisdiction, who are litigating public interest cases involving human rights and the rule of law. SALC works in Angola, Botswana, Democratic Republic of Congo, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia, and Zimbabwe. SALC supports lawyers in a variety of ways, including, as appropriate, providing legal research and drafting, training, and mentoring, and monetary support. While SALC aims primarily to provide support on a case-by-case basis, its objectives also include the provision of training, regional advocacy, and the facilitation of human rights networks within the region.



Letter from SALC's Executive Director

The 2015 – 2017 period has seen several important victories for SALC's key thematic programme areas - international criminal justice, health rights, women's rights, and the rights of LGBTI persons. SALC made important strides in the development of women's access to land and property during this period. I highlight only four cases here but stress that SALC has carried out important interventions in numerous cases over this period.

The two cases of former Rwandan General Kayumba Nyamwasa, and Sudanese President Omar al Bashir are of great significance for SALC's work in the arena of international criminal justice. The case of General Nyamwasa required years of patience and drawn out litigation resulting in the refugee authorities having to reconsider its decision to grant General Nyamwasa asylum in South Africa. The President Bashir case, on the other hand, required a rapid response from SALC and an urgent approach to the High Court. This approach too has paid off – with the High Court and later Supreme Court of Appeal finding that the failure to arrest Bashir was unlawful and in contravention of South Africa's international and domestic commitments.

S v EL, Zomba High Court in Malawi

SALC supported the appeal of a woman living with HIV against her conviction of a crime for breastfeeding a child. She was charged with negligently and recklessly doing an act which is "likely to spread the infection of any disease which is dangerous to life" under the Malawi Penal Code. The complainant's child did not contract HIV and there was no assertion that the appellant had acted with intent or malice. The appeal was heard by the Zomba High Court and Justice Zione Ntaba granted an order that the appellant's identity be concealed to protect her confidentiality and that of the children concerned. The court further granted the appellant bail pending the determination of her appeal. The High Court eventually acquitted the appellant and ordered her immediate release holding that the proceedings in the trial court were irregular and "blatantly biased" against the appellant, compromising her right to a fair trial. The Court held further that the custodial sentence imposed on the appellant was grossly excessive and stated that incarcerating women with children should always be a last resort.

Rammoge and 19 Others v Attorney General, Botswana

In 2016 the Botswana Court of Appeal held that the refusal to register the organisation Lesbians, Gays and Bisexuals of Botswana (LEGABIBO) was not only unlawful, but a

violation of the right of LGBT activists to freely assemble and associate. Four years earlier in 2012, LEGABIBO, was refused registration by the Registrar of Societies in Botswana. SALC successfully provided support to challenge the refusal to register LEGABIBO.

CORMSA and Others v the President of South Africa and Others, South Africa

In May 2017, following a long road of litigation in lower courts, the Supreme Court of Appeal was scheduled to hear arguments challenging the granting of refugee status to Kayumba Nyamwasa, a former Rwandese general. The Consortium for Refugees and Migrants, SALC and the Wits Law Clinic brought the case due to compelling evidence that General Nyamwasa was suspected to have been involved in war crimes and is thus precluded from receiving protection as a refugee, in terms of both international and domestic law. The case sought to protect the integrity of the asylum system which is designed to safeguard persons genuinely fleeing persecution and not persons suspected of involvement in war crimes fleeing prosecution. The High Court ruled that General Nyamwasa was correctly granted refugee status. This decision went on appeal before the Supreme Court of

Appeal. On 24 May 2017, the parties reached agreement that the decision to grant refugee status to General Nyamwasa following his asylum application in 2010 should be set aside and that the refugee authorities should reconsider its decision. This is an important step in upholding the sanctity of the asylum system and ensuring that those who are undeserving of protection do not receive refugee status in South Africa.

The Southern Africa Litigation Centre v The Minister of Justice and Constitutional Development and Others, South Africa

In June 2015, Sudanese President Omar al Bashir arrived in South Africa to attend the African Union summit. President Bashir is wanted for war crimes, genocide, and crimes against humanity. Two international arrest warrants have been issued for President Bashir by the International Criminal Court (ICC). His arrival on South African soil triggered South Africa's obligation under international and domestic law to arrest him, for transfer to The Hague to face prosecution. The arrest process lies at the heart of the criminal justice system. Unless an accused is taken into custody, there will be no trials, no development of the law by the courts and, ultimately, no

international justice. When a state fails to adhere to its international obligations to arrest a person subject to an ICC arrest warrant, it undermines the fight against impunity. The authorities in South Africa however did not arrest President Bashir, resulting in SALC approaching the North Gauteng High Court on an urgent basis. An interim court order was granted in SALC's favour which prevented President Bashir's departure. The state however failed to abide by this court order and appear to have actually facilitated his departure from the country. The court handed down a final order demanding President Bashir's arrest. The state then lodged an appeal against this decision. In March 2016, the Supreme Court of Appeal, in a landmark judgment, ruled that the failure to arrest President Bashir was unlawful and contrary to South Africa's obligations in terms of the Rome Statute. The court said that "when South Africa decided to implement its obligations under the Rome Statute by passing the Implementation Act it did so on the basis that all forms of immunity, including head of state immunity, would not constitute a bar to the prosecution of international crimes in this country or to South Africa cooperating with the ICC by way of the arrest and surrender of persons charged with such crimes before the

ICC, where an arrest warrant had been issued and a request for cooperation made. Further, the court accepted that in passing the Implementation Act, South Africa "was taking a step that many other nations have not yet taken. The Honourable Judge added that *"if that puts this country in the vanguard of attempts to prevent international crimes and, when they occur, cause the perpetrators to be prosecuted, that seems to me a matter for national pride rather than concern. It is wholly consistent with our commitment to human rights both at a national and an international level."*

All these cases are of great significance and highlight the key role played by civil society in upholding the rule of law and using the law to protect vulnerable and marginalised individuals and groups through strategic litigation. Going forward, SALC will continue to promote and advance human rights and protect the rule of law in Southern Africa, through strategic litigation such as the above cases and through litigation support, high level advocacy and capacity building in the region.

Kaajal Ramjathan-Keogh



SALC Highlights:

March 2015 to February 2017

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Pursuing International Criminal Justice: Domestic Accountability for International Crimes

On 15 March 2016, the Supreme Court of Appeal ruled that the government's failure to arrest Sudanese President Omar al Bashir was unlawful and dismissed its application for leave to appeal with costs.

International criminal justice and the fight against impunity concerns all countries. SALC monitors international justice and advocates for states to comply with their international obligations. SALC also litigates to uphold the rule of law.

In June 2015, Sudanese President Omar al Bashir arrived in South Africa to attend the African Union summit. This triggered South Africa's obligation under international law, as a party to the Rome Statute, and under domestic law, to arrest President Bashir, for transfer to The Hague to face prosecution. President Bashir is wanted for war crimes, genocide, and crimes against humanity. Two international arrest warrants have been issued for President Bashir by the International Criminal Court (ICC).

Despite the arrest warrants, President Bashir was not arrested on arrival in South Africa, forcing SALC to approach the North Gauteng High Court on an urgent basis to seek the implementation of the arrest warrants. The High Court issued an interim order to ensure President Bashir remained in the country pending the finalisation of the legal proceedings and later ordered that he be arrested with immediate effect.

In contravention of the court order, the South African government allowed President Bashir to leave South Africa. The government then took the matter on appeal to the Supreme Court of Appeal (SCA). In March 2016, the SCA ruled that the failure to arrest President Bashir was unlawful. The state took the matter on a further appeal to the Constitutional Court but thereafter withdrew the appeal.

The judgment of the SCA thus stands. The government argued in court that President Bashir, as a sitting Head of State, was immune to arrest and surrender. The SCA held that South Africa decided to implement its obligations under the Rome Statute by passing the Implementation Act. It did so, the Court affirmed, on the basis that all forms of immunity, including head of state immunity, would not be a bar to the prosecution of international crimes or a bar to the surrender of persons charged with such crimes. This, in the court's view, is wholly consistent with South Africa's commitment to human rights at a national and at international level.

The litigation succeeded in establishing legal points of public importance regarding the Government's obligations under the Rome

Statute as well as in terms of our domestic law.

In addition to the litigation, South Africa was called before the Pre-trial chamber of the ICC for failing to arrest President al Bashir. SALC was admitted to make written submissions as an amicus curiae and attended the hearing on 7 April 2017 in The Hague. The Government argued against the court making a finding of non-compliance. On 6 July 2017, the ICC found unanimously that South Africa, in failing to arrest President al Bashir, acted contrary to the provisions of the Rome Statute.

Sadly, after the successful court challenge, South Africa sought to withdraw from the Rome Statute.

This withdrawal was however challenged by the Democratic Alliance (DA) (citing SALC as a party) on grounds of procedural irregularity and irrationality. SALC filed detailed submissions to the Court. A full bench of the North Gauteng High Court found South Africa's Notice of Withdrawal to be procedurally invalid and unconstitutional. In March 2017, South Africa revoked its notice of withdrawal from the ICC.

Thus, for now, South Africa remains bound to uphold the Rome Statute which seeks to prevent impunity and ensure accountability for the most egregious international crimes.



Securing Women's Rights to Property in Southern Africa: 4 Selected Cases

Across Southern Africa, women continue to be viewed as second-class citizens when it comes to eligibility for chieftainship and inheriting property. SALC is involved in challenging unlawful practices and statutes that exclude women from ownership, inheritance, and succession.

In 2010, SALC became involved in the case of Ms Senate Gabashane Masupha in Lesotho (*Masupha v Senior Resident Magistrate for the Subordinate Court of Berea and Others*). Ms Masupha is the only child of the late Chief David Masupha, who passed away in 1996. In 2008, Chief David Masupha's wife too passed away, leaving the position of chief vacant.

Mr Lepoqo Masupha, claiming to be a son of the late chief, was nominated to be chief but was challenged in the Magistrates' Court by the younger brother of the late chief, Mr Sempe Masupha. When Ms Masupha tried to intervene in the Magistrate Court proceedings, her application was dismissed on the basis that women have no direct and substantial interest in succession matters.

Ms Masupha thus decided to approach the High Court, sitting as the Constitutional Court, to challenge the constitutionality of the Chieftainship Act given that it precluded her from being considered for succession to chieftainship. SALC joined the matter as a friend of the court, arguing that if the legislation was interpreted to deny women access to chieftainship, the Act was discriminatory and in conflict with Lesotho's Constitution.

The Court found that the customary law of Lesotho did not prohibit all women from

succeeding to chieftainship, in that women married into a chiefly family are entitled to succeed as chiefs on their husband's passing. The Court further held that the Chieftainship Act was merely a restatement of customary law rules in Lesotho and that there was no conflict with the Constitution as Section 18 of the Constitution makes an exception for customary law as regards discrimination.

In 2014, Ms Masupha took the matter on appeal to the Court of Appeal, where SALC again intervened, together with the Federation of Women Lawyers (FIDA-Lesotho). The matter was dismissed. The Court upheld the constitutionality of the Chieftainship Act, relying on the exception to the right to be free from discrimination.

Given the unsuccessful litigation in the domestic Courts, SALC, FIDA-Lesotho and Ms Masupha have brought a complaint before the African Commission on Human and Peoples' Rights. The complaint argues that the Chieftainship Act and the Constitutional exclusion of customary law from the protection against discrimination infringes rights protected by the African Charter on Human and Peoples' Rights. Further, rights in the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, are also infringed. Although the Commission is yet to determine the admissibility of this case, it adopted a Declaration during the

Extraordinary Session held from 23 February to 4 March 2017 calling on States to ensure the full ratification, domestication and implementation of the Maputo Protocol; something this case seeks to achieve.

In another case in Lesotho, SALC is working with Women and Law in Southern Africa Research and Education Trust (WLSA- Lesotho) to challenge Sections 11 to 14 of the Laws of Lerotoli which deny daughters the ability to succeed as heirs, to inherit and have a share in their deceased parents' immovable property. In this case, *Makhomo M. Ramatlapan v Mohopi Jessi*, WLSA- Lesotho's client, a married woman, commenced an action against her only brother and customary heir in the High Court of Lesotho seeking a declaration that she is entitled to stay at her parents' house and be taken care of by her parents' estate given that she was experiencing marital problems with her husband. The High Court of Lesotho held that her brother was

the lawful heir, after referring to a customary rule that provided only for male inheritance, and further that he was not under any duty to take care of his sister, who given her status as a married woman, could not be considered a dependent.

SALC provided technical and financial support to take the matter on appeal, which was unfortunately dismissed by the Court. Although the matter was unsuccessful, the Court of Appeal referred with approval to the decision of the Land Court in which it ruled that the customary law rule of male primogeniture which provided for inheritance on patriarchal lines was abolished by the Amendment of the Land Act in 1992 and that inheritance of land is now open on a gender-blind basis. This decision is important when it comes to inheriting land and means that Sections 11 to 14 of the Laws of Lerotoli only apply to the sharing of moveable property but not to inheritance of land.



In Zimbabwe, SALC provided technical and financial support in a case, *Chengeto Mashingaidze v Pauline*, regarding the inheritance of a farm. The surviving spouse was only awarded a child's share of the farm – despite purchasing the farm jointly with her late husband. Under Zimbabwe inheritance laws, a surviving spouse is entitled to inherit the matrimonial house or domestic premises that the couple occupied immediately prior to the deceased's death. According to the Master of the High Court in this case, a farm is regarded as a commercial or business venture and not a matrimonial home. Based on this, the surviving spouse's share was reduced to that of a child even though the farm was purchased jointly by the deceased and the surviving spouse. Further, the surviving spouse contributed to its development over a period of 33 years since its acquisition.

The surviving spouse commenced an action in the High Court challenging the decision of the Master and seeking a declaration as sole beneficiary of the farm. The Court granted an order joining the step children to the case.

On 9 June 2016, the matter was argued and the High Court found in favour of the surviving spouse. The Court declared that she is the sole beneficiary of the entire farm as her matrimonial home.

On 1 December 2016, the High Court delivered a written judgment with progressive pronouncements. "To seek to equate a surviving spouse's share to a child's share in circumstances where the farm is fundamentally the matrimonial home is not only mischievous but an open infringement of the very protection provided for by the Constitution to married couples" and that the "nature, extent, value, and type of the matrimonial home is not the determining fact of inheritance" said the Judge.

In Malawi, SALC is working with Youth Watch Society (YOWSO) to help a poor single woman, Mary, and her widowed mother, Idesi Goba,

retain the land that they inherited from their deceased father and husband respectively.

After inheriting the land in 2006, Mary and her mother have been using it to grow and sell sugar cane. The land was their only source of income for themselves and their families. In April 2012, the Village Headman and the Cane Grower's Trust allocated Mary and her mother's sugarcane plot to an elite couple. This was done without Mary and her mother's consent. Mary attempted to resolve the matter diplomatically between herself and the elite couple, but these attempts failed. Mary also approached the Magistrate's Court for relief, which was granted in her favour. The elite couple however, persisted with their claim to the land, approaching the High Court directly.

On 24 August 2016, when the matter came up for hearing, the High Court ordered the elite couple to produce documentary evidence to prove that the land was leased to them. No such evidence was submitted to the Court. Thus, on 2 December 2016, the High Court confirmed the Magistrate Court's jurisdiction to hear customary land matters and accordingly dismissed the matter and ordered the Plaintiffs to pay the costs of the proceedings.

Finally, following the High Court judgment, the Plaintiffs surrendered two hectares of land to the Defendants. Dramatically, the couple filed another suit against Idesi Goba through their daughter Sylvia Madikhula, seeking to restrain Idesi Goba from getting the other two hectares of land. SALC supported Idesi Goba as it was clear that the case brought through the Plaintiff's daughter was an indirect attempt to dispossess the women of their land rights.

On 22 May 2017, the High Court granted a permanent injunction against any further actions to dispossess the Goba family of their land. The High Court held that the actions of the Village Headman and Cane Growers' Trust to allocate customary land to new owners was unlawful.

03

Challenging the Constitutionality of Criminal Defamation in Zimbabwe

On 3 February 2016, the Constitutional Court of Zimbabwe issued an order that confirmed that the offence of criminal defamation is no longer an offence in Zimbabwe

In 2014, the Zimbabwean Constitutional Court ruled that the offence of criminal defamation was inconsistent with the Constitution and therefore invalid.

However, this case was decided under the previous Constitution even though the new Constitution had already come into force. This created uncertainty regarding this offence in Zimbabwe. It also created a culture of fear for journalists.

In 2015, as a result of the lack of clarity over whether the law continued to be in force, the Zimbabwe Chapter of the Media Institute of Southern Africa (MISA), and four media practitioners, filed an application in the Constitutional Court. They argued that once a statutory provision had been declared unconstitutional, it becomes inoperable as

if it had never been enacted. SALC provided technical assistance to MISA-Zimbabwe's legal team in the drafting of the court papers.

On 3 February 2016, the Constitutional Court of Zimbabwe found in favour of MISA and issued an order that confirmed that the offence of criminal defamation is no longer an offence in Zimbabwe. This landmark ruling means that journalists and citizens can no longer be arrested under this law and can exercise their rights without fear that they will be charged criminally.

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04

Upholding LBGT Rights in Botswana

On 16 March 2016, a full bench of the Botswana Court of Appeal ordered the Registrar of Societies to take steps to register the organisation Lesbians, Gays, and Bisexuals of Botswana (LEGABIBO).

In April 2012, an organisation in Botswana, Lesbians, Gays and Bisexuals of Botswana (LEGABIBO), made an application for registration to the Department of Civil and National Registration, as required under Botswana's Societies Act. The application was rejected on the grounds that the country's Constitution does not recognise homosexuals. The rejection was appealed to the Minister of Labour and Home Affairs, unsuccessfully. LEGABIBO then launched proceedings in the Gaborone High Court.

The High Court found that the decision not to register LEGABIBO was wrong. The Court confirmed that gay and bisexual individuals are protected by the Constitution. The Court held that denying gay and bisexual individuals the opportunity to lobby for decriminalisation of homosexuality was a clear violation of their rights to equal protection before the law, freedom of expression, assembly, and association.

The High Court set aside the decisions of the Director of Civil and National Registration and the Minister of Labour and Home Affairs and declared that the applicants were entitled to have LEGABIBO registered as a society in terms of the Societies Act.

The state then approached the Court of Appeal in Botswana, seeking to overturn the decision of the High Court. The Court of Appeal however upheld the lower court's decision in March 2016, holding that "all persons, whatever their sexual orientation, enjoy an equal right to form associations with lawful objectives for the protection and advancement of their interests".

Significantly, the Court of Appeal recognised that being gay is not, and has never been a crime in Botswana. Further, it characterised members of the LGBT community as forming part of the rich diversity of any nation. The UN and African Commission Special Rapporteurs have indicated the importance of the judgment, calling upon other nations to follow the example set and to ensure that human rights' defenders working to protect LGBT rights can do their work without the fear of interference.

In May 2015, the Zambia High Court similarly held that advocacy for law reform on LGBT rights is not a criminal offence and accordingly confirmed the acquittal of human rights' activist Paul Kasonkomona.

In a further case in Botswana, SALC is

assisting individuals who have been unable to change the gender markers on their identity documents and have thus approached the court for relief. SALC assisted in drafting pleadings and requests for confidentiality. The case is ongoing.

Significantly, the Court of Appeal recognised that being gay is not, and has never been a crime in Botswana.



05

Protecting the Independence of the Judiciary in Botswana

On 19 April 2017, the Botswana Court of Appeal held that the President's refusal to appoint Mr Motumise as a judge of the High Court, in line with the Judicial Service Commission's nomination, was unlawful.

In 2014, Mr Omphemetse Motumise applied for the position of a judge of the High Court of Botswana. In February 2015, the Judicial Services Commission unanimously concluded that he be appointed to the post. The President however declined to follow the nomination and did not appoint him, without giving reasons.

The Law Society of Botswana, with the assistance of SALC, sought a review of the President's decision in the High Court. Further, the Law Society requested that the Court declare that the President is bound to follow and implement the advice of the Judicial Services Commission, in accordance with the Constitution. The Constitution requires that judges of the High Court are appointed by the President, acting in accordance with the advice of the Judicial Services Commission.

The President argued that in making judicial appointments, he retains a discretion to decide who to appoint. In making his decision, he argued, he considers a broad range of factors including matters of national security, the socio-political situation in Botswana, public perceptions of the candidate and questions of policy.

In November 2015, the High Court found in favour of the President, holding that the President committed no wrong in making the decision. In addition, the Court held that insofar as the President's decision was motivated by considerations of national security and policy, he was under no obligation to disclose the reasons for the decision. The Law Society of Botswana appealed the High Court's decision.

The Court of Appeal then held that the President's decision to refuse to appoint Mr Motumise was reviewable. On appeal, two issues were considered: the nature and extent of the power conferred upon the President under section 96 (2) of the Constitution in the process of appointment of a judge of the High Court; and whether the courts have a power to prescribe to the Judicial Service Commission the manner and way in which it should carry out its constitutional mandate.

Section 96 (2) of the Constitution provides that the "*Judges of the High Court shall be appointed by the President, acting in accordance with the advice of the Judicial Service Commission*".

The Court found that the President was not entitled, in the absence of an explanation, to turn down the recommendation of the Judicial Services Commission.

The Court found that the President was not entitled, in the absence of an explanation, to turn down the recommendation of the Judicial Services Commission. The refusal to appoint Mr Motumise as a judge of the High Court was accordingly set aside.

As regards the functioning of the Judicial Service Commission, the Court of Appeal held that it had no power to intervene in the decisions of the Judicial Service Commission on how it regulates its own procedures.



06

Preventing the Harassment of Sex Workers in Malawi

On 8 September 2016, the Zomba High Court in Malawi set aside the conviction of nineteen women who were found guilty of the offence of living on the earnings of prostitution.

In March 2016, SALC was approached by Centre for Human Rights Education Advice and Assistance (CHREAA) for legal assistance in a matter where Pempho Banda and eighteen others were arrested and charged with the offence of living on the earnings of prostitution contrary to section 146 of the Penal Code. The women contacted the CHREAA after they had, unaware of their rights and the legal implications, pleaded guilty to the charges and were convicted and sentenced to fines of MK7, 000 per person (approx. 10 US Dollars).

Section 146 of the Penal Code provides that every woman who knowingly lives, wholly or in part, on the earnings of prostitution, or who is proved to have, for gain, exercised control, direction or influence over the movements of a prostitute in such a manner as to show that she is aiding, abetting or compelling her prostitution with any person, or generally, shall be guilty of a misdemeanour.

SALC provided technical and financial support to a local Malawi attorney, Mandala Mambulasa, and CHREAA to bring a review application to set aside the decision of the magistrate. The basis for SALC's support and

involvement is that sex work is not illegal in Malawi and the interpretation of section 146 of the Malawi Penal Code provided by the police and the magistrate violates the principle of legality.

On 8 September 2016, the Zomba High Court delivered a judgment in which the Court set aside the convictions. The court found that the arrest and convictions of the women were procedurally irregular, unconstitutional, and not based on evidence. The court noted that it was clear that the arrests were carried out to embarrass and harass the women. The court found that section 146 of Penal Code does not criminalise sex work. Noting the history of the offence, the judge held that the offence was not aimed at sex workers but at those who exploit sex workers. The court ordered that the convictions be set aside and the fines paid be returned to the women.

This important case confirms that sex work is not illegal in Malawi. Sex workers are entitled to be treated with dignity and respect by the police and may not be subject to any unfair discrimination.

This case followed an earlier decision by

the High Court of Malawi in May 2015 declaring the mandatory HIV testing of sex workers unconstitutional. In this case, eleven women from Mwanza in Malawi were arbitrarily arrested on two separate occasions in September and November 2009 during sweeping exercises conducted by the police. On both occasions, a number of women were detained overnight at the Mwanza Police Station and then taken to the Mwanza District Hospital and subjected to blood tests without their informed consent.

Certain of the women were charged with spreading disease in contravention of section 192 of the Penal Code. This was the first time some of the women became aware of their HIV status.

In challenging the admission of the illegally-

obtained HIV test results in each applicant's criminal case, the applicants argued that their constitutional right to a fair trial had been violated. The applicants also argued that the public disclosure of their HIV status in court violated their constitutional rights to privacy and dignity.

Justice Dorothy nyaKaunda Kamanga handed down judgment on 20 May 2015. The Honourable Judge held that forced HIV testing amounted to a violation of the applicants' constitutional rights, including their right to privacy; their right to non-discrimination; their right to freedom from cruel, inhuman, and degrading treatment; and their right to dignity. Justice Kamanga went a step further and requested a copy of the criminal court records in order to review the sentence imposed on the applicants.



Advocating for the Rule of Law in Lesotho

A report of the SADC Commission of Inquiry into former head of the Lesotho Defence Force, Lieutenant General Mahao's, assassination remains valid and enforceable, according to the High Court in Lesotho.

SALC supported the wife of the late former army commander Lt Gen Mahao, in an application brought by the Special Forces commander of the Lesotho Defence Force (LDF), Tefo Hashatsi, who sought to set aside a Commission of Inquiry established by SADC and the Lesotho government, to investigate Lieutenant General Mahao's killing in May 2015. It is the case of Hashatsi v the Prime Minister and Others.

SALC provided technical and financial support to Mrs Mahao's legal team. Mrs Mahao argued that the application should be set aside on a number of technical and substantive objections. She called for the continued independent investigation of the circumstances surrounding her husband's death and for the Commission's Report to be made public. SALC secured Senior Counsel to argue Mrs Mahao's case.

On 8 February 2016, the High Court delivered its judgment, dismissing the application and affirming the legality of the Commission and its proceedings and clearing the path for the Report's enforcement. The Commission's report was tabled in Parliament that same afternoon, albeit in a redacted form. The applicant immediately filed an appeal which

was heard on 17 October 2016. Judgment was handed down on 28 October 2016 dismissing the appeal. To date, however, the recommendations in the report have not been implemented.

At the same time of Lieutenant General Mahao's death a number of soldiers were arrested for allegedly planning a mutiny. The SADC Commission of Inquiry concluded that the alleged mutiny was likely fabricated and that the soldiers ought to be released. SALC provided support to local lawyers who were concerned by the incidents of torture committed against these soldiers and the procedural concerns relating to their arrests and ongoing detention.

In one such case a successful judgment was obtained to ensure access to healthcare services for a military detainee. Here, SALC supported a private lawyer, Advocate Mole Kumalo, to compel the LDF to permit a soldier being held in detention to access medical care, and thereafter, to be released on "open arrest" (a form of military bail) based on his palliative needs.

The applicant in this case was the wife of a soldier who was detained in Maseru

Maximum Prison. She approached the High Court on an urgent basis to seek an order that a medical referral for specialist treatment that had been denied by the LDF, be complied with. The Court granted the order. After the soldier was referred for total hip replacement surgery, the LDF insisted on his return to prison where he was forced to sleep on the floor, unable to care for his wounds, to bath, attend to his hygienic needs or to manage his pain. The soldier's

wife approached the High Court for an order that he be released on open arrest that his palliative needs could be provided for at home.

The Court heard argument on an urgent basis on 28 October 2016. A judgment was delivered on 31 October 2016 ordering the soldier's release.



Challenging HIV Criminalisation in Malawi

The High Court in Malawi sets aside the conviction and sentence of a woman living with HIV for the negligent transmission of HIV.

SALC worked with the International Coalition of Women, Malawi, and a private lawyer, to support a woman living with HIV, who was convicted of the crime of negligent transmission of HIV. She was at the time breastfeeding another person's child at a community meeting. The woman was charged with an act which is "likely to spread the infection of any disease which is dangerous to life" under section 192 of the Malawi Penal Code. The woman was on antiretroviral treatment and was considered safe to breastfeed her own baby. The child in question did not contract HIV and there was no assertion that the woman had acted with intent or malice.

By order of the High Court, the names of the woman and the child are protected from public disclosure. In granting this order, the Court took judicial notice of the fact that the stigma and discrimination attached to HIV continues to be a challenge for people living with and affected by HIV.

SALC assisted in the appeal of the conviction. In the main trial, the woman was unrepresented and was sentenced to 9 months' imprisonment. She appealed her conviction and sentence and challenged

the constitutionality of section 192 of the Penal Code for being vague and overbroad. Expert evidence was raised to show the infinitesimal risk of HIV transmission through breastfeeding, by women on antiretroviral treatment.

The State agreed that the conviction and sentence should be overturned and set aside. On 19 January 2017, the High Court acquitted the woman and ordered her immediate release. It held that the proceedings in the trial court were irregular and biased against the appellant, compromising her right to a fair trial. This was because the charge was ambiguous and did not disclose the elements of a valid offense. The Court held that the appellant did not have the requisite knowledge or belief that breastfeeding the child was likely to spread HIV. The Court further set out the appropriate parameters for the limits to the application of criminal law in cases of HIV transmission and exposure, affirming that the law's function should be primarily protective - to protect people living with HIV from "the unjust consequences of public panic." The Court held further that the custodial sentence imposed on the appellant was grossly excessive and stated that

incarcerating women with children should always be a last resort. On the constitutional challenge to Section 192 of the Penal Code, the Court referred the matter for separate determination.

Following the court case, SALC has been supporting local organisations to ensure that psycho-social counselling and support are provided to the woman concerned, as well as her family. Community and traditional leaders have also been engaged on issues concerning HIV treatment and testing, stigma, and discrimination. The judgment was used in

legal advocacy arguing against the inclusion of HIV criminalisation provisions in the HIV Prevention and Management Bill in Malawi.

The case also builds on other successful judgments in Malawi promoting the best interests of the child in the sentencing of caregivers. The High Court in other cases has taken into account the best interests of the child, in handing down sentences – imposing lesser sentences or non-custodial sentences to ensure children are adequately cared for and are raised by their parents, in line with Constitutional protections for children.

The Court held further that the custodial sentence imposed on the appellant was grossly excessive and stated that incarcerating women with children should always be a last resort.



Fighting for Freedom of Expression in Swaziland

On 16 September 2016, the High Court in Swaziland declared many provisions in the Sedition and Subversive Activities and Suppression of Terrorism Acts invalid.

In one egregious case, human rights' lawyer, Thulani Maseko, and Bheki Makhubu, the editor of *The Nation* magazine, were charged with contempt of court after writing articles critical of the judiciary. In July 2014, they were convicted and sentenced to two years' imprisonment without the option of a fine.

SALC supported the legal teams representing Thulani Maseko and Bheki Makhubu in their appeal against the convictions and sentences. SALC briefed counsel to represent Makhubu, and assisted her in preparing submissions for the appeal. SALC also provided technical assistance to Maseko's Swazi legal representative in preparation for the appeal. On 30 June 2015, the Supreme Court of Appeal heard the appeal against both the convictions and sentences. The prosecution decided not to defend the appeal given that the convictions did not appear supportable. The Supreme Court therefore acquitted Maseko and Makhubu and they were released from detention.

SALC also supported a case in which five people were accused of various offences under the Sedition and Subversive Activities Act and the Suppression of Terrorism

Act. In SALC's view, the two statutes are being used in an unreasonable manner to suppress dissent and criminalise freedom of expression and association. Freedom of expression is key to a functioning democracy and is protected under the Constitution of Swaziland, as well as regional and international instruments to which Swaziland is a party.

SALC is also supporting three individuals who were charged with sedition for allegedly participating in a march that encouraged Swazis to boycott the 2013 national elections. The definition of sedition in the Sedition and Subversive Activities Act is extremely broad and vague, and this lack of clarity over what conduct is prohibited by the legislation has enabled Swazi authorities to use the offence to suppress legitimate dissent.

The three individuals are accused, amongst other things, of conduct that attempts to "bring hatred and dissatisfaction against the Swaziland government and the administration of justice". The accused persons were granted bail in 2013.

SALC too is supporting Mario Masuku and

The Court held that the State had not provided any evidence explaining why the laws, which they admitted infringe the right to freedom of expression, are justifiable in a democratic society.

Maxwell Dlamini who were arrested on 1 May 2014 after participating in a May Day gathering in Manzini. Masuku spoke at the gathering and Dlamini participated in the singing of songs, and both used the gathering to draw attention to various challenges facing Swaziland. They were charged with two charges of contravening the Suppression of Terrorism Act, and two charges of contravening the Sedition and Subversive Activities Act as a result of the statements they had made.

Masuku and Dlamini have filed an application challenging the constitutionality of the two pieces of legislation under which they have been charged. This application has been joined with the three other similar applications described above.

SALC secured counsel to argue the challenges to aspects of the Acts, which were heard in February 2016. Both Acts

are far-reaching and broad, resulting in a threat to free expression and assembly. For example, the Terrorism Act outlaws conduct that is not violent nor motivated by an intent to create fear. Similarly, in the Sedition and Subversive Activities Act, the lack of a concrete definition of prohibited conduct can be used against political opponents thereby undermining democracy.

On 16 September 2016, the High Court in Swaziland declared many provisions in the Sedition and Subversive Activities and Suppression of Terrorism Acts invalid. The Court held that the State had not provided any evidence explaining why the laws, which they admitted infringe the right to freedom of expression, are justifiable in a democratic society. This decision has been appealed by the State. SALC has subsequently made submissions to parliament on the amended terrorism legislation.



10

Securing Access to HIV Treatment for Prisoners

On 26 August 2015, the Court of Appeal in Botswana held that a policy denying HIV treatment to non-citizen prisoners was contrary to the Prisons Act and unlawful. The Court ordered the government to provide free testing, assessment, and ARV treatment to all prisoners, whether citizens or not, immediately. This was in the case of *Attorney General v Tapela CACGB-096-14*.

SALC worked with the Botswana Network on Ethics, Law and AIDS (BONELA) to challenge the Botswana government's policy of refusing HIV treatment to non-citizen prisoners.

Citizen prisoners are entitled to free HIV treatment. The government provides non-citizen prisoners with treatment for opportunistic infections, such as tuberculosis. However, non-citizen prisoners are expected to finance HIV treatment themselves. BONELA and two HIV-positive, non-citizen prisoners filed a challenge to the policy. A default judgment, issued in the applicants' favour, was rescinded with the parties' consent on 19 March 2014. On 22 August 2014, the High Court in Gaborone held that the denial of HIV treatment to foreign prisoners living with HIV violated their constitutional rights. The Attorney-General appealed the decision to the Court of Appeal.

On 1 April 2015, the Attorney General filed an urgent application to stay the execution of the High Court order, pending the appeal in the Court of Appeal. BONELA opposed the

application and filed an urgent application to hold the State in contempt of the High Court's order for failing to comply. On 29 April 2015, the High Court dismissed the applications on the basis that they lacked urgency, affirming that the August 2014 order remains enforceable. The appeal was heard on 23 July 2015 before the Court of Appeal.

On 26 August 2015, the Court of Appeal dismissed the appeal. The Court held that the policy was contrary to the Prisons Act and unlawful. The Court ordered the government immediately to provide free testing, assessment, and ARV treatment to all foreign prisoners to the same extent as citizen prisoners. SALC continues to work with BONELA to ensure the judgment's enforcement.

The Court held that the policy was contrary to the Prisons Act and unlawful.



11

Tackling Arbitrary Arrest and Detention for Petty Offences Treatment for Prisoners

The offence of being a rogue and vagabond was struck down in Malawi in January 2017 in the case of *Mayeso Gwanda v The State*.

The offence of being a rogue and vagabond, under Section 184(1)(c) of the Penal Code, which is often used against sex workers and hawkers, was declared unconstitutional and invalid in January 2017 in the case of *Mayeso Gwanda v The State*.

Section 184(c) of the Penal Code describes a rogue and vagabond as every person found in or near any premises or road or any public place at such time and under such circumstances as to lead to the conclusion that such person is there for an illegal or disorderly purpose.

In this case, Mayeso Gwanda, a street vendor, was arrested by three armed police officers while walking 10 kilometers from the outskirts of the Chilomoni Township to Limbe Market, where he sells plastic bags to support his family. He had been walking the lengthy walk for over a year. When he tried to explain why he was walking to the market early in the morning, he was beaten up by the police.

Gwanda, through a private lawyer in Malawi, with the support of CHREAA and SALC, challenged the constitutionality of the law that resulted in his arrest. The Court found

that the offence violates the rights to dignity, freedom from inhuman and degrading treatment and freedom from discrimination and equal protection of the law. The Court also found that the offence of being a rogue and vagabond violated the right to freedom and security of person and the right to freedom of movement. This is a further victory as vendors and others, including sex workers, can no longer be charged with this offence.

The Court found that the offence violates the rights to dignity, freedom from inhuman and degrading treatment and freedom from discrimination and equal protection of the law.



SALC Advocacy

Finding redress for discrimination in healthcare services by strengthening complaints mechanisms

Research conducted by SALC in 2016 in Botswana, Malawi, and Zambia, illustrates the pervasive discrimination when trying to access healthcare services, experienced by women living with HIV, people with disabilities, sex workers, and lesbian, gay, bisexual, and transgender persons. Common complaints include denial of treatment, abusive language, and failure to observe healthcare users' confidentiality. The research report, launched in September 2016, identified the unresponsiveness of complaints mechanisms to address complaints of healthcare discrimination brought by marginalised populations.

SALC subsequently produced a guide for healthcare users and community-based

organisations on enforcing the human right to health by making use of various complaint processes. The guidebook gives information on how to use complaint processes at healthcare facilities, in national human rights institutions and in health profession and nursing councils. The guide can be used by support groups, health advocacy organisations, paralegals, healthcare workers, community leaders, and friends and families of healthcare users.

In February 2017, SALC conducted workshops in Botswana, Malawi and Zambia to develop the capacity of community-based organisations and NGOs to identify and take up cases involving violations of health rights, through complaints processes. The purpose of the workshops was to sensitise participants to the effective use of complaint processes as a means of achieving accountability and redress for victims of discrimination and human rights'



violations in healthcare settings, particularly for vulnerable groups. Similar workshops were held in Zambia and Malawi. SALC further produced a policy brief for national human rights institutions, health profession and nursing councils on how to make complaints processes more accessible to vulnerable and marginalised populations.

African Commission level advocacy

SALC has consistently attended and participated in the NGO Forums and the Ordinary Sessions of the African Commission on Human and Peoples' Rights in Banjul, the Gambia (ACHPR).

On 6 April 2016, SALC presented an oral statement at the 58th session of the ACHPR. The statement, presented against the backdrop of Namibia's state report to the ACHPR, detailed concerns regarding forced and coerced sterilisation of women living with HIV in Namibia. It requested the ACHPR, in its review of Namibia's report, to call on authorities to ensure adequate reparations to all women who have been subjected to coerced or forced sterilisation; as well as to take adequate

measures to prevent further acts of forced sterilisation. The statement also called for investigations into reported cases of forced or coerced sterilisation in other countries such as Kenya and South Africa.

At the 59th Ordinary Session of the Commission, SALC presented a statement regarding the human rights situation in Lesotho. The statement was jointly prepared by SALC and the Lesotho based Transformation Resource Centre (TRC) and covered attacks against journalists and violations of the right to freedom of expression in Lesotho. The submission called upon the Commission to urge the government of Lesotho to take measures to address ongoing human rights' violations.

United Nations level advocacy

SALC also engaged in advocacy efforts regarding the situation in Lesotho, at the United Nations' level. In 2016, SALC and the TRC submitted a letter to the Office of the UN High Commissioner for Human Rights about attacks against journalists in Lesotho. In July 2016, a similar letter was submitted by SALC to the



UN Special Rapporteur on the Promotion and Protection of Opinion and Expression regarding Lesotho.

SALC supported civil society organisations to make submissions for the Universal Periodic Review (UPR) of Swaziland and Namibia. The UPR is a process by which states review the human rights record of other states, under the auspices of the Human Rights Council. All 193 states that are members of the UN are reviewed over a period of four-and-a-half years. Civil society organisations are given an opportunity to present a report in writing about six months prior to the UPR session of a country under review.

For example, SALC, together with Legal Assistance Centre, Namibia Women's Health Network, Women's Leadership Centre (WLC) and the Southern Africa Christian Initiative submitted a joint shadow report for the second cycle of Namibia's UPR, commending Namibia for positive developments in human rights since 2011, while at the same time calling on authorities to strengthen their efforts towards the protection and promotion of human rights in the country.

SALC also engaged at UN level regarding the rights of persons living with albinism. In 2016, SALC met the UN Independent Expert on the Enjoyment of Human Rights by Persons with

Albinism. The meeting took place at the time of the first continental colloquium on persons with albinism. The event was organised by the Centre for Human Rights, University of Pretoria. The meeting served as a platform for SALC to develop a working relationship with the UN expert.

Similarly, in 2016, on 13 June, International Albinism Awareness Day, SALC issued a statement calling upon states to honour their human rights' commitments regarding persons with albinism. Amongst other things, SALC called for urgent support to persons with albinism who are victims of threats or violence, and support to their children and family members to recover and restore their freedom from fear and their full enjoyment of life. SALC called for the passing of laws and regulations to protect people with albinism against discrimination, marginalisation, abduction, mutilation and killing.

Judicial Colloquia across Southern Africa

During 2016, SALC, in conjunction with the National Association of Women Judges and Magistrates, the Malawi judiciary, and the International Commission of Jurists, convened colloquia in Botswana, Malawi, Zambia, and Zimbabwe to encourage discussions on the role of the judiciary and legal profession



in achieving Goal 16 of the Sustainable Development Goals.

Goal 16 seeks to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”.

The colloquia resulted in a publication in which judges and lawyers in the region reflect on existing barriers to ensuring equal access to justice for all and recent jurisprudential and legal developments that indicate steps towards the achievement of the targets set in Goal 16 of the Sustainable Development Goals.

Advocacy around ending child marriages

On 3 June 2016, SADC parliamentarians adopted a model law on eradicating child marriage and protecting children already in marriage.

Child marriage affects 70 million girls across the globe. East and Southern Africa alone are home to seven million child brides. Child marriages are largely driven by high poverty levels, gender inequity, traditions, religion, and limited educational opportunities for girls.

The Southern African Development Community Parliamentary Forum (SADC-PF) and partners, including SALC, developed the model law

in response to the high prevalence of child marriage in Southern Africa.

The Model Law provides guidance to parliamentarians, ministries of justice, policymakers, and other stakeholders in SADC countries for developing national laws. The Model Law eliminates several loopholes that make current laws ineffective and unenforceable and aims to protect millions of adolescent girls from the negative consequences of child marriage.

In addition to the development and adoption of the model law, SALC has been involved in many advocacy initiatives regarding child marriages. In March 2016, SALC and the Centre for Human Rights Education Advice and Assistance in Malawi made a submission to the UN Committee on the Rights of the Child, regarding Malawi’s combined third, fourth and fifth periodic report to the Committee. In its joint submission, SALC highlighted the continued prevalence of child marriage in Malawi, despite the practice being outlawed. SALC called for measures to be put in place in Malawi to ensure that adolescent girls have access to information on the harm of early marriage and pregnancy. SALC is also supporting partners in Tanzania and Swaziland to advocate for law reform around child marriages.



SALC Docket:

Our Cases March 2015 – February 2017

Botswana

Law Society of Botswana and Motumise v The President and Others

High Court case challenging the President's refusal to appoint a judge who was recommended for appointment by the Judicial Services Commission

Thutho Rammoge and Others v Attorney General of Botswana and Another

Court of Appeal case challenging the refusal to register an LGBT organisation (LEGABIBO).

Tapela and Others v Attorney General and Others

Court of Appeal case challenging the State's policy to deny anti-retroviral treatment to non-citizen prisoners.

Kelobongile Goregae v. Buti Moatso

High Court case where SALC is assisting a Motswana woman to challenge customary inheritance laws.

Support of transgender persons to change gender markers

SALC is pursuing two cases in the Botswana High Court challenging the government's refusal to change the gender marker in identity documents of transgender persons.

Pursuing damages for medical negligence

Appeal Court case where SALC is supporting a woman's claim for damages for medical negligence which occurred in several Botswana public hospitals. As a result of negligence during a surgical procedure, the woman suffers from inter alia serious incontinence.

Supporting MISA Botswana amicus intervention

SALC supported the Botswana Chapter of the Media Institute of Southern Africa (MISA) to intervene as amicus curiae in a challenge to the constitutionality of a provision in the Corruption

and Economic Crime Act which prohibited the publication of any information relating to an investigation under the Act.

Access to Information Request from State organs on behalf of the Botswana Gazette

SALC is working with Botswana attorney Tshiamo Rantao to challenge the refusal of an access to information request, for access to a report drafted by the Water Utilities Corporation.

Lesotho

Masupha v The Senior Resident Magistrate for the Subordinate Court of Berea and Others

SALC made a submission to the African Commission on Human and People's Rights challenging a discriminatory law in Lesotho which provides only for male succession to chieftainship.

Masupha v The Senior Resident Magistrate for the Subordinate Court of Berea and Others

Court of Appeal case challenging a discriminatory law which provides only for male succession to chieftainship.

Hashatsi v The Prime Minister and Others

High Court case challenging the attempt to set aside a Commission of Inquiry into the killing of former army commander Mahao.

Mareka and 22 Others v The Commander of the Lesotho Defence Force and Others

Court of Appeal case challenging the ongoing detention of soldiers by the Lesotho Defence Force.

Chaka v the Commander of the Lesotho Defence Force and Others

SALC supported an urgent application brought to facilitate access to medical treatment for a detained Lesotho Defence Force (LDF) soldier,

Captain Chaka who suffered serious health ailments and was refused access to medical treatment and care.

Makhomo M. Ramatlapen v Mohopi Jessi

High Court legal challenge to the Laws of Lerotholi which denies daughters the ability to succeed as heirs, to inherit and have a share in their deceased parent's immovable property.

Dismissal of Female Members of the Military due to Pregnancy

SALC is challenging the provisions of the Lesotho Defense Force Act and related provisions which sanction and require the dismissal of any pregnant military staff members.

Basildon Peta v Minister of Law, Constitutional Affairs and Human Rights

Constitutional challenge to criminal defamation laws laid against the publisher of the Lesotho Times newspaper for publishing political satire.

Malawi

S v Mwanza Police and Others

High Court case challenging random arrests of women and mandatory HIV testing.

Mayeso Gwanda v The State

Constitutional Court case challenging the constitutionality of the vagrancy laws in Malawi.

R v The Republic

High Court case challenging the incarceration of a woman who gave birth in prison.

M v Attorney General

High Court case challenging the incarceration of a minor together with adult convicted prisoners.

EL v The State

High Court case challenging the discrimination against an HIV positive woman who was charged with negligent transmission of HIV

The Republic of Malawi v Phempho Banda and others

High Court challenge to the offence of living on the earnings of prostitution which was not intended to target sex workers.

Republic v Mudila and Others

High Court case promoting enforcement of judgment on the offence of living on the earnings of prostitution.

S v Precious Michael

High Court challenge to unfair treatment of person with albinism by criminal justice system.

Access to palliative care

SALC is working with CHREEA to establish a right to bail for terminally ill remandees and rights to palliative care for persons in detention in Malawi.

Lois S Madikhula v Mary Goba

SALC assisted an indigent woman retain the land that she inherited though customary law from her father after the village traditional authority unlawfully reallocated her land to a third party.

Protecting women's property rights

SALC is challenging a husband's sale of the matrimonial home without the wife's consent.

Protecting Rural Women from Negative Impacts of the Extractive Industries

SALC is working with Church and Society Programme to support the case of the Kanyika Community in Mzimba District who were forced to stop using their land in 2011 to make way for mining activities.

Challenging the Offence of Begging

SALC is working with CHREEA to lodge a constitutional challenge to the offence of begging using deformities.

Hate Speech case: People v Ken Msonda

SALC is supporting a high court case where a Malawian politician made hateful and violent remarks against homosexual persons. Reportedly, Msonda said "the best way to deal with this problem [homosexuals] is to kill them". SALC is pursuing mechanisms to hold him accountable.

Detention of Pregnant Learners

SALC is challenging the detention of pregnant learners in Malawi.

Challenge to the Mental Disorders Act

This is a challenge to the Mental Disorders Act on the grounds that it unconstitutionally infringes on the rights to dignity, liberty and to freedom from discrimination of persons with mental disabilities and denies persons with mental disabilities the protection of the legal capacity.

South Africa***Southern Africa Litigation Centre v The Minister of Justice and Constitutional Development and Others***

Supreme Court of Appeal case challenging the State's failure to arrest Sudanese president Omar Al-Bashir, on his arrival in South Africa, in line with international law.

DA v Minister of International Relations and Cooperation and 9 Others

High Court case which challenged South Africa's withdrawal from the Rome Statute of the International Criminal Court.

Consortium for Refugees and Migrants in South Africa (CoRMSA) v President of the Republic of South Africa

Supreme Court of Appeal challenge to the decision to grant asylum in South Africa to a suspected war criminal from Rwanda.

Amicus brief in *Law Society of South Africa v President of South Africa* a High Court case challenging South Africa's signing of the 2014 SADC Tribunal Protocol.

ICC Witness Protection case

SALC is providing assistance to witnesses in several ICC cases following the decision of the ICC to withdraw them from the witness protection programme. This is being challenged through diplomatic processes.

Nokuthula Simelane case

High Court case pursuing accountability for apartheid crimes: SALC is providing assistance to the family of an activist who disappeared in 1983 at the hands of the apartheid regime.

Swaziland***R v The Nation Magazine and Others***

Supreme Court challenge to the convictions and sentences of the editor of the Nation magazine and a human rights' lawyer for contempt of court based on articles written and published by them which were critical of the judiciary.

R v Masuku and Another

Supreme Court challenge to the arrests of trade unionists Mario Masuku and Maxwell Dlamini under the Suppression of Terrorism Act and the Sedition and Subversive Activities Act.

Makhosazane E Sacolo v Jukhi J Scolo, Ministry of Justice and Constitutional Affairs

High Court challenge to the common law marital power promoting the recognition of women's property rights.

Challenging the Customary Rule of Male Primogeniture

High Court challenge to the rule that prohibits women from being named heir to an estate of their deceased parents or husbands denying women the ability to inherit from their family.

Challenging the coerced sterilization of a woman living with HIV

High Court challenge to the coerced sterilization of a woman living with HIV.

Challenging Child Marriage

High Court challenge in which SALC is working with WLSA Swaziland is involved to review the laws allowing for child marriage in Swaziland.

Challenge to the constitutionality of the Sedition and Subversive Activities and Suppression of Terrorism Acts

SALC brought a challenge in which the High Court in Swaziland declared a number of provisions in the Sedition and Subversive Activities and Suppression of Terrorism Acts invalid and unconstitutional on the grounds that they infringed the right to freedom of expression, association and administrative justice. This is now being appealed by the state. The matter is ongoing.

Zambia

The People v Paul Kasonkomona

High Court challenge to the arrest of a respected HIV activist for lobbying to have the rights of LGBT persons recognised.

Mwanza and Another v Attorney General

High Court and Appeal Court challenges on prison conditions at Lusaka Central Prison, and the impact of poor prison conditions on HIV positive prisoners.

The People v BH

High Court case challenging a conviction of sodomy against a transgender woman.

Cosmas Mweemba & 34 Others V Chikankata District Council & Attorney General

High Court case challenging the forced eviction of communities living on customary land.

Challenge to the Mental Disorders Act

SALC is supporting a petition by two persons with mental disabilities and the Mental Health Users Network of Zambia (MHUNZA) to repeal Zambia's Mental Disorders Act.

Zimbabwe

M v St. Anne's Hospital and Others

Constitutional Court challenge to the dismissal of an HIV positive employee for not disclosing her HIV status.

MISA Zimbabwe and Others v The Minister of Justice

Constitutional Court challenge to the offence of criminal defamation in Zimbabwe.

Ricky Nathanson v Minister of Police

High Court cCivil case challenging the arrest of a transgender woman for using a female toilet.

Chengeto Mashingaidze v. Pauline

High Court case challenging the ability of a surviving spouse to inherit the marital property.

Nigeria

X v Brink and Others

SALC is also intervening in a case in Nigeria. The case deals with forced HIV testing and termination of employment of an HIV positive employee. Although Nigeria falls outside of SALC's geographical mandate, we elected to intervene on account of our expertise in this area coupled with our participation in a 10 country UNDP/Global Fund for HIV grant which includes Nigeria.

SALC Staff



Kaajal Ramjathan-Keogh
Executive Director

Kaajal Ramjathan-Keogh joined SALC in February 2015. She obtained her B. Proc LLB degrees from the University of Natal (now University of Kwa Zulu Natal). She was employed at Lawyers for Human Rights from 2002- 2014 where she initially headed the Immigration Detention Monitoring Unit and was thereafter appointed as Manager of the Refugee and Migrants Rights Programme, which position she held from 2007- 2014. She was the board chairperson of the Consortium for Refugees and Migrants in South Africa from 2007-2011. She sits on the Boards of the South African History Archive and Sonke Gender Justice. She has significant experience and expertise in the fields of asylum, migration, refugee protection, citizenship, and statelessness.



Anneke Meerkotter
Litigation Director

Anneke Meerkotter joined SALC in February 2012 as a programme manager working on LGBT and Sex Workers Rights. She previously worked as executive director at the Tshwaranang Legal Advocacy Centre. She has specialised in public interest litigation and advocacy on gender-based violence, sex worker rights, rights of people living with HIV, sexual and reproductive rights, access to justice and child justice. She previously worked as an attorney at Tshwaranang Legal Advocacy Centre and the AIDS Law Project. Prior to that she worked as a legal researcher at the Community Law Centre. Anneke is a qualified attorney with B. Proc and LLB degrees from the University of the Western Cape. She obtained a diploma in legal practice from the University of Cape Town and an M.Sc. in Sociology from the University of Amsterdam.



Tashwill Esterhuizen
Lawyer, LGBTI and Sex Worker Rights Programme

Tashwill Esterhuizen holds an LLB from the University of Cape Town (UCT) and is an admitted attorney of the High Court of South Africa. Prior to his employment at SALC, he was employed as a litigation attorney at Socio-Economic Rights Institute of South Africa (SERI), where he was involved in a number of public interest litigation cases, including housing and consumer protection. His experience also includes advising the Office of the Provincial Police Commissioner in the Western Cape on police actions and omissions and labour relations.



Caroline James

Lawyer, Freedom of Expression Programme

Caroline James holds B.A. and LLB degrees from the University of the Witwatersrand. She has previously worked for Lawyers for Human Rights in Johannesburg, South Africa. Prior to joining SALC, she was a judge's clerk at the South Gauteng High Court.



Annabel Raw

Lawyer, Health Rights Programme

Annabel Raw holds a BA Law from the University of Pretoria, an Honours degree in International Relations from the University of the Witwatersrand and an LLB from the University of South Africa. She obtained an LLM in International Human Rights and Humanitarian Law from Lund University, Sweden in cooperation with the Raoul Wallenberg Institute of International Human Rights and Humanitarian Law. Prior to joining SALC, Annabel worked at the Constitutional Court of South Africa as a Law Clerk and Assistant to Justice Thembile Skweyiya.



Brigadier Siachitema

Lawyer, Women's Land, and Property Rights Programme

Brigadier Siachitema joined SALC in January 2015. . He holds an LLB degree from the University of Zambia and an LLM degree in International Business and Economic Law and a Certificate in International Arbitration and Dispute Resolution from Georgetown University Law Center. He has over 7 years of experience litigating land rights disputes, property grabbing and gender based violence. Prior to joining SALC, he spent 6 years as an advocate at the International Justice Mission (IJM) protecting indigent victims of succession and inheritance land rights' violations in Zambia, mostly widows and orphans, through litigation. At IJM, he trained and equipped over 8,000 police officers, prosecutors, magistrates, church leaders and community members at over 800 training events in responding effectively to property grabbing and other forms of gender based violence. He also reached tens of thousands of Zambians through innovative media engagements to increase awareness and change attitudes and beliefs regarding women's rights, property grabbing and gender based violence.



Nyasha Chingore-Munazvo
Lawyer, Sexual and
Reproductive Rights Programme

Nyasha Chingore-Munazvo holds an LLB from the University of Zimbabwe and an LLM in Human Rights and Democratisation in Africa from the University of Pretoria. Prior to joining SALC, Nyasha was a researcher and project manager at the AIDS and Human Rights Research Unit at the University of Pretoria. Nyasha left SALC in January 2017.



Angela Mudukuti
Lawyer, International Criminal
Justice Programme

Angela Mudukuti graduated with an LLB from the University of Pretoria in 2009 and completed an LLM in Transitional Justice, International Criminal Law, and Anti-Corruption Law at the University of the Western Cape, in conjunction with the Berlin-based Humboldt-Universität. Prior to joining SALC, she worked at the International Criminal Court in The Hague and worked under the supervision of Prof. Cherif Bassiouni at the International Institute for Higher Studies in Criminal Sciences (ISISC) in Italy. Prior to that, Angela worked in private practice, assisting with civil and criminal matters. Angela left SALC in December 2016.



Aquinaldo Mandlate
Consultant - Regional Advocacy
Programme

Aquinaldo is a Mozambican lawyer holding an LLD in Public International Law, an LLM in International Human Rights and Democratisation and a PhD in Child Law. He was previously employed at the International Law and Policy Institute and was based at the Dullah Omar Institute for Constitutional Law as a post-doctoral researcher. He spent two years as a researcher with the Civil Society Prison Reform Initiative. He continues to lecture at the Eduardo Mondlane University in Maputo.



Suzgo Lungu

Consultant - International Criminal Justice Programme

Suzgo previously worked as the Chief Legal Advisor for the Ministry of foreign Affairs and International Cooperation of the Malawi Government where he was responsible for initiation and articulation of policies and drafting of various legal instruments on International Law. He was the contact person on all matters concerning the International Criminal Court. He holds two masters Degrees, one in International Human Rights Law obtained from the University of Notre Dame du Luc, Indiana, USA, and another in Commercial law obtained from the University of Cardiff, Wales, UK. He is currently pursuing a PhD at the University of Witwatersrand on the International Criminal Court focusing on supervision of states compliance with requests and decisions about the ICC under the Rome Statute.



Muluka Miti-Drummond

Regional Advocacy Director

Muluka Miti-Drummond holds an LLB from the University of Venda and an LLM from the University of Pretoria. She also has an MSc degree in Development Management from the Open University in the United Kingdom. Prior to joining SALC, she worked at Amnesty International in London as the Researcher for Portuguese and Spanish Speaking African Countries. She has also worked as a consultant for the International Organisation for Migration, a law expert and lecturer at the Catholic University of Mozambique and as an Assistant at the University of South Africa. Muluka left SALC in December 2015.



Jacqui Groeneweegen

Finance Director

Jacqui Groeneweegen started off as an audit clerk and became the financial accountant for an audit practice. Thereafter she and two partners ran their own accounting practice for eleven years where they provided a full spectrum of tax, accounting, payroll, and company secretarial services. She re-joined the corporate sector for five years as the Financial Manager for a recruitment company before joining SALC.



Pamela Timburwa

Office Manager

Pamela Timburwa graduated with a Bachelor of Administration from the University of South Africa and has a qualification in secretarial studies from BIC Academy. Prior to joining SALC, she worked at the Nelson Mandela Institute for Rural Education and Development as a Research Support Administrator and at Africa University as a Secretary.

SALC Trustees



Rahim Khan

Abdool Rahim Khan has been an attorney since 1977. He was admitted as an attorney of the High Court of South Africa (T.P.D.) in 1977 and as an attorney of the High Court of Botswana in 1981. Rahim has been in private practice from 1982 to date. He was a law lecturer at the University of Botswana from 1980 to 1982 and a part-time lecturer with Barclays Bank of Botswana from 1984 to 1985. He has been an acting chief magistrate of Gaborone in 2000 (September to December), 2002 (March to June), 2003 (January to April) and 2012 (March to May). He is a member of the Legal Aid Board, Botswana Railways Properties Board, Basil Read Botswana, Norilsk (Botswana), and Auto Sueco (Botswana), amongst others. He is a former honorary Swedish consul to Botswana (2007 to 2012). He is a board member of Freedom Under Law, a South African nongovernmental organisation.



Keith Baker

Keith Baker is a London solicitor and has been an individual member of the International Bar Association for approximately 25 years, specialising in cross-border private client work. He is a past chair of the Individual Tax and Private Client Committee and past treasurer of the former Section on General Practice. He was elected an Honorary Life Member of the International Bar Association, and its Council, in October 2011.



Zohra Dawood

Zohra Dawood has degrees in law and a Master's degree in economic history. She worked for a decade as chief researcher for a land rights organisation. After 1994, she worked with the Department of Land Affairs and Agriculture, where she was involved in policy formulation and implementation, including negotiations and settlement of land claims. She has been an adviser to cabinet members and was an adviser to the Presidency of Nelson Mandela. She also worked for the Department of Defence in drafting its legislation and policies on land and environment. In 1999, she joined the Open Society Foundations as the deputy executive director of the Open Society Foundation for South Africa, and was the executive director from 2001-2012.



Sternford Moyo

Sternford Moyo has been a legal practitioner in Zimbabwe for 34 years. He is the Chairman and Senior Partner of Scanlen & Holderness, Chairperson of Stanbic Bank Zimbabwe Limited, Chairperson of Schweppes Zimbabwe Limited, Chairperson of African Regional Forum of the International Bar Association, Former President of the Law Society of Zimbabwe and the SADC Lawyers Association, Former Co-chair of the International Bar Association's Human Rights Institute and Director of Alpha Media Holdings (Pvt) Ltd and PPC Zimbabwe Ltd.



Beatrice Mtetwa

A prominent media lawyer and human rights defender, Beatrice Mtetwa has appeared in numerous high-profile cases in Zimbabwe. In a country where the law is often used as a weapon of persecution, she has defended those targeted, at great personal risk. She is a past president of the Law Society of Zimbabwe and is the recipient of numerous human rights awards.



Dr Phillip Tahmindjis

Dr Phillip Tahmindjis was a professor of law teaching human rights in Australia, North America and Hong Kong, as well as a consultant to government and private industry on human rights and discrimination issues. He was a member of the Queensland Anti-Discrimination Tribunal and has published four books and numerous articles in this field. He is currently the co-director of the International Bar Association's Human Rights Institute and has undertaken capacity building with bar associations in Afghanistan, Bhutan, East Timor, and Swaziland; human rights training in Iraq, Nepal, and Palestine; and human rights fact-finding missions in Pakistan, Russia, and Syria.

SALC Donors and Partners

Access Now

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African Criminal Justice Reform

African Policing Civilian Oversight Forum (APCOF)

African Women's Development and Communications Network (FEMNET)

AfricanLii

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American Bar Association (ABA)

Amnesty International

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Association for Justice, Peace and Development (AJPD), Angola

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Global Fund to Fight HIV, TB and Malaria

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Human Dignity Trust

Human Rights League of Mozambique (Liga Moçambicana dos Direitos

Humanos)

Immaculate Maluza

Initiative for Gender Equality and Development in Africa (IGED Africa)

Innocent Hamchila

Institute for Human Rights and Development in Africa (IHRDA)

International Bar Association (IBA)

International Bar Association Human Rights Institute

International Commission of Jurists – Africa Regional Programme

International Commission of Jurists – Kenya (ICJ-Kenya)

International Commission of Jurists – South Africa (ICJ- South Africa)

International Community of Women Living with HIV (ICW)

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Kenneth Mwansa	Media Institute of Southern Africa – Zambia Chapter	Perpetua Dube	Tyler Walton
Kenya Legal and Ethical Issues Network on HIV and AIDS (KELIN)	Media Institute of Southern Africa – Zimbabwe Chapter	Peter Hathorn SC	United Nations Development Programme
Khotso Nthontho	Media Legal Defence Initiative	Positives Vibes	United States Department of State
Khumbo Soko	Melody Kozah	Susan Deller Ross, Prof	Unity Dow
Kody Leonard	Mental Disability Advocacy Centre (MDAC)	Rafael Marques de Morais	Venitia Govender
Kristen Petersen	Mental Health Users Network of Zambia (MHUNZA)	Ricki Kgositau	Veritas
Kucaca Ivumile Phulu	Michaela Clayton	Ricky Nathanson	Victor Gondwe
LAMBDA, Mozambique	Mole Kumalo	Right to Know Campaign	Victor Mhango
Landilani Banda	Monaheng Rasekoai	Rights not Rescue Trust of Namibia	Violet Jumbe
Law Society of Lesotho	Moray Haythorn	Rock of Hope	Wamundila Waliuya
Lawyers Alert, Nigeria	Mpolokeng Setswammung	Rommy Beeber Mom	Webber Newdigate
Lawyers for Human Rights (LHR)	Msichana Initiative	Ruth Bland, Dr	Webber Wentzel Bowens
Lawyers for Human Rights Swaziland	Muleya Mwananyanda	SADC Lawyers Association (SADC LA)	Wellspring
Lawyers for Lawyers	Mushota and Associates	Sexual Rights Centre (SRC)	Wesley Mwafulirwa
Legal Assistance Centre (LAC)	Muteyu Banda	Sian Maseko	Wim Trengove SC
Legal Resources Foundation-Zambia	Mwiza NKhata	Sibusiso Nhlabatsi	Wits Law Clinic
Leo Gama	Mzwandile Dlamini	Sigrid Rausing Trust	Women and Law in Southern Africa - Lesotho
Lepeli Moeketsi	Namibia Women's Health Network	Sipho Gumedze	Women and Law in Southern Africa – Malawi
Lerato Zikalala	Natasha Bassingthwaite	Sisonke	Women and Law in Southern Africa – Mozambique
Lesbians, Gays and Bisexuals of Botswana (LEGABIBO)	Natasha Becker	South African Tamil Federation	Women and Law in Southern Africa- Swaziland
Lesego Nchunga	National Association of Women Judges (Botswana)	Southern African Trans Forum (SATF)	Women in Law in Southern Africa -Zimbabwe
Leslie Sibanda	National Rainbow Alliance	Sunday Bwalya Nkonde SC	Yasmin Sooka
Lilian Kiefer	Ngwako Hamilton Maenetje SC	Sunday Mumba	Youth Watch Society
Lisa Rimli	Noel Joseph Simwanza	Susannah Cowen	Zambia Land Alliance
Lloyd Kuveya	Noel Kayira	T.M. Maieane	Zimbabwe Exiles Forum
Lorraine Ochiel	Open Society Foundations	Tamil Federation of Gauteng	Zimbabwe Lawyers for Human Rights
Louise Edwards	Open Society Initiative for Southern Africa	Tendai Biti	Zimbabwe Women Lawyers Association
Lukas Muntingh		Thulani Maseko	
Malawi Judiciary		Trans Bantu	



Selected Conferences

African Legal Aid Symposium on International Criminal Justice

18-19 May 2015
Johannesburg, South Africa

ISLA Regional consultation meeting on Freedom of Association

6 July 2015
Johannesburg, South Africa

Sixteenth Annual SADC Lawyers' Association Conference & General Meeting

20-23 August 2015
Dar es Salaam, Tanzania

Capacity Building for Young Lawyers, Seminar for Candidate Attorneys at Webber Wentzel

26 August 2015
Johannesburg, South Africa

Capacity Building at the Friedrich-Ebert-Stiftung Fort Hare Young Leaders Program

4-6 September 2015
East London, South Africa

International Service for Human Rights: Business and Human rights training

10 -17 November 2015
Geneva, Switzerland

Meeting on HIV-related stigma and discrimination

29 November 2015
Harare, Zimbabwe

18th International Conference on AIDS and STIs in Africa

2-4 December 2015
Harare, Zimbabwe

Africa Regional Workshop for Lawyers on CEDAW

7 – 10 December 2015
Nairobi, Kenya

SALC Judicial Colloquiums on Goal 16 of the Sustainable Developments Goals

Malawi, Zambia, and Swaziland
During 2016
Johannesburg, South Africa

Forum for the Participation of NGOs in the 58th Ordinary Session of the African Commission on Human and Peoples' Rights

3-5 April 2016
Banjul, The Gambia

Mental Health Litigation Surgery hosted by the Mental Disability Advocacy Centre and Disability Rights Watch

6-8 April 2016
Lusaka, Zambia

SALC Sex workers' workshop

23 May 2016
Lusaka, Zambia

Lecture to the University of Zambia Law School on Albinism

2 June 2016
Lusaka, Zambia

SALC Training: Removing Legal Barriers to Treatment: Legal Training on Health and Human Rights in Africa

27 – 29 June 2016
Johannesburg, South Africa

International AIDS Conference, 2016

18-22 July 2016
Durban, South Africa

AGM of the SADC Lawyers Association

17 – 19 August 2016
Cape Town, South Africa

Public Interest Law Gathering: SALC Panel on Prison Health

30 August 2016
Johannesburg, South Africa

ASSAF Young Scientists and Human Rights Event: SALC Key note address

7-8 October 2016
Johannesburg, South Africa

Wayamo International Symposium - Towards a System of International Justice

18 - 19 October 2016
Arusha, Tanzania

Selected Articles & Publications

Angela Mudukuti

- *The State of Play in the al-Bashir Saga*
Thought Leader.co.za
21 September 2015
- *ANC Can Only Change ICC From Within*
Daily Maverick
14 October 2015
- *Al-Bashir ruling: Will SA do the Right Thing?*
Thought Leader.co.za
31 March 2016
- *Déjà vu for Africa – Bashir goes in and out of Uganda Unscathed*
Daily Maverick
17 May 2016
- *International justice: The Good, the Bad and the Ugly*
Daily Maverick
19 July 2016
- *Withdrawal from the ICC – Curious and Questionable*
Daily Maverick
24 October 2016
- *Judicial Integrity and Independence: The South African Omar Al Bashir Matter*
SALC Publication on Goal 16 of the Sustainable Development Goals
December 2016

Annabel Raw and Anneke Meerkotter

- *Sex workers, ARVs and the Irrationality of Excluding Foreigners*
Blog
26 May 2015

Annabel Raw

- *The Role of Civil Society in Promoting Health Rights in Southern Africa*
Thought Leader.co.za
1 July 2015
- *Justice at the Barrel of a Gun: A Court Diary from Lesotho*
Blog
18 September 2015

- *The Dangerous Accountability Deficit in Malawi's Health Sector*
Mail and Guardian
12 November 2015
- *Hashatsi Court Diary: Lesotho Soldier Challenges the SADC Commission of Inquiry*
Blog
9 December 2015
- *Reaching for Zero Discrimination in Healthcare*
Blog
1 March 2016
- *A Human Rights Approach to Albinism*
The Nation (Malawi)
25 May 2016
- *Trouble in the Mountain Kingdom*
Daily Maverick
26 June 2016
- *Accountability and Redress for Discrimination in Healthcare in Botswana, Malawi and Zambia*
SALC Research report
August 2016

Annabel Raw, Anneke Meerkotter & Katy Hindle

- *Using Complaints to Address Healthcare Violations: A Guide for Healthcare Users and Community-based Organisations*
SALC guidebook
August 2016

Annabel Raw, Chipso Nkhata and Johnson Jasson

- *Beyond Symbolism and Rhetoric: The Role of the Legal Community in Advancing Access to Justice and Development for Persons with Disabilities*
SALC Publication on Goal 16 of the Sustainable Development Goals
December 2016

Annabel Raw

- *Access to Complaints Mechanisms for Victims of Healthcare Discrimination: A Developmental Imperative*

SALC Publication on Goal 16 of the Sustainable Development Goals
December 2016

Anneke Meerkotter and Ian Southey-Swartz

- *Malawi High Court Rules that Mandatory HIV Testing is Unconstitutional*
Blog
20 May 2015
- *The Challenge of Freedom of Expression in Africa*
Blog
26 May 2015

Anneke Meerkotter

- *Regressive laws and litigation successes*
ILGA State-sponsored Homophobia Report 2015
May 2015

Anneke Meerkotter and Graeme Reid

- *Africa Rulings move LGBT Rights Forward*
Jurist
4 August 2015

Anneke Meerkotter and Anna Mmolai-Chalmers

- *Sexual Orientation and the Right to Organise*
Harvard International Review Vol 37 No 3
Spring 2016

Anneke Meerkotter (editor)

- *Goal 16 of the Sustainable Development Goals: Perspectives from Judges and Lawyers in Southern Africa on Promoting Rule of Law and Equal Access to Justice*
SALC Publication on Goal 16 of the Sustainable Development Goals
December 2016

Anneke Meerkotter and Tashwill Esterhuizen

- *"They Should Protect us because that is their Job": A Preliminary Assessment of Sex Workers'*

Experiences of Police Abuse in Lusaka, Zambia
SALC research report
August 2016

Brigadier Siachitema

- *Protecting Rural Zambian Communities from Displacement Resulting from Land-based Investment*
SALC Publication on Goal 16 of the Sustainable Development Goals
December 2016

Caroline James

- *Swazis Deserve to know why Controversial Judge Ramodibedi Got Away*
Thoughtleader.co.za
1 March 2016
- *Angola can no Longer be Regarded as a Democracy*
Thoughtleader.co.za
4 April 2016
- *SA's UN Vote Against Press Freedom NGO is a Vote Against Diversity of Perspectives*
Thoughtleader.co.za
27 May 2016
- *A Moment of Optimism for LGBT Activists in Botswana*
Daily Maverick
24 March 2016
- *Swazi Court Strikes a Balance Between Protecting Freedom of Expression and National Security*
Thought Leader.co.za
23 September 2016
- *The Court's Role in Contributing to a Culture of Accountability for Corruption*
SALC Publication on Goal 16 of the Sustainable Development Goals
December 2016

Kaajal Ramjathan-Keogh

- *In Defense of the Southern Africa Litigation Centre*
Daily Maverick
25 June 2015
- *Trampling on the Rule of Law in Lesotho*
Daily Maverick
29 October 2015

- *Do we Have a Duty to Arrest Omar al-Bashir and Hand him to the ICC?*
Thoughtleader.co.za
11 February 2016

- *The Importance of Promoting Judicial Independence in the Southern Africa Region*
SALC Publication on Goal 16 of the Sustainable Development Goals
December 2016

- *Why the ICC Should Refer South Africa to the UN Security Council*
Mail and Guardian
28 March 2017

- *The Price of Shunning the ICC*
Daily Maverick
6 April 2017

- *South Africa Puts up a Spirited Defense at ICC Hearing but Adverse Finding Likely*
Daily Maverick
7 April 2017

Muluka Miti-Drummond

- *5 Simple Things That Could Get you Arrested in Angola*
Pambazuka News
15 July 2015

Nyasha Chingore and Chikondi Chijozi

- *Considering the Best Interests of the Child in Decisions on Incarceration of Care-givers in Malawi*
SALC Publication on Goal 16 of the Sustainable Development Goals
December 2016

Nyasha Chingore-Munazvo, Katherine Furman, Annabel Raw and Mariette Slabbert

- *Chronicles of Communication and Power: Informed Consent to Sterilization in the Namibian Supreme Court's LM judgment of 2015*
Theoretical Medicine and Bioethics, 2017

Tashwill Esterhuizen

- *Progress on Gay Rights in Malawi is too slow*
Ground Up.org.za
15 March 2016

- *Botswana Court of Appeal Unanimously Recognises Gay Rights Organisation*
Ground Up.org.za
26 March 2016

Tashwill Esterhuizen, Anneke Meerkotter and Yahia Zadi

- *Key Developments Towards Increased Recognition of the Human Rights of LGBTI People in Africa*
ILGA report on State-Sponsored Homophobia
March 2016

Tashwill Esterhuizen

- *Towards an LGBTQ Africa*
The Con Mag.co.za
17 May 2016

Tashwill Esterhuizen and Usha Jugroop

- *Laws and Policies Affecting Transgender Persons in Southern Africa*
SALC guidebook
August 2016

Tashwill Esterhuizen and Brynne Guthrie

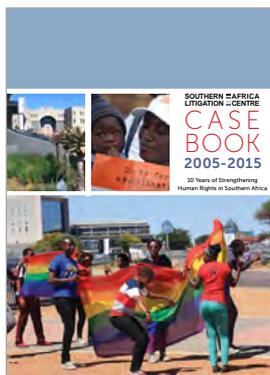
- *Towards Freedom of Association and Universality of Rights: The Botswana Court of Appeal Decision in Attorney General v Rammoge and 19 Others*
SALC Publication on Goal 16 of Sustainable Development Goals
December 2016

Tashwill Esterhuizen

- *Creating the Space for Acceptance and Tolerance of Sexual Diversity in Africa*
ACAT France
March to April 2017 Edition

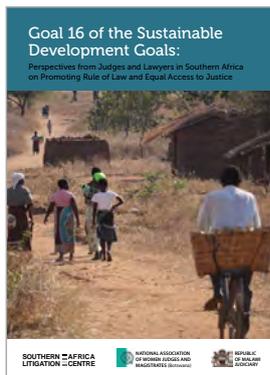
SALC library / publications

All SALC's publications can be downloaded from the SALC website.



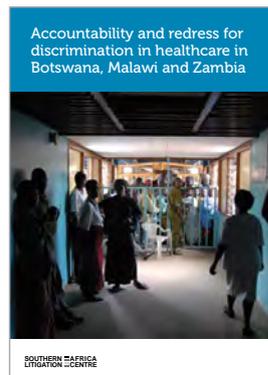
SALC Anniversary Case Book

In 2015, to commemorate SALC's 10 Year Anniversary, SALC published a case book documenting the litigation it has supported since its inception. The book is divided into thematic areas: Women's Land and Property Rights, Children's Rights, Sexual and Reproductive Health Rights, LGBT Persons' Rights, HIV and Health Rights, Prisoners' Rights, Freedom of Expression, International Criminal Justice, and the Rule of Law.



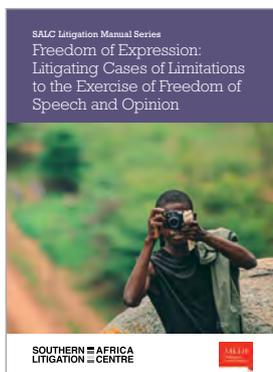
Goal 16 of the Sustainable Development Goals: Perspectives from Judges and Lawyers in Southern Africa on Promoting Rule of Law and Equal Access to Justice

During 2016, SALC, in conjunction with the National Association of Women Judges and Magistrates, the Malawi judiciary, and the International Commission of Jurists, convened colloquia in Botswana, Malawi, Zambia, and Zimbabwe to encourage discussion on the role of the judiciary and legal profession in achieving Goal 16 of the Sustainable Development Goals. This resulted in a publication. Goal 16 seeks, amongst other things, to provide access to justice for all.



Using complaints to address healthcare violations: A guide for healthcare users and community-based organisations

This research report looks at the availability, effectiveness, and sufficiency of complaints' processes to provide accountability and redress for persons who experience discrimination in healthcare settings. The report focuses on the experiences of sex workers, lesbian, gay, bisexual, and transgender persons, women living with HIV, and persons with disabilities in Botswana, Malawi, and Zambia.



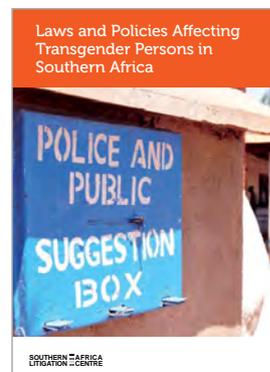
SALC Litigation Manual: Freedom of Expression – Litigating Cases of Limitations to the Exercise of Freedom of Speech and Opinion

This manual is a resource for lawyers who are litigating cases in domestic courts challenging laws, policies and practices involving freedom of expression. The manual discusses the use of foreign and international law in domestic litigation as well as provides an overview of the right to freedom of expression and its limitations. It has detailed sections on defamation, privacy, national security, contempt of court and hate speech. The manual was written jointly by SALC and the Media Legal Defence Initiative.



They should protect us because that is their job: a preliminary assessment of sex workers' experiences of police abuse in Lusaka, Zambia

This report details experiences of sex workers and their vulnerability to discrimination, harassment, and physical and sexual abuse by police officials. This report is intended to assist SALC to develop relevant advocacy and litigation strategies to address the systemic abuse of sex workers by the police in Lusaka, Zambia.



Laws and Policies Affecting Transgender Persons in Southern Africa

This booklet explores the laws and policies that affect the rights of transgender persons in ten Southern African countries: Angola, Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia, and Zimbabwe. The booklet aims to provide transgender persons, human rights' activists, and human rights' organisations, with a guide on the laws and policies in their countries which may affect their rights and interests.



SALC Financials

THE SOUTHERN AFRICAN HUMAN RIGHTS LITIGATION CENTRE TRUST
(TRUST NO: I TRUST 3935/05)

STATEMENT OF COMPREHENSIVE INCOME FOR THE YEAR ENDED 28 FEBRUARY 2017

	2017	2016
	R	R
INCOME	22 044 748	15 967 221
Grants and donations	21 570 216	15 225 609
Consulting income	-	139 659
Interest received	474 128	312 891
Sundry income	404	289 062
EXPENDITURE	21 554 269	15 534 024
Operating and office costs	2 394 994	2 100 635
Administration costs	856 257	813 845
Printing, courier and stationery	225 522	99 638
Rent, water electricity and security	902 804	869 559
Travel and accommodation	410 411	317 593
Project expenses	17 287 358	11 904 456
Salaries and contributions	1 871 917	1 528 933
SURPLUS FOR THE YEAR	490 479	433 197
TRANSFER TO SUSTAINABILITY FUND	(1 126 239)	(162 164)
BALANCE AT BEGINNING OF THE YEAR	864 689	593 656
BALANCE AT END OF THE YEAR	228 929	864 689

THE SOUTHERN AFRICAN HUMAN RIGHTS LITIGATION CENTRE TRUST
(TRUST NO: I TRUST 3935/05)

STATEMENT OF FINANCIAL POSITION AT 28 FEBRUARY 2017

	2017 R	2016 R
ASSETS	9 200 547	7 724 584
Non-current assets	14 915	73 372
Equipment	14 915	73 372
Current assets	9 185 632	7 651 212
Accounts receivable	108 425	108 511
Accrued income	249 007	227 739
Cash and cash equivalents	8 828 200	7 314 962
Total assets	9 200 547	7 724 584
RESERVES AND LIABILITIES	9 200 547	7 724 584
Reserves	1 517 332	1 026 853
Accumulated funds	228 929	864 689
Sustainability reserve	1 288 403	162 164
Current liabilities	7 683 215	6 697 731
Accounts payable	190 915	470 491
Deferred income	7 257 706	6 227 240
Provision for leave pay	234 594	-
Total reserves and liabilities	9 200 547	7 724 584



SOUTHERN AFRICA LITIGATION CENTRE

PROMOTING HUMAN
RIGHTS AND THE RULE OF
LAW IN SOUTHERN AFRICA



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