



**LAT**  
The Legal Assistance Trust

*Supporting the work of the Legal Resources Centre in protecting and advancing the rights of the poor in South Africa since 1985*

## NEWSLETTER 2010

### THE LEGACY OF THE FIRST AFRICAN WORLD CUP

***The World Cup has shown the nation what we can become if we all unite behind a worthy vision and work together in the spirit of unity***

F.W. De Klerk, the former President and Nobel Prize winner spoke at a gala fundraising dinner in London recently about the glittering success of the World Cup and how South Africa had defied the predictions of the pessimists.

The Legal Assistance Trust was one of four charities to benefit from funds raised at the event which was attended by well known dignitaries including Peter Hain, former Labour Party cabinet minister.

“We did not expect that the World Cup would change the underlying realities of South Africa – and it did not”, he said. “It did not have much impact on poverty and inequality; it did not resolve the issues of race and class nor did it bring the scourges of AIDS and crime to an end. Anyone who expected such outcomes would really have to believe in fairy tales.”

What it did was to build confidence. “We South Africans are remarkably resilient and have a wonderful ability to confound the pessimists. Nobody thought that we ourselves would be able to end apartheid and find a peaceful solution to the spiralling conflict in our society. Yet we did.

“Pessimists doubted that the ANC government would possibly be able to run a sophisticated economy, but for sixteen years it has done so and achieved uninterrupted economic growth.

“I am confident that we will once again prove the pessimists wrong. I do not believe that the ANC will be successful with its current assault on the media. The Protection of Information Bill will be withdrawn or amended and the Media Appeals Tribunal shelved. And the current proposals relating to the new system of land ownership which would cap the rights to own freehold property will wither in the light of economic scrutiny. *(Please also go to page 4 for the CLaRA judgement)*

“The ANC will successfully resolve the division within its Alliance. Or even better, it will split and open the way to national politics based on social and economic policies rather than race”.

Mr de Klerk said that the FIFA World Cup had left South Africa with a magic legacy: It is the shining vision of the brilliant, multifaceted nation we can and will become.

Some of the articles in this issue:-

#### **Comic Relief supports LAT with two new grants**

*Comic Relief has been a supporter of the Legal Resources Centre during the dark days of apartheid and into the emergence of a new South Africa . . . And here in the UK, the Legal Assistance Trust has been a critical ally in getting support and interest in the LRC's work.”*

Richard Graham  
Head of International Grants,  
Comic Relief



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#### **Latest stories from the Legal Resources Centre**

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#### **In memory of Guy Stringer**

*Anthony Guy Stringer, entrepreneur and director of Oxfam, born 3<sup>rd</sup> October 1920, died 4<sup>th</sup> July 2009*

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**LAT hosts reception at the House of Lords – to honour the work of Lady Felicia Kentridge – Page 7**



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## **COMIC RELIEF AWARDS NEW GRANTS TO THE LAT**

The Legal Assistance Trust is pleased to announce that it has received two new major grants from Comic Relief for the Legal Resources Centres' Women & Girls and Urban Housing Programmes. These new grants are running concurrently with our HIV/AIDS grant.

### **WOMEN AND GIRLS**

The goal of Comic Relief's Women and Girls programme is to transform the lives of women and girls in Africa, so that they may understand and ascertain their rights, live to their full potential and become equal and respected members of their families, their communities and society as a whole. The LAT/LRC submitted a proposal that seeks to address the immediate needs of women and girls by combating violence against women and strengthening their rights through the development of programmes to raise awareness within the communities and by bringing test cases before the courts of law.

Women's equal rights are asserted in the Constitution, but violence against women (VAW) is endemic, frequently unchallenged and increasing. While perpetrators act with impunity, women and girls affected or at risk of VAW are often unaware of their rights or how to assert them. As part of this grant, the LRC will combat violence against women and strengthen their safety rights using a multi pronged approach. This will include addressing the immediate needs of women and girls affected and raising awareness within communities of issues surrounding VAW and the right of women to be safe.

Root causes of VAW will be tackled through forcing changes in attitudes whilst also securing institutional, policy, judicial & legislative changes.

Information on the rights of women will be disseminated, and advice and assistance will be provided (using both legal and other health and safety agencies). Advocacy and social mobilisation will ensure communities assert

these rights inside and outside the legal environment. Furthermore, test cases will be brought to the legal system to establish precedents to achieve widespread and lasting impact.

It is our aim that at the end of the 3-year grant cycle from Comic Relief, a long-term reduction in both incidence and effects of violence against women will be achieved.

### **PEOPLE LIVING IN URBAN SLUMS**

Most of LRC's clients live in areas that have inadequate access to safe water, inadequate access to sanitation and other infrastructure, poor and inadequate housing, overcrowding and insecure residential status. They are facing severe multiple deprivations of their most basic human rights on a daily basis. These are just some examples of the deprivations facing the LRC's current and future clients:

Latest statistics have found that 100% of the population in the Joe Slovo community, outside Cape Town, live in shacks and 40% of these live in shacks that are between 6 and 10 square metres in size. The community is serviced by 896 toilets (on average 9 people per toilet), of which only 706 are functional, and 34 water taps (on average 233 people per tap).

In Durban, 98 client families were moved to a piece of land across the highway and are living in three large tents without any form of privacy, electricity or access to water or sanitation.

In the context of accelerated urbanisation the LRC will provide much needed legal and non-legal support to communities in order to protect, promote and fulfil their rights to access adequate housing. Legislative protection will lead to improved social status.

LRC is providing legal advice to the Social Justice Coalition as they pursue their campaign to improve access to sanitation, particularly in Khayelitsha, Cape Town, where an estimated 100,000 residents do not have basic sanitation as defined by the Water Services Act.



## **Comic Relief chooses LRC's Aids work**

**This example of innovative funding was published in the annual Reserve Tracking Report of the European Funders Group.**

*"This funding supports the human rights of people living with HIV in South Africa, who number almost one in four of the adult population. Many live in poverty but face severe discrimination on account of their HIV status, which further marginalizes them. Widows and orphans are especially vulnerable to rights abuses. The work involves legal challenges to government, employers and insurance companies to ensure that people with HIV are treated fairly. National policy, for example on people's right to access HIV treatment, is being monitored, and the South African Government will be held to account. Test cases and monitoring data arising from this work will be used to establish legal precedents and new policies for the long-term benefit of those affected by HIV and AIDS, thus protecting and upholding their rights under the SA Constitution.*

*The LRC also supports accurate understanding of HIV. For example, they have taken up three cases to challenge the stigma and discrimination of people living with HIV, strategically selected to have a much wider impact than the individual cases, and have also successfully prevented deliberate disinformation around the treatment of HIV that was being promoted throughout South Africa."*

Prepared by Kate Harrison, Comic Relief

## **NEWS FROM LRC'S NATIONAL DIRECTOR, Janet Love**

The work of the LRC has been greatly strengthened by the financial support granted by Comic Relief to its Women & Girls and Urban Housing Programmes. This would not have been possible without the vital fundraising and monitoring activities of the LAT. We at the LRC are deeply grateful for this support and are pleased to update the LAT newsletter readers on our recent work.

The LRC staff remains committed to promoting access to justice through the legal system and to providing service to walk-in clients. We have seen a stream of people facing a range of problems from asylum applications to discrimination against women in the workplace. We are committed to a Court system that protects victims and we have, for example, been working with a number of organisations to ensure that children who need to give evidence in court are able to do so without fear or intimidation. We believe that this will develop further through the grants from Comic Relief.

The LRC continues to make a difference through interventions around education, land reform, social security, HIV/AIDS and housing. For example, the plight of 400 school children expected to learn in mud schools has been brought to light. Our collaboration with other land and rural development NGOs has seen us tackle a range of issues from support for rural communities who have benefited from land reform programmes, to drafting legislative regulations. The regulations are intended to require consultation with communities whose land is being sought after for mining purposes.

Last year 5,000 families who had been living on the railway line outside Cape Town, and threatened with eviction, were moved to a new settlement at Bardale.\* The LRC's work for this community continues and we are pleased to report that the people of Bardale are enjoying relative stability. The City has now introduced a new application form to extend a shack to regularise extensions and to ensure families are able to peacefully build additional rooms.

With our donors help, we have moved from strength to strength in our efforts to contribute towards the defence of the democratic gains we have made.

\*This was reported on in our previous Newsletter



**Report from Janet Love, the LRC's National Director**



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## UPDATES FROM THE LEGAL RESOURCES CENTRE



### CLaRA Unconstitutional

On Tuesday 11th May 2010, the Constitutional Court declared the Communal Land Rights Act (CLaRA) unconstitutional.

Represented by the LRC a Pro Bono Unit, four communities challenged the CLaRA on the basis that it undermines security of tenure and gender equity, and grants authority to traditional leaders who have not been elected and whose interests do not reflect those of the communities.

On 31 October 2009, the four communities won a victory in the North Gauteng High Court. The judgement declared invalid and unconstitutional key provisions of the CLaRA that provide for the transfer and registration of communal land, the determination of rights by the Minister and the establishment and composition of land administration committees.

The committees then took the matter to the Constitutional Court (ConCourt) for confirmation of the invalidity of the Act.

The communities also appealed against the High Court's refusal to declare CLaRA invalid for failure to enact it in accordance with the correct procedure, and brought a new challenge to the validity of CLaRA on the basis that Parliament failed to comply with its obligation to facilitate public involvement in the legislative process. The CLaRA, applies to all communal land deals with

the transfer of land title from the state to traditional communities; the registration of individual land rights in 'communally owned' areas; and the use of traditional structures to administer the land and represent the 'community' as owner.

Giving the judgement analysis, Chief Justice Ngcobo held that the inescapable conclusion is that various provisions of CLaRA affect indigenous law and traditional leadership and that the CLaRA replaces the living indigenous law regime which regulates the occupation, use and administration of communal land.

It further replaces both the institutions that regulated these matters and their corresponding rules. Ngcobo concluded that Parliament followed an incorrect procedure, in enacting CLaRA. Where the Constitution prescribes a legislative procedure, it must be followed.

Chief Justice Ngcobo also emphasised that Parliament should urgently and diligently enact constitutionally envisaged legislation that will ensure restitution of land to the people and communities that were dispossessed of their land during the apartheid era.

This judgement is a fundamental victory for the rural communities who challenged the act. They have persevered with their objections since the CLaRA was enacted in 2004, despite the odds being stacked against them. We salute them.



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## Central Methodist Church Update

For a number of years, the Central Methodist Church in Johannesburg has responded to the refugee crisis with compassion and kindness. It recognised that the people fleeing Zimbabwe are human beings in need of comfort and protection and Bishop Paul Verryn and others responded in solidarity with the refugees.

The church building has no electricity or water; its windows are broken and covered with plastic. It does not comply with any of the City's by-laws for human occupation - yet it gives people some sense of community far away from home. It has been able to provide networks that have linked people to health care services, skills development, educational opportunities, recreation and work.

However, the overcrowding of the church, which spills onto the streets, presents a health risk. It is from this premise that a threat of closure has been heightened by the municipality.

Moreover, neighbourhood complaints about loitering in the vicinity of the church contributed to a joint raid conducted by the SA police in July 2009. Mothers, minors and sick patients were amongst 350 people arrested for "loitering".

This prompted the church and human rights organisations to launch a High Court application in 2009 to interdict further arrests of the people at the church and to strike down the loitering by-law as unconstitutional.

In October 2009, the allegations that some minors at the church were publicly engaging in sexual acts exacerbated the threat from government to remove children from the church and place them in shelters.

More than 45 civil organisations, including some of the children, rejected the call arguing that it would not solve their problems of overcrowding and homelessness, or reduce immigration into South Africa.

These organisations called on the government to set up a task team to find suitable alternative accommodation for more than 3,000 people sheltering in the church.

The LRC and the Aids Law Project applied to the court to have a curator appointed. Dr A. Skelton, from the Centre for Child Law, was appointed the legal guardian to 56 unaccompanied Zimbabwean minors at the church.

The curator's appointment in January 2010 prevented anyone from removing the children while an alternative shelter is still being searched. Dr. Skelton's appointment resulted in a controversial suspension of Bishop Verryn by the church in January 2010 for allegedly acting unilaterally and without the church's support in launching the application. He is also alleged to have made media statements after being instructed not to do so. His suspension has caused an outcry. *The matter continues...*



*A Place Called Home: Central Methodist Church has been in the limelight following its decision to house more than 3000 homeless refugees*



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## **Guy Stringer 1920 – 2009**

Former Director of Oxfam and LAT Trustee



**The following excerpts are taken from the Eulogy written and read by Lord Joel Joffe, LAT Trustee, at Guy's memorial service on 23<sup>rd</sup> October 2009.**

*“One day in 1973 Guy Stringer breezed into my office in Swindon greeting me warmly saying how pleased he was to meet up with me again. This came as rather a surprise to me as I knew I had never met Guy before, because if I had I could not possibly have forgotten him.*

*The purpose of his visit was to invoke my help in yet another creative fundraising idea of Guy's, which, almost unbelievably for a charity like Oxfam, was that Guy's Legacy Team would sell life assurance policies to Oxfam supporters. But creativity blended with sound business sense, deep humanity and charisma were the hallmark of Guy's astonishing success as Commercial, and Deputy Director of Oxfam and finally Director.*

*Among Guy's many achievements was the massive expansion of Oxfam's shop network achieved by his ability to inspire volunteers, again matched with his commercial flair. ....”*

*“ .... Guy promoted fundraising as connecting the donor with the cause and as such, he was the founder in the UK of modern fundraising and inspired a whole generation of fundraisers.*

*Having left Oxfam, Guy became President of the International Fundraising Workshop, a Chair Emeritus of The Resource Alliance, a Trustee of the Impact Foundation and involved with many other good causes. He was appointed a Commander of the British Empire in 1986.*

*The charity that then benefited most from his extraordinary personality was the Legal Assistance Trust, which was set up here by a number of excellent lawyers who while they knew a lot about law, knew little about fundraising.*

*Guy went to South Africa to address his first meeting there at a lunch attended by several hundred people. Without a note in his hands he announced he would speak for four minutes and 27 seconds - that certainly caught everyone's attention. He recounted stories about his experiences at Oxfam and spoke with customary humour but with outrage at the abuses he had witnessed. There was not a sound in the huge room and one could have heard a pin drop.*



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*Exactly four minutes and 27 seconds later, he ended his speech. No one there has ever forgotten it. This was the start of what became Guy's legendary speeches in South Africa.*

*His speeches became a key feature of the AGM's of the Legal Resources Centre, eagerly looked forward to, because of his unique ability to touch the hearts of his audience by articulating the desperate suffering of the disadvantaged but also their courage and determination to fight for their rights. This in turn illuminated the immense value of the work of the lawyers, in a way lawyers could never do.*

*So what was it about Guy that enraptured everyone who met him, made everyone love him, inspired everyone he worked with and enabled him to achieve so much for so many? It is difficult to put one's finger on it. His warmth, his enthusiasm, energy, compassion, courage, the twinkle in his eye, his outrage at injustice, his sense of fun, cheerfulness, charm, sincerity, his optimism, his gentle way of dealing with people or maybe just his love of all good people. It was perhaps none of these in particular but all together which combined into a unique personality who we will always remember lit up our lives whenever we were with him.*

*And the person who lit up Guy's life was his wonderful wife Mary to whom he was devoted and his children as well who were greatly blessed to have such a father."*

## **LAT appoints Marjorie Ngwenya to Board of Trustees**



A qualified actuary (Fellow of the Institute of Actuaries), who specialises in risk management, Marjorie gained her actuarial qualification at Deloitte where she held roles in the UK, Netherlands & Canada. Marjorie has also held positions at GenRe and at Swiss Re in the UK.

She is currently editor of The Actuary magazine for the UK actuarial profession. The Actuary is published on behalf of the Staple Inn Actuarial Society.

## **LAT Reception at River Room – House of Lords, May 2010**



*Pictured above - Sir Sydney Kentridge QC KCMG and Justice Arthur Chaskalson*

This special reception, hosted by Lord Joffe, in the lovely River Room at the House of Lords took place in May. It was held in honour of Lady Felicia Kentridge whose work for the Legal Assistance Trust and the Legal Resources Centre is renowned. Introduced by The Lord Speaker, Baroness Hayman, Justice Arthur Chaskalson, former Chief Justice and the first head of the Constitutional Court, talked about the rule of law in South Africa and its role in the transition from apartheid to democracy. Sir Sydney Kentridge, former Chair of the LAT spoke about his wife Felicia's inspirational role in establishing the LRC at a time of great need and the importance of the LAT which has been supporting the work of the LRC since 1985.

## **THANKS TO MATRIX IN THE COMMUNITY CAUSES FUND**

**The Trustees of the LAT wish to thank the MITC committee for their generosity in funding the LAT's annual newsletter which is an important fundraising tool in our efforts to raise vital funds from our generous donors.**



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## **Justice Arthur Chaskalson's 2010 Rule of Law Award**

Founder and director of the LRC from 1978-1993, Justice Arthur Chaskalson was presented with the '2010 Rule of Law Award' by the United States' American Bar Association (ABA) Rule of Law Initiative. The ABA Rule of Law Initiative and the Gala Honorary Committee held their twentieth anniversary celebration and awards ceremony on 14 October. This event acknowledged leading legal figures in the field for their dedication and commitment to rule of law and human rights.

Justice Chaskalson has a long career of promoting human rights and working toward upholding rule of law. He was appointed as the first president of South Africa's new Constitutional Court by former President Nelson Mandela, and served as Chief Justice until his retirement in 2005. Justice Chaskalson is currently a commissioner with the International Commission of Jurists and a trustee of the LRC.



LRC's Senior Council George Bizos and Justice Arthur Chaskalson

## **GEORGE HONOURED IN FRANCE**

On the 25 May 2010, the French Committee for South Africa hosted a symposium event where George Bizos, Senior Counsel of the LRC's Constitutional Litigation Unit, was honoured for the outstanding work he contributed towards the abolishment of the death penalty in South Africa.

The event, which was held at the French Senate in Paris, was attended by Senator and former French Constitutional Council president, Robert Badinter, and Linda Maso, the South African Embassy advisor. Amongst others was Frances Suzman-Jowell, the daughter of the late human rights activist Helen Suzman. She received the

French Committee for South Africa 2010 prize on behalf of her mother's contribution to the realisation of human rights in South Africa.

## **Volunteering at LRC's National Office**

by: Polly Arscott

*After a couple of years living in London, my partner and I decided it was time to experience some of the places that the international development organisations we were working for focused on helping.*

*An opportunity came up in Johannesburg and so I started searching for a volunteering position. When I got off the plane at OR Tambo to come and volunteer for the LRC, I had never visited South Africa or even another African country before.*

*LRC's vision immediately appealed to me and from the day I arrived in the office in October 2009, I was learning a huge amount about South Africa's past and its present from some of the country's leading activists as well as having the opportunity to contribute to an organisation which is playing no small role in shaping its future.*

*Working in the Development Unit in LRC's National Office, I brought my experience of fundraising in the UK and was able to build on these skills in a completely different context.*

*With my wonderful colleagues at the LRC, I have witnessed firsthand the devastating poverty that overshadows the lives of so many in South Africa as well as the massive significance of LRC's work which is so hard to convey to current and potential donors.*

*I valued this experience of volunteering at the LRC so much that I decided to apply to stay for longer and am still working at the LRC now!*

Written by Polly Arscott,  
LRC's Development Officer