

UPHOLDING HUMAN RIGHTS YEAR-ROUND

Law firm Cliffe Dekker Hofmeyr is acutely aware of the impact it can and must make in promoting access to justice and protecting basic human rights. This article highlights some of the work done by the firm's Pro Bono & Human Rights Practice. By **JACQUIE CASSETTE**, director and practice head, **BRIGITTA MANGALE**, director in the practice, **ELGENE ROOS** and **GIFT XABA**, senior associates in the practice

Cliffe Dekker Hofmeyr's (CDH) dedicated Pro Bono & Human Rights Practice commits itself to fiercely upholding basic human rights year-round. Our practice specialises in impact litigation and project work cutting across several areas of law with the potential to positively impact countless individuals and communities.

These are just a few of its ongoing cases and projects aimed at addressing a wide range of human rights issues and promoting access to justice.

THE ECONOMIC COST OF DENYING CITIZENSHIP – A CALL FOR RIGHTS-BASED ADMINISTRATION

Denying citizenship to individuals who have lived their entire lives in our country has significant and far-reaching repercussions. When trying to exercise their rights under section 4(3) of the Citizenship Act 88 of 1995 ("Citizenship Act"), countless individuals have encountered systemic barriers that obstruct their ability to obtain citizenship and contribute meaningfully to society. Many applicants fight tirelessly for their rights, however, this struggle is not only a quest for identity, but also an economic necessity.

In South Africa, which already faces a skilled labour shortage, the Department of Home Affairs's (DHA) failure to properly implement section 4(3) is not only denying



Jacquie Cassette

people their rights, but also leads to a loss of potential economic contributors and stifles innovation. These bureaucratic inefficiencies only exacerbate our labour shortage crisis, leave many in limbo and diminish economic output, skills development and political participation.

In December 2024, our Practice, in collaboration with Lawyers for Human Rights, launched a legal challenge to confront these injustices. The application aims to address the failure to implement section 4(3) properly. We put forward, among other things, that the section 4(3) regulations published by the Minister of Home Affairs in 2023 were improperly promulgated. However, even

if the court finds that these regulations were duly promulgated, we challenge their constitutional validity averring that they are *ultra vires* the Citizenship Act.

In addition, we seek a declaratory order confirming that the DHA has failed to fulfil its constitutional and statutory duties in implementing section 4(3). This case is not merely about legal compliance; it represents a vital step toward establishing a rights-based administration that recognises the critical role of citizenship in fostering economic and social participation.

Empowering those denied citizenship helps create a more inclusive society, promoting overall prosperity. Our ongoing efforts seek to hold the DHA accountable and illuminate the path for individuals eager to be recognised as integral members of South Africa's economic and social fabric.

THE IMPORTANCE OF PROTECTING THE RIGHTS OF SOUTH AFRICA'S FUTURE LEADERS

Countless public schools nationwide are crippled by infrastructural deficiencies and inadequacies which, if left unaddressed, will affect and compromise our children's ability to learn and thrive. Despite their constitutionally enshrined rights, this results in thousands of public school learners being unjustifiably disadvantaged.

The Practice is committed to assisting underserved and disadvantaged learners and communities in accessing and enforcing their right to basic education in terms of section 29 of the Constitution. We appreciate that strategic litigation is but one way to uphold this basic human right and numerous further efforts can be undertaken. Our Practice is

mindful that community-based project work can serve as a meaningful and impactful source of empowerment and a means to combat potential rights violations, long before litigation becomes necessary.

The Practice pursues community project



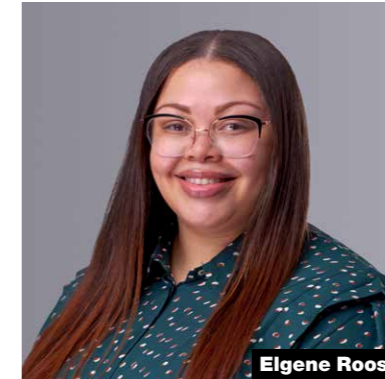
Brigitta Mangale

work geared toward promoting a reading culture and boosting literacy levels among South Africa's children, particularly in our townships. One such initiative is our Build a Library Project, which aims to refurbish and replenish public school libraries in several disadvantaged areas. Having completed the refurbishment of the library at Letare Secondary School in Jabulani, Soweto in early 2024, we adopted Ekuthuleni Combined School in Diepkloof, Soweto as the next beneficiary school in our Build A Library Project. Our goal is to assist Ekuthuleni Combined School set up a revamped, stocked and functioning library by the end of the first quarter of 2025, and we do so with the support of not only our CDH colleagues, but also that of AON South Africa.

Our Practice acknowledges that reading is fundamental to meaningfully accessing the right to education and therefore has once again partnered with the *Mail & Guardian* to support Book iBhoni in its annual Tour de Libraries initiative in Soweto – a cycling event aimed at promoting literacy and raising awareness about the importance of reading. This initiative saw a substantial number of books, educational games and puzzles donated to Bethany Primary School (Klipspruit, Soweto) and the Soweto Book Café (Zondi, Soweto) in 2024 and we intend to participate in this initiative again in 2025.

It is through various means of protecting and enforcing the right to education that our Practice contributes to the empowerment of our future leaders, economic contributors and visionaries.

EMPOWERING THOSE DENIED CITIZENSHIP HELPS CREATE A MORE INCLUSIVE SOCIETY, PROMOTING OVERALL PROSPERITY.



Elgene Roos

DELICTUAL AND CONSTITUTIONAL DAMAGES – CLAIMS FOR POLICE FAILURE TO PROTECT

The Practice dedicates significant resources to contributing to the fight against gender-based violence and femicide (GBVF) in several ways. We not only drive strategic litigation in the interests of our clients and the public, but also engage several of our partner organisations to pursue further ways and means to hold the government and state institutions accountable for their constitutional obligations to the public in ensuring our country is safe for all.

One of the matters run by our Practice under this theme seeks to hold the Minister of Police (Minister) and the South African Police Service (SAPS) to account for the failure to protect a woman under clear – and preventable – threat of GBVF. In this case, we represent the mother and son of a woman murdered by her ex-boyfriend, a man who ought to have been arrested when

the deceased first laid charges against him for kidnapping, rape and assault. Despite having all necessary information available, SAPS failed to effect an arrest, allowing the perpetrator to remain free, gain access to the deceased and murder her. For its officials' failures to uphold constitutional obligations to the deceased, our Practice pursues

delictual and constitutional damages against the Minister.

The claim for constitutional damages in this instance seeks payment of a sum of money not only to the plaintiffs, but also in favour of a local women's shelter so it can increase its capacity to protect and support women who find themselves in a similar position to that of the deceased. In adjudicating this claim, our courts will no doubt have to balance not only the parties' legal rights, but also consider the state's ability to make payment of constitutional damages in our current economic climate. Our economic reality is such that the courts must weigh the state's capacity to pay damages to individual litigants against the state's obligations to fund and support structures intended to protect women and girl-children in the position of the deceased.

It is these economic and political realities that a responsible human rights lawyer cannot ignore, and one that our Practice has been careful to incorporate into the construction of this claim.

We consider ourselves privileged to contribute to upholding human rights in these and many other ways, and we look forward to pursuing these objectives for the betterment of individuals and communities in 2025 and beyond. ●



VISIT WEBSITE

SCAN THIS QR CODE TO GO TO THE CLIFFE DEKKER HOFMEYR WEBSITE



For more information:
www.cliffedekkerhofmeyr.com