

+SECTION27

catalysts for social justice

2023

YEAR IN REVIEW



INTRODUCTION

The year 2023 marked the 30th anniversary of SECTION27, incorporating the AIDS Law Project. The AIDS Law Project, established in 1993, was at the forefront of the civil society response to the HIV/AIDS epidemic in South Africa, together with longtime partner the Treatment Action Campaign. Since 2010, SECTION27 has engaged in legal mobilisation to take on the fight for basic education and health care rights. We launched a month-long social media campaign, [#30years30days](#), to mark our anniversary, by reflecting on key highlights and achievements throughout our history.

2023 saw SECTION27 welcoming a new Executive Director, Sasha Stevenson, who began her journey with the organisation as an attorney and later assumed the role of Head of the Health Rights Programme.

As the year draws to a close, we reflect on the achievements and progress made with our partners in promoting the rights to basic education and health care services. Through litigation and advocacy, we successfully defended the rights of vulnerable groups, including, among others, pregnant and lactating women and children under six; people with visual disabilities; women who were denied access to abortion services; people in need of radiation oncology services; and victims of sexual violence and corporal punishment.



01

RIGHT TO ACCESS BASIC EDUCATION



School Infrastructure

Sexual Violence in Schools

SECTION27 and Blind SA Launch a Children's Storybook, 'Crossing the Road'

Blind SA and SECTION27 Call on the SA Government to Ratify the Marrakesh Treaty

Right to Read Regulations Campaign

SCHOOL INFRASTRUCTURE

Michael Komape Structural Order & Michael Komape Sanitation Progress Monitor

SECTION27 and the Centre for Child Law (CCL) continued monitoring the implementation of the Limpopo Department of Education (LDoE)'s plans to eliminate pit toilets in Limpopo schools: plans that were one of the results of litigation in which we represented the Komape family, after five-year-old Michael drowned in a pit latrine at school in 2014. Monitoring has been arduous but the progress that the provincial department has made must be celebrated! According to the department, the province has replaced about 75% of pit toilets in Limpopo schools that depend solely on pit toilets.

SECTION27, in collaboration with CCL, launched an online tool called **The Michael Komape Sanitation Progress Monitor** to track the progress made by the Limpopo Department of Education in eliminating unsafe and undignified sanitation at public schools throughout the Limpopo

province and installing safe and decent sanitation facilities.

The Michael Komape Sanitation Progress Monitor was launched this year during the Human Rights Festival held at Constitution Hill. The tool allows the public, including learners, parents, school communities, media, and other stakeholders, to track progress and hold the Limpopo Department of Education accountable for meeting their deadlines. The inadequate and unsafe sanitation facilities at schools infringe on learners' constitutional rights, including the right to basic education and their right to dignity.



RIGHT TO ACCESS BASIC EDUCATION



School Infrastructure

Sexual Violence in Schools

SECTION27 and Blind SA Launch a Children's Storybook, 'Crossing the Road'

Blind SA and SECTION27 Call on the SA Government to Ratify the Marrakesh Treaty

Right to Read Regulations Campaign

SECTION27 hones in on unsafe school infrastructure

At the end of March 2023, following media advocacy, a settlement agreement was reached with the Gauteng Education Department in which the department agreed to address the safety issues at Geluksdal Secondary School after the electrocution of a learner at the school, and report back to the Court on the steps taken to resolve the safety concerns at the school. In 2021, SECTION27 was admitted as *amicus curiae* in the case. Our intervention aimed at enhancing

the legal framework for holding public officials accountable for school safety. In another case, SECTION27 is taking the education authorities to court for suspending infrastructure projects at Limpopo schools during the COVID-19 pandemic. SECTION27 represents four Limpopo schools (Ndzalama Primary School, Dingamanzi Primary School, Chameti Secondary School, and Bvuma Primary School) with serious infrastructure problems that violate children's rights to dignity, equality, and basic education.



SEXUAL VIOLENCE IN SCHOOLS

SECTION27 assisted a learner and their family in a case of sexual assault by a fellow learner at a homeschooling centre. Following insufficient action by the centre's leadership, SECTION27's intervention resulted in a Department of Basic Education investigation, the closing down of the centre, and the placement of all learners in the centre in alternative schools. The survivor of the assault has received psycho-social support.

SECTION27 assisted a learner who

had fallen pregnant by her teacher to secure a maintenance order. We are also monitoring the teacher's disciplinary process with the South African Council for Educators (SACE).

Our work on this and other cases of sexual violence in schools has informed our plans for 2024 in enhancing the efficacy of the Child Protection Register (CPR) to ensure the names of perpetrators found guilty are included in the CPR, and to ensure the provincial education departments are consulting the CPR before appointing educators and support staff in the school environment. This would ultimately lead to a reduction of incidences of GBV and sexual assault in the school environment

RIGHT TO ACCESS BASIC EDUCATION



School Infrastructure

Sexual Violence in Schools

SECTION27 and Blind SA Launch a Children's Storybook, 'Crossing the Road'

Blind SA and SECTION27 Call on the SA Government to Ratify the Marrakesh Treaty

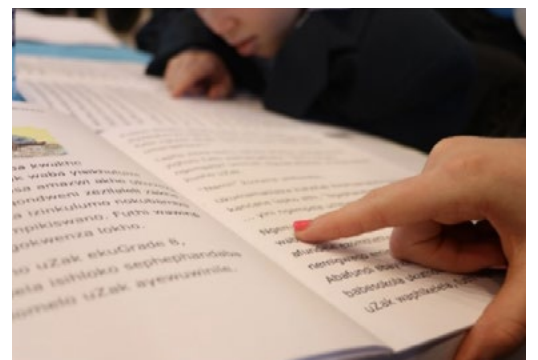
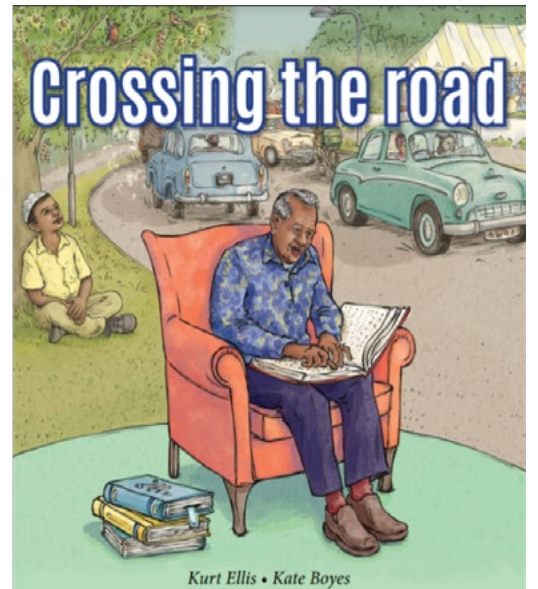
Right to Read Regulations Campaign



SECTION27 AND BLIND SA LAUNCH A CHILDREN'S STORYBOOK, 'CROSSING THE ROAD'

In April, SECTION27 and Blind SA in partnership with NaI' iBali launched a storybook **'Crossing the Road'** highlighting how barriers to accessible reading formats violate the rights of blind and visually impaired persons. Launched at the Sibonile School for the Blind, the storybook recounts the incredible true-life story of Justice Zak Yacoob, a former Constitutional Court judge of South Africa who became permanently blind as a child. The storybook describes Justice Yacoob's challenges in accessing books in braille throughout his life, and how he rose above these challenges to become a judge in the highest court of the land. The book was translated into 11 official languages, printed in braille and large print, and distributed to scores of learners countrywide.

The launch was the culmination of the 2022 Constitutional Court case, where the court declared the Copyright Act of 1978 unconstitutional as it limited access to works in accessible formats, such as braille and large print. The court also granted an immediate exception to copyright for persons with disabilities, allowing them to convert the works into accessible formats without first getting permission from the copyright holder.



RIGHT TO ACCESS BASIC EDUCATION



School Infrastructure

Sexual Violence in Schools

SECTION27 and Blind SA Launch a Children's Storybook, 'Crossing the Road'

Blind SA and SECTION27 Call on the SA Government to Ratify the Marrakesh Treaty

Right to Read Regulations Campaign

BLIND SA AND SECTION27 CALL ON THE SA GOVERNMENT TO RATIFY THE MARRAKESH TREATY

In June, SECTION27, Blind SA and other activist groups embarked on a march in Pretoria to urge the South African government to ratify the 'Marrakesh Treaty to Facilitate Access to Publish Works for Persons who are Blind, Visually Impaired or Otherwise Print Disabled Person'. The Treaty seeks to address the global "book famine," in which only a small percentage of books are published in accessible formats such as braille or large print. Globally, less than 10% of all published books are made available in accessible formats for persons who are blind or visually impaired and in South Africa, less than 0.5% of books are published in accessible formats.

The march coincided with the 10th anniversary of the adoption of the Marrakesh Treaty which was adopted by members of the World Intellectual Property Organisation on 27 June 2013 in Marrakesh, Morocco. Blind SA and SECTION27 handed over a memorandum to officials at the Department of Trade, Industry and Competition, Department of Women, Youth and Persons with Disabilities, Department of Justice and Constitutional Development,

Department of International Relations and Cooperation and the South African Presidency. The memorandum and an open letter were endorsed by 14 civil society organisations. An online petition in collaboration with Change.org gained more than 7,600 signatures, calling for the government to urgently ratify the treaty.

In September, SECTION27 and Blind SA made oral submissions before the United Nations Committee on the Rights of Persons with Disabilities to highlight South Africa's failure to ratify the treaty. Subsequently, the Committee asked South Africa for information on the steps the state is taking to ratify and implement the Marrakesh Treaty.

The National Council of Provinces also adopted the Copyright Amendment Bill which was sent back to the National Assembly's Trade and Industry Committee for concurrence. We await the outcome of government's consideration of ratification of the Marrakesh Treaty, which will open access to thousands of books from across the world for blind and visually impaired people.

SECTION27 and Blind SA collaborated with Daily Maverick to host a Copyright webinar during November, which is celebrated as Disability Month. The webinar aimed to shed light on copyright laws, the Copyright Act, and its impact on blind and visually impaired individuals.



RIGHT TO ACCESS BASIC EDUCATION



School Infrastructure

Sexual Violence in Schools

SECTION27 and Blind SA Launch a Children's Storybook, 'Crossing the Road'

Blind SA and SECTION27 Call on the SA Government to Ratify the Marrakesh Treaty

Right to Read Regulations Campaign



RIGHT TO READ REGULATIONS CAMPAIGN

SECTION27 together with the South African Human Rights Commission, Funda Wandé, Equal Education and the Legal Resources Centre launched the Right to Read (R2R) Campaign in response to the shocking early-grade literacy rates in South Africa. In May, the results of the 2021 Progress in International Reading Literacy Study revealed that

81% of Grade 4 learners cannot read for meaning in any language, including their home language. The campaign aims to mobilise civil society and the education sector, as well as society at large, to make early-grade literacy a national priority reflected through legislative reform. The R2R Campaign proposes binding regulations to clarify the country's minimum obligations to ameliorate the reading crisis and realise the right to basic education for learners.

WHO ARE WE?

The **Right to Read** campaign led by Legal Resources Centre, SECTION27, The South African Human Rights Commission, Funda Wandé & Equal Education aims to remedy the **literacy crisis in schools** ensuring every learner's fundamental **#RightToRead.**




02

RIGHT TO ACCESS HEALTH CARE



Mental Health and Life Esidimeni Inquest

Maternal and Child Health Care

SRHR, Sexual Violence and Corporal Punishment

Access to Abortion Services

Radiation Oncology Backlogs

SA National Defence Force HIV discrimination in Employment

Corruption in Health

Access to Medicines

MENTAL HEALTH AND LIFE ESIDIMENI INQUEST

SECTION27 was involved in the programme development for and participated in the first South African Mental Health Conference hosted over two days at Emperor’s Palace. We steered insightful discussions on integrating and targeting support for mental health. SECTION27 was also part of the exhibition space, to promote and create awareness about our work in the sector. Mental health is recognised as a key area of public health concern in South Africa and globally and the Conference aimed to encourage a movement on mental health in the country.

The judicial inquest into the deaths of 144 mental health care users during the Life Esidimeni tragedy officially concluded on 2 November 2023. We presented written heads of argument and made oral submissions, contending that the deaths of at least 10 mental health care users were a direct result of the actions of three people. We argued for the prosecution of these individuals on charges of culpable homicide. The three implicated people are Ms Qedani Mahlangu, the former Gauteng Health MEC, Dr Makgabo Manamela, the former Director of Mental Health Directorate, and Ms Ethel Ncube, the owner of Precious Angels NGO.



MATERNAL AND CHILD HEALTH CARE

In April 2023, SECTION27 welcomed the **Court order** confirming that all pregnant and lactating women and children under six must be provided with free healthcare services at public hospitals. This was a significant victory for a case that was instituted at the end of **May 2022** and faced inordinate delays caused by the state and their lawyers.

The order declared the Gauteng Policy and provincial laws invalid to the extent that they deny free health services to pregnant and breastfeeding women and children under six. The Gauteng

Department of Health (GDoH) was directed to amend its policy by 16 October 2023. A catchall provision declares invalid any policies or circulars preventing pregnant and breastfeeding women and children under six from accessing free health services. The National Department of Health (NDoH) was directed to issue a circular by 15 May 2023, to provinces, stating that, irrespective of nationality and documentation status, these individuals are entitled to health services, with exceptions for those on medical aid or those in South Africa specifically for health services.

Furthermore, the NDoH was ordered to direct provinces to display posters reflecting the court order’s wording by

RIGHT TO ACCESS HEALTH CARE



Mental Health and Life Esidimeni Inquest

Maternal and Child Health Care

SRHR, Sexual Violence and Corporal Punishment

Access to Abortion Services

Radiation Oncology Backlogs

SA National Defence Force HIV discrimination in Employment

Corruption in Health

Access to Medicines

17 July 2023. Respondents were to file an affidavit within five days of each deadline, with a return court date on 23 October 2023, for a comprehensive report on compliance.

The Minister of Health, MEC and HoD for Gauteng Health and Charlotte Maxeke Johannesburg Academic Hospital returned to Court on 23 October to report on compliance with the court order. The respondents partially complied with the order, amending the Gauteng Patient Administration and Revenue Management Policy to grant free health care services to pregnant and lactating women and children under six at public health establishments, regardless of

citizenship or documentation status. It had also clarified in the policy that asylum-seekers (who are awaiting determination of their refugee status) are to be treated in the same way as refugees and South African citizens. Posters as required by the court order were sent to all provinces as well as health facilities in Gauteng, though some facilities admitted to not displaying them. The department was given additional time for compliance and our monitoring, as well as anecdotal evidence from hospitals and the experience of our advice office, confirms that there has been compliance with the court order.

SRHR, SEXUAL VIOLENCE AND CORPORAL PUNISHMENT

SECTION27's rights literacy programme in schools saw the field team carry out a total of 77 workshops across Limpopo, KwaZulu-Natal, Mpumalanga and Eastern Cape, reaching 2,441 learners in 2023 and educating them on essential sexual and reproductive health rights (SRHR) topics from teen pregnancy to gender-based violence.

We also piloted a School Champions Programme in partnership with Radio Workshop, training 15 learners in Limpopo in radio and community reporting, equipping the next generation with transferrable skills and essential knowledge. These Champions are already making a mark in their communities, co-facilitating our workshops in schools, speaking on radio, being involved in debating leagues, and being role models for their peers.

In order to reach the broader public in raising awareness of SRHR, we conducted 39 community radio programmes.



RIGHT TO ACCESS HEALTH CARE



Mental Health and Life Esidimeni Inquest

Maternal and Child Health Care

SRHR, Sexual Violence and Corporal Punishment

Access to Abortion Services

Radiation Oncology Backlogs

SA National Defence Force HIV discrimination in Employment

Corruption in Health

Access to Medicines

ACCESS TO ABORTION SERVICES

SECTION27 successfully launched an urgent application on behalf of a pregnant minor who was denied termination of pregnancy (TOP) services at a Gauteng public healthcare facility. Despite her rights under the Choice on Termination of Pregnancy Act 92 of 1996, the minor was repeatedly denied access to TOP services. The health care provider misled the minor and failed to refer her to a tertiary hospital, causing delays. With only two days left to lawfully obtain a TOP, the urgent court granted an order compelling the Gauteng Department of Health to make arrangements for the procedure by 29 May 2023. This case highlights the violation of the minor's reproductive health rights and the

failure of respondents to fulfill their constitutional obligation. SECTION27 welcomed the court's decision, emphasizing the importance of bodily autonomy and the right to sexual and reproductive health for girls and women. The ruling is a significant step in securing a TOP under the Choice on Termination of Pregnancy Act 92 of 1996.

Expanding on this work, SECTION27 partnered with the Treatment Action Campaign in the Eastern Cape to spread awareness of the right to access TOP and to gather experiences of women who have been denied TOP services. Throughout this process, there have been situations where we have had to intervene urgently to assist women who are currently being denied access to essential services and require immediate support.

RADIATION ONCOLOGY BACKLOGS

We celebrated a significant milestone in our work in addressing the radiation oncology backlog in Gauteng in March when, as a result of our tenacity in negotiating (following our threat of litigation) with the Gauteng Treasury and Gauteng Health, Treasury allocated R784 million to address the backlogs through the purchasing of equipment and outsourcing of radiation oncology services.

Following this budgetary victory, we remained dogged in our monitoring of Gauteng Health's plans to spend the allocation. After a further threat of litigation when Gauteng Health failed to meet its own deadlines and undertaking, and ongoing engagements with Gauteng Treasury, in October, Gauteng Health finally published a tender for the outsourcing of some radiation oncology services.

We are concerned about some aspects of the tender and await its outcome to determine the next steps.

SA NATIONAL DEFENCE FORCE HIV DISCRIMINATION IN EMPLOYMENT

In October 2022, we took legal action against the Department of Defence and Military Veterans in accordance with the Promotion of Access to Information Act 2 of 2000. We aimed to obtain our client's employment records and the rationale for not receiving a contract. Based on the records provided by the Department of Defence and their failure to offer our client a contract, it was clear that she was discriminated against because of her HIV status.

Following our intervention, an appointment letter will be sent to our client, as confirmed by the Department of Defence's Director for Legal Advice. We will continue to monitor progress periodically and be ready to litigate if our client doesn't get her appointment letter promptly.

RIGHT TO ACCESS HEALTH CARE



Mental Health and Life Esidimeni Inquest

Maternal and Child Health Care

SRHR, Sexual Violence and Corporal Punishment

Access to Abortion Services

Radiation Oncology Backlogs

SA National Defence Force HIV discrimination in Employment

Corruption in Health

Access to Medicines

CORRUPTION IN HEALTH



During September and October 2023, representatives from Gert Sibande health facilities participated in workshops hosted by SECTION27 aimed at developing their skills to recognise and blow the whistle on corruption in the health sector. Participants in the workshops appreciated and emphasized the importance of this training, sharing their clinics' challenges and identifying bottlenecks in reporting corruption.

ACCESS TO MEDICINES

In March, we sought consent on behalf of Treatment Action Campaign and Médecins Sans Frontières to intervene as amici curiae (friends of the court) in the case of Nel v Vertex Pharmaceuticals relating to a compulsory license request for Trikafta, a lifesaving drug to treat cystic fibrosis. This drug is currently not available in South Africa, but where it is available, it costs over R5 million per year and must be taken by patients for the rest of their lives, rendering it essentially inaccessible.

In November, Treatment Action Campaign and Médecins Sans Frontières were admitted as amici curiae in the Pretoria High Court, and we now await a date for the hearing.

The case will bring into the spotlight patent protection laws in South Africa and how they can hinder people's right to access affordable treatment. It will also demonstrate how, despite the need for legislative reform, there is a tool available to ensure access to medicines in these circumstances: a compulsory license. If a compulsory license is granted, patients with cystic fibrosis would be able to use a generic version of Trikafta, which would be significantly less expensive.

The amicus application will highlight for the court how compulsory licenses exist to provide a mechanism that balances patent rights and

TAC and MSF's impact

Together, TAC and MSF unite to strike the balance between Intellectual Property Rights and the Right to Health.

#AccessToMeds

+SECTION27
TAC
MSF

What is cystic fibrosis?

Cystic fibrosis is a life-threatening disease which affects the lungs, pancreas and other organs.

#AccessToMeds

+SECTION27
TAC
MSF

the right to health; that access to medicine is an inherent part of the right to health; and that medicines must be affordable in the context of South Africa's socio-economic landscape.

We launched a social media campaign to highlight our intervention in the case and to create awareness about compulsory licenses in relation to access to medicines.

03

CROSS CUTTING AREAS



Budgeting for Socio-Economic Rights

Remedies Workshop

Thubakgale (*amicus intervention*)

Operation Dudula (*amicus Intervention*)

Civic Education

Right to Food and Basic Nutrition

SECTION27 Welcomes New Candidate Attorneys

Advocacy for Law and Policy

BUDGETING FOR SOCIO-ECONOMIC RIGHTS

Our ongoing budget advocacy efforts highlight the unequal consequences of budget cuts in health and education on women. Our submissions on the budget

and budget review emphasised the need for gender responsive budgeting, considered budgeting for human rights in a climate change context, and focused on analysis of and recommendations for budgeting for basic education and health care services.

REMEDIES WORKSHOP

SECTION27, in collaboration with Cliffe Dekker Hofmeyr and Professor Sandra Liebenberg, the HF Oppenheimer Chair in Human Rights Law in the Faculty of Law at the University of Stellenbosch, hosted a workshop on Remedies for Socio-economic Rights Violations. The purpose of the workshop was to discuss how to make orders of the court more effective

in matters concerning socio-economic rights, both through the crafting of remedies and through monitoring their implementation. The workshop was very well-received and allowed good discussion of litigation and engagement strategy and what South Africa can learn from other jurisdictions such as Colombia. This workshop took place on 5 December at Cliffe Dekker Hofmeyr's offices in Johannesburg.



THUBAKGALE (*amicus intervention*)

SECTION27 welcomed the judgment handed down by the High Court of South Africa (Gauteng Division, Pretoria) in the matter of Thubakgale and Others v Ekurhuleni Metropolitan Municipality and Others on 29 August 2023. The court held that the Ekurhuleni Metropolitan Municipality is in contempt of a December 2017 court order, in which it was compelled to provide houses and land to the one hundred and thirty-three

applicants living in the Winnie Mandela informal settlement by December 2018. SECTION27 intervened as amicus curiae in the matter and argued that communities claiming redress for socio-economic rights should be entitled to constitutional damages in appropriate circumstances. The judgment endorsed SECTION27's submissions in respect of constitutional damages. The municipality is appealing the judgment to the Supreme Court of Appeal and the applicants are counter appealing. We are awaiting a date for the leave to appeal and will intervene as amicus at the Supreme Court of Appeal.

CROSS CUTTING AREAS



Budgeting for Socio-economic Rights

Remedies Workshop

Thubakgale (*amicus intervention*)

Operation Dudula (*amicus Intervention*)

Civic Education

Right to Food and Basic Nutrition

SECTION27 Welcomes New Candidate Attorneys

Advocacy for Law and Policy

OPERATION DUDULA (*amicus intervention*)

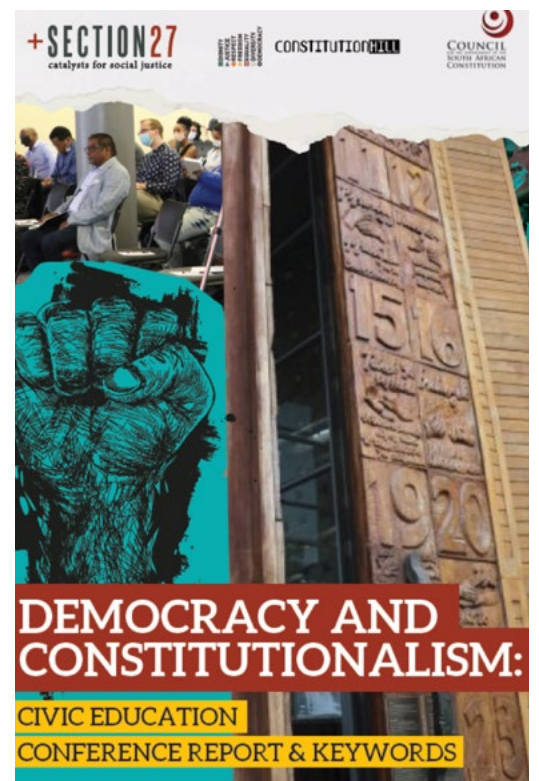
SECTION27 has sought to intervene as *amicus curiae* in the Socio-Economic Rights Institute (SERI)'s case against Operation Dudula and government. SERI's clients are requesting an order that declares section 41 of the Immigration Act unconstitutional. This request is based on the argument that the Act violates the rights of migrants to

equality, dignity, freedom, security, and privacy. SERI further seeks to interdict Operation Dudula from intimidating migrants. SERI has placed substantive evidence illustrating Operation Dudula's intimidation of migrant persons at schools, health facilities, and businesses. SECTION27's intervention deals with the impact of xenophobia on health and education access, private persons' negative obligations not to interfere with the health and education rights of others, and the domestic, international, regional and comparative law protecting the rights of migrants.

CIVIC EDUCATION

Democracy and Constitutionalism Conference Report

SECTION27 and the Council for the Advancement of the South African Constitution today launched a conference report titled, *Democracy & Constitutionalism: Civic Education Conference Report & Keywords*. The report brings into focus the importance of civic education at a time when South Africa is preparing for the 2024 elections, which are widely viewed as the most significant since 1994. The current state of basic services and the deterioration of governance calls for deeper civil society action to ensure a healthy democracy, active citizenry, and respect for the rule of law.



RIGHT TO FOOD AND BASIC NUTRITION

Monitoring the provision of National School Nutrition Programme meals

In April, at the start of the second school semester, thousands of learners in KwaZulu-Natal did not receive meals in terms of the National School Nutrition Programme (NSNP). This failure stems from the KwaZulu-Natal Department of

Education's decision to centralise the procurement and distribution of food supplies by awarding a tender to one main supplier that failed to properly deliver goods. Furthermore, reports of funding discrepancies in Limpopo also surfaced. We investigated and engaged on both of these matters, and also published an opinion editorial calling for the recognition of the NSNP and basic education as essential services that should be spared from severe budget cuts. Our work on the NSNP will continue in 2024.

CROSS CUTTING AREAS



Budgeting for Socio-economic Rights

Remedies Workshop

Thubakgale (*amicus intervention*)

Operation Dudula (*amicus Intervention*)

Civic Education

Right to Food and Basic Nutrition

SECTION27 Welcomes New Candidate Attorneys

Advocacy for Law and Policy

Food Litigation Surgery



In July, SECTION27 hosted a food litigation surgery together with Georgetown University’s O’Neill Institute for National and Global Health Law. Litigators from around the world presented their approaches to litigation related to food in their various jurisdictions. The surgery brought together 18 litigators from North and South America, India, Southern African Development Community and East Africa. Topics that were presented included front of package labelling, using consumer protection laws, marketing



and advertising to children, harmful ingredients, using civil litigation to challenge these issues, the intersection between the right to food and other rights; school nutrition; and genetically modified organisms and seeds. The surgery was a success with many of the litigators able to learn more about new issues to target and how to do so. It also served to launch a network of litigators on the right to food in the Global South. We will release a report on the workshop soon.

SECTION27 WELCOMES NEW CANDIDATE ATTORNEYS

We introduced our clerkship program this year and welcomed two candidate attorneys – Motheo Brodie and Fatima



Laheer. While providing invaluable support to the health and education teams, the candidate attorneys will develop their legal, research and advocacy skills alongside highly skilled legal professionals both at SECTION27 and at Cliffe Dekker Hofmeyr (where they were hosted for the Practical Vocational Training required to write Board exams).



CROSS CUTTING AREAS



Budgeting for Socio-economic Rights

Remedies Workshop

Thubakgale (*amicus intervention*)

Operation Dudula (*amicus Intervention*)

Civic Education

Right to Food and Basic Nutrition

SECTION27 Welcomes New Candidate Attorneys

Advocacy for Law and Policy

ADVOCACY FOR LAW AND POLICY

Basic Education Laws Amendment Bill

In 2022, we appeared before the Parliamentary Portfolio Committee on Basic Education to make oral submissions on the Basic Education Laws Amendment Bill. This year, our key submissions have been included in the BELA Bill draft passed by the National Assembly. We expressed concerns about how the Bill handles migrant learners and suggested the creation of a joint committee to assist undocumented learners in registering for school. We also raised concerns about permitting the sale of alcohol on school premises. Most significantly, SECTION27 focussed on amendments in the Bill to align the policy-making functions of School Governing Bodies, regarding admissions and languages, with the school governance jurisprudence of the Constitutional Court.

The Climate Change Bill

Following our **oral submissions** to Parliament in 2022 regarding the Climate Change Bill, the Portfolio Committee on Forestry, Fisheries and Environment has been holding public hearings on the Bill across various provinces. In 2023, we made **further submissions** to the Bill, on the need to include the education sector amongst the sectors that should be obligated to develop a “sector adaptation strategy and plan”. This amendment has been accepted in the most recent draft, which has now been dispatched to the National Council of Provinces for concurrence.

The National Health Insurance Bill

In response to the request for written submissions by the National Council of Provinces, SECTION27 partnered with the Treatment Action Campaign to make joint submissions on the National

Health Insurance Bill. We made note of the revisions made in accordance with our 2019 submission and stressed our earlier submissions regarding the lack of clarity surrounding the duties of national and provincial departments; the shortcomings of the governance provisions; and the lack of universality because of the exclusion of migrants. The National Council of Provinces adopted an unchanged version of the Bill.

The KwaZulu-Natal Department of Education School Pregnancy Policy

In October 2022 we were approached by the parents of two learners at a school in KwaZulu-Natal to challenge the school’s pregnancy policy, which required that pregnant learners be immediately expelled from school. One of the learners who was expelled was due to write her matric exams and would be prevented from doing so.

We relied on legal precedent that provides that denying pregnant learners access to an education is prima facie a violation of their rights to dignity, equality, and education. Further, the 2022 National Policy on Learner Pregnancy is clear that denying a learner access to an education on the grounds of pregnancy is discrimination.

Following our letter of demand, and against the threat of litigation, the KwaZulu-Natal Department of Education School capitulated to our demands and, with our input, now have a non-discriminatory policy in place. Both learners were re-admitted to school and the learner in matric successfully wrote and passed her exams.

The SACE Mandatory Sanctions Policy

SECTION27, representing CCL and two parents, is partially appealing a High Court judgment in the Supreme Court of Appeal regarding two teachers who administered corporal punishment to primary school students. Despite the ban on corporal punishment in schools

CROSS CUTTING AREAS



Budgeting for Socio-economic Rights

Remedies Workshop

Thubakgale (*amicus intervention*)

Operation Dudula (*amicus Intervention*)

Civic Education

Right to Food and Basic Nutrition

SECTION27 Welcomes New Candidate Attorneys

Advocacy for Law and Policy

since 1996, the South African Council for Educators imposed lenient sanctions on the teachers, based on its “Mandatory Sanctions Policy.”

SACE fined the teachers and removed their names from the educator’s roll for ten years, but suspended part of the fine and the removal of names from the roll, allowing them to continue teaching. In the High Court, SECTION27 requested a revision of SACE’s policy to include rehabilitative measures and a child-centered approach in disciplinary proceedings. The High Court agreed to our request that SACE amend their internal policy but did not set aside the decisions against the teachers.

We are appealing to the SCA, arguing that SACE has the discretion to choose sanctions but improperly treats its

internal policy as law. We also contend that SACE failed to adopt a child-centered approach, as learners and parents were not consulted during the disciplinary proceedings. SECTION27 asserts that SACE should have considered rehabilitation or retraining for the teachers.

SACE is opposing the High Court’s order to revise its Mandatory Sanctions Policy. However, SECTION27 believes the order is correct and necessary to protect learners’ rights, arguing that corporal punishment violates constitutional rights.

The matter will be heard on 26 February 2023. See SECTION27’s **‘Reporting Corporal Punishment’** guide.

04

ADVICE OFFICE



ADVICE OFFICE

The Advice Office has consistently provided assistance to members of the public regarding matters of education and health rights. For cases that do not fall within the jurisdiction of SECTION27, we guide individuals towards the organisations that can offer the help. In addition to the walk-in consultations held every Tuesday and Friday, the office continues to receive inquiries through various channels, such as telephone calls, WhatsApp messages, emails, and the organization’s social media platforms. The Advice Office has managed 382 cases up to end of November.

05

SPOTLIGHT

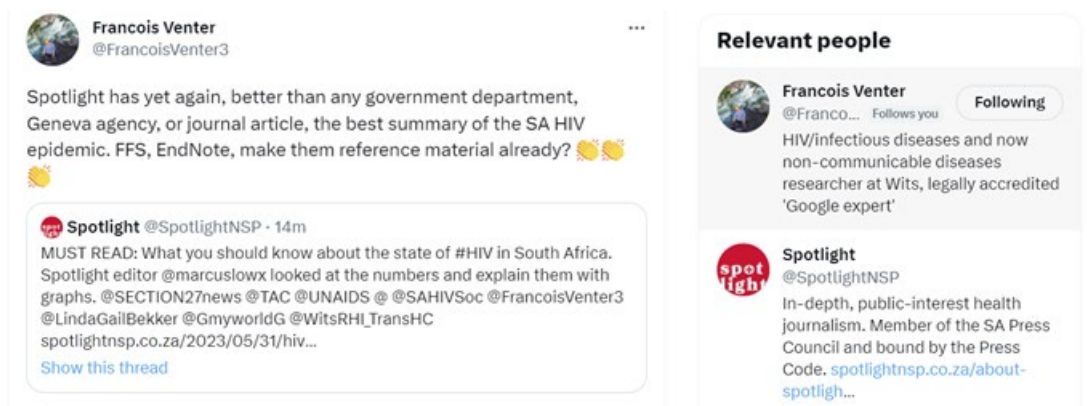


SPOTLIGHT

The Advice Office has consistently provided assistance to members of the public regarding matters of education and health rights. For cases that do not fall within the jurisdiction of SECTION27, we guide individuals towards the organisations that can offer the help. In addition to the walk-in consultations held every Tuesday and Friday, the office continues to receive inquiries through various channels, such as telephone calls, WhatsApp messages, emails, and

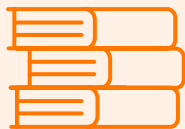
the organization’s social media platforms. The Advice Office has managed 382 cases up to end of November.

Spotlight’s impact, however, has gone far beyond social media metrics and public awareness, with articles having led to Members of Parliament asking questions in Parliament based on our work and with articles and graphs being cited or used at important meetings and conferences in the health sector. Spotlight’s informed analysis of policy and implementation has been used by policymakers and activists alike.



06

OUR PUBLICATIONS



OUR PUBLICATIONS

- Democracy and Constitutionalism: Civic Education Conference Report
- Legal Mobilisation for Rights: Annual Review 2022
- The state of abortion services in the Eastern Cape: 2022 Report
- Crossing the road story book in multiple languages
- #ENDINGTHEBOOKFAMINE For People Who are Blind or Visually Impaired



07

OUR
SUBMISSIONS

OUR SUBMISSIONS

- Submissions to the Select and Standing Committees on Appropriations on The Division of Revenue Amendment Bill
- Joint Submission by Section27 and The Treatment Action Campaign on The National Health Insurance Bill B11b-2019
- Submissions on the Children's Act, 2005 Draft Amendment Regulation Regarding Children
- SECTION27 And BLIND SA's Submission to The Committee on The Rights of Persons with Disabilities
- Special Rapporteur on The Promotion and Protection of Human Rights in The Context of Climate Change
- Submissions On the Department of Basic Education's Guidelines for The Socio-Educational Inclusion of Diverse Sexual Orientation, Gender Identity, Expression and Sex Characteristics (SOGIESC) In Schools
- Submissions on the Division of Revenue Amendment Bill
- SECTION27 AND TAC: Join Submissions on The Criminal Law (Sexual Offences and Related Matters) Amendment Bill
- BLINDSA And SECTION27 Submissions on The Copyright Amendment Bill
- Budget Justice Coalition Submission to the Select and Standing Committees on Finance on the 2023/24 Budget
- Budget Justice Coalition Submission to The Select And Standing Committees On Finance On The 2023/24 Medium Term Budget Policy Statement
- Budget Justice Coalition Submission to The Submission To Standing Committee On Appropriations On The Adjustments Appropriations Bill 2023