RESEARCH AND SCHOLARSHIP
SANDRA LIEBENBERG

[Updated as at 24 September 2014]

BOOKS

1995


2010


2011


CHAPTERS IN BOOKS

1995


1997


S. Liebenberg ‘Housing’ Fundamental Rights in the Constitution: Commentary and Cases in D. Davis,


1998


2000


2001


2002


2003


2005


2006


2007


2008


2009


2011


2012


2014


2015


REFEREED/PEER-REVIEWED ARTICLES IN JOURNALS

1995


1997


1999


2001


2001


2002 - 2003


2004


2005


2006


**2007**


**2008**


**2011**

S Liebenberg ‘Grootboom and the seduction of the negative/positive rights dichotomy’ (2011) 26 *SAPL* 37-59


**2012**


**2013**

G Muller and S Liebenberg ‘Developing the law of joinder in the context of the eviction of people from their homes’ (2013) 29 *SAJHR* 554 – 570.

**2014**


S. Liebenberg ‘Participatory approaches to socio-economic rights: Tentative lessons from South African evictions law’ forthcoming *Nordic Journal on Human Rights* (Special edition on Human Rights Based
Approaches to Development).

**2015 (Forthcoming)**

S. Liebenberg ‘Towards an equality-promoting interpretation of socio-economic rights in South Africa: Insights from the egalitarian liberal tradition’ 2 SALJ.


S. Liebenberg ‘Deepening democratic transformation in South Africa through participatory constitutional remedies’ National Journal of Constitutional Law (Canada).

**SELECTION OF ARTICLES IN POPULAR JOURNALS/MEDIA**

*ESR Review*

I was the founder and editor of *ESR Review* (*Economic and Social Rights in South Africa*), publication of the Socio-Economic Rights Project, Community Law Centre (UWC). I was editor of ESR Review from 1997 until my departure from the Community Law Centre at the end of 2003 to take up my present post at the Stellenbosch University Law Faculty.

I have published the following articles in *ESR Review*:


Other popular journals:


Selected Media


‘Economic and social rights in the Constitution’, IDASA radio interview, 1997


‘Making a Pro-Poor Constitution’ Mail & Guardian, 12 – 18 May 2006

‘Municipalities must consider people’s housing rights when planning evictions’ Cape Times 21 February 2008 13.


"No Bill of Rights, No Democracy" Opinion Piece, Cape Times 3 April 2012

"Why race should still be an important factor in higher education admissions from a pedagogical viewpoint" Blog article, SA First, Stellenbosch University SRC initiative, 2012

‘What the law says about evictions’ Groundup and Mail & Guardian online, 1 September 2014: http://groundup.org.za/article/what-law-has-say-about-evictions_2185

RESEARCH PAPERS, POLICY REPORTS AND SUBMISSIONS

Report on what Parliament has done to improve the Quality of Life and Status of Women in South Africa (with Pethu Serote, Jacqui Nolte and Nozipho January Bardill) commissioned by the Speaker of the National Assembly, Dr. Frene’ Ginwala, 1995

Submission to the Truth and Reconciliation Commission concerning the Relevance of Economic, Social and Cultural Rights to the Commission’s Mandate (co-author) Community Law Centre, Legal Resources Centre, Development Action Group and others, 1997.


The Right to Housing and Gender Equality in the Housing Bill (co-author) Joint Submission to the Portfolio Committee on Housing (National Assembly) by the Community Law Centre, Centre for Rural Legal Studies, the Legal Resources Centre, Development Action Group, Surplus People’s Project and African Gender Institution (University of Cape Town), September 1997.

Editor and author of a number of chapters in Monitoring Socio-Economic Rights - The Role of the South African Human Rights Commission, a booklet on the proceedings of a seminar convened by the South African Human Rights Commission, the Community Law Centre (UWC), and the Centre for Human Rights (University of Pretoria) 1997.

Equality Legislation in relation to Housing, research report commissioned by the Equality Legislation Drafting Unit established by the Ministry of Justice in conjunction with the SA Human Rights Commission, 1998.

Socio-Economic Status as a Prohibited Ground of Discrimination (with Shireen Motara) background research paper submitted to the Equality Legislation Drafting Unit, 1998.

Poverty and Social Security in South Africa (with Allison Tilley) Research paper, National ‘Speak Out on Poverty’ Hearings convened by the SA Human Rights Commission, the SA National NGO Coalition (SANGOCO), and the Commission for Gender Equality, (SANGOCO, 1998).

Poverty and Human Rights (with Karrisha Pillay) Report of the National ‘Speak Out on Poverty Hearings’ jointly convened by the SA Human Rights Commission, the SA National NGO Coalition (SANGOCO) and the Commission for Gender Equality (SANGOCO, 1998). This report was tabled in


Editorial advice and assistance to the chairperson of the Committee of Inquiry into a Comprehensive Social Security System in South Africa in relation to the aspects of the Committee’s reports dealing with the constitutional implications of social security, 2001.


**Submission on Proposed Amendments to the Social Assistance Act** (co-author) joint submission of the Socio-Economic Rights Project (CLC), the Black Sash, ACESS, Children’s Institute (UCT), and the South African Federal Council on Disability to the Department of Social Development, January 2003.

**The Draft Social Security Agency Bill** (co-author) joint submission of the Socio-Economic Rights Project (CLC), the Black Sash, the LRC, the SACC, COSATU and other organisations to the Minister of Social Development, April 2003.


**Discussion Document on the Transformation of the Judiciary and the Role of the Judiciary in a Development State** (co-ordinated and supervised together with Geo Quinot; lead author: Mr Michael Clerk with participation by other postgraduate students in SERAJ) submission to Department of Justice and Constitutional Development, April 2012.

**CONTRIBUTION TO DRAFTING OF BILL OF RIGHTS IN 1996 CONSTITUTION**

In my capacity as member of the four-person Technical Committee (with Proff Halton Cheadle, Ig Rautenbach and John Dugard) advising the Constitutional Assembly on the drafting of the 1996 Constitution, I was responsible for preparing a number of research reports and memoranda on various sections of the Constitution. These included:

- Freedom and security of the person
- Environment
- Adequate housing
- Health, social assistance, food and water
- Education
- Language and culture
- Detained, arrested and accused person (with Prof. J. Dugard)
- States of emergency

The above memoranda deal with the following aspects: compliance with Constitutional Principle II; an overview of relevant public international law; an overview of comparative law; relevant South African law; suggested resolutions of contentious and outstanding issues; and a draft formulation of the relevant sections in the Constitution.

**SELECTED PAPERS, PRESENTATIONS AND PUBLIC LECTURES AT CONFERENCES AND SEMINARS**

Plenary address, ‘Enforcement mechanisms for economic and social rights in international law.’ Seminar on Economic and Social Rights in the Final Constitution, co-hosted by the Centre for Applied Legal Studies (University of the Witwatersrand), the Legal Resources Centre and the Community Law Centre (UWC), Johannesburg, March 1995.

Paper, ‘Constitutional accountability for economic and social rights.’ Congress of the Society of University Teachers of Law, University of the Western Cape, January 1996.

Plenary Address, ‘Socio-economic rights: Should they be included in a Bill of Rights?’ Annual Judges’ Conference, organised by the Centre for Applied Legal Studies (University of the Witwatersrand), Mabula Lodge, July 1995.

Plenary Address, ‘The main issues facing South African women in the final constitution-drafting process.’ Seminar on Women and the Constitution, Women and Human Rights Project, Community Law Centre (UWC) as part of the NGO-Forum of the Fourth World Conference on Women, Beijing, September 1995.

Plenary Address, ‘Comments on the inclusion of social and economic rights in the final South African Constitution.’ Seminar on the 1996 Constitution, co-hosted by the French Embassy and the Community Law Centre (UWC), Cape Town, April 1996.

Plenary Address, ‘An introduction to the application section of the final Constitution with particular reference to the horizontality debate.’ Annual Judges’ Conference, organised by the Centre for Applied Legal Studies (University of the Witwatersrand), Magaliesberg, July 1996.


Presentation, ‘Developing policy on social security within the framework of South Africa’s new constitutional order.’ Seminar on Social Security Policy, hosted by the ANC Study Group on Welfare, Parliament, October 1997.

Paper, ‘The horizontal application of socio-economic rights under the 1996 Constitution’, joint seminar on The Horizontal Application of Socio-Economic Rights, co-hosted by the Universite d’Aix-Marseille III, the University of the Western Cape and the French Embassy in South Africa, Cape Town, November 1997.


Paper, ‘Should the concept of a minimum core duty have a place in our constitutional jurisprudence on socio-economic rights?’ Conference, *Poverty and the Constitution*, hosted by the Legal Resources Centre, Constitutional Litigation Unit, Johannesburg, August 2000.


Paper, ‘Children’s right to social security: South Africa’s international and constitutional obligations’ national conference entitled, *Children’s Entitlement to Social Security* organised by the Child Health Policy Institute, Soul City, Children’s Rights Centre and the Committee of Inquiry into a comprehensive social security system for South Africa, Cape Town, February 2001.


Paper, ‘Children’s Socio-Economic Rights’ at a seminar on *The Incorporation of Child Socio-Economic Rights Obligations in Government Programming and Budgeting*, hosted by Children’s Budget Unit, IDASA & Community Law Centre (UWC), Cape Town, 2 June 2004.


Inaugural lecture, Stellenbosch University Law Faculty: ‘Needs, Rights and Transformation: Adjudicating Social Rights in South Africa’ Stellenbosch University, 4 October 2005


Paper, ‘The Protection of Economic, Social and Cultural Rights under International Law’. International Human Rights Academy organised by the Human Rights Centre of Ghent University (Belgium), the Netherlands Institute of Human Rights (SIM), the UWC Law Faculty and the International Federation of Health & Human Rights Organisations, Cape Town, 26 October 2005.

Paper, ‘Economic and Social Rights and Governance: Some Practical Dimensions’ at a seminar on a research methodology workshop on economic, social and cultural rights organised by the Human Rights and Peace Centre, Faculty of Law, Makerere University, Kampala, Uganda, 17 January 2006.


Keynote address, ‘Protecting the Right to Education in South Africa’, Workshop on the Right to Education, Australian Capital Territories (ACT) workshop series on Protecting Economic, Social and Cultural Rights hosted by the Australian National University (together with the Australian Human Rights Centre of the University of New South Wales), Canberra, Australia, 24 March 2010.


Guest Speaker, Luncheon with the Australian Solicitor General, Chairperson of the Australian National Human Rights Consultation Committee, and academic staff of the Australian National University and University of New South Wales Economic, Social and Cultural Rights Research Group, Canberra, 29 March 2010.

Presentation, ‘Reasonableness Review in Recent Jurisprudence of the SA Constitutional Court’, Convener of Panel Discussion: ‘Comparative Reasonableness and Comparative Proportionality’, Second Workshop on Socio-Economic Rights, co-organised by the Universidad de Los Andes, Bogota, Colombia and the Project on Human Rights and the Global Economy, Northeastern University School of Law, Boston, Colombia, 14-15 May 2010.

Presentation, “The Horizontal Application of Socio-Economic Rights under the SA Constitution”, Delivered as participant in Panel Discussion on ‘Comparative Horizontality’ at the Second Workshop on Socio-Economic Rights, co-organised by the Universidad de Los Andes, Bogota, Columbia and the Project on Human Rights and the Global Economy, Northeastern University School of Law, Boston, Colombia, 14-15 May 2010.


Presentation, ‘Socio-Economic Rights: Promising Real or False Hope?’ Conference on Hope in South Africa, University of Stellenbosch, 22 July 2010.


Plenary paper ‘Constitutional Adjudication of Human Rights Norms: Engaging the Paradoxes of the Universal and Particular’ International Association of Constitutional Law, VIII World Conference of Constitutional Law, University of Mexico, Mexico, 6-10 December 2010.


Paper, ‘Egalitarian Liberalism: What are its Implications for an Equality-Promoting Interpretation of Socio-Economic Rights in South Africa?’ Conference on Egalitarian Liberalism: What are its Possible Futures in South Africa’, SAIFAC (University of Johannesburg) and Department of Political Studies (University of the Witwatersrand) Constitutional Court Auditorium, Johannesburg, 3 – 4 October 2013.


Public Lecture, ‘Forging New Tools for Protecting the Rights of the Poor in the Crucible of the Eastern Cape’ Rhodes Law Faculty on occasion of visit as Distinguished Visiting Professor, Grahamstown, 28 July 2014.


**CONFERENCES, SEMINARS AND PUBLIC LECTURES ORGANISED**

*Law in a State of Emergency: A Focus on Law and Repression in South Africa*, a national conference hosted by the Law Student’s Council, University of Cape Town, Cape Town, April 1986.

*South Africa’s International Treaty Obligations*, conference co-hosted by the Ministry of Justice, the Community Law Centre (UWC) and the Raoul Wallenberg Institute, University of Lund (Sweden), Cape Town, 10 December 1994.

*Towards the Final Constitution: A Critique of the interim Constitution from a Gender Perspective - The Way Forward*, conference hosted by the Women and Human Rights Project, Community Law Centre (UWC), Cape Town, January 1995 (co-organised with Fayeeza Kathree).

*Women and the Constitution*, Seminar organised by the Women and Human Rights Project, Community Law Centre (UWC) as part of the NGO-Forum of the Fourth World Conference on Women, Beijing, September 1995.


*Monitoring Socio-Economic Rights in South Africa - The Role of the South African Human Rights Commission*, joint seminar co-hosted by the Socio-Economic Rights Project, Community Law Centre (University of the Western Cape), the Centre for Human Rights (University of Pretoria), and the South African Human Rights Commission, Johannesburg, July 1997.

*From Rights to Real Change: The Implementation and Monitoring of Economic and Social Rights in South Africa*, conference co-hosted by the Socio-Economic Rights Project, Community Law Centre and the Portfolio Committee on Welfare (National Assembly), Parliament, February 1998.

*Giving Effect to Socio-Economic Rights: The Role of the Judiciary and other Institutions*, national conference co-hosted by the Socio-Economic Rights Project, Community Law Centre and the Legal Resources Centre (Constitutional Litigation Unit), Johannesburg, October 1998.
The Promotion of Equality and Prevention of Unfair Discrimination Bill, workshop co-organised with other members of the Equality Alliance, Cape Town, April 1999.

Strategies for Advancing Women’s Economic Equality, international conference co-hosted by the National Association of Women and the Law (Canada), the Centre on Housing Rights and Evictions (Geneva), the Centre for Economic and Social Rights (US), the Socio-Economic Rights Project, Community Law Centre (UWC), and the Women’s Legal Centre, Cape Town, December 2000 (co-organised with representatives of these organisations).

Realising Socio-Economic Rights in South Africa: Progress and Challenges, national colloquium hosted by the Socio-Economic Rights Project, Community Law Centre, Strand, March 2003.

The Draft Social Security Agency Bill, workshop hosted by the Socio-Economic Rights Project, Community Law Centre, University of the Western Cape, 5 February 2003.

Transformative Constitutionalism seminar co-organised with Prof. André van der Walt to commemorate the 10th anniversary of the publishing of Karl Klare’s seminal article on this topic in the SA Journal on Human Rights, 8 August 2008.

Tenure Security for Farm Workers and Dwellers: Enforcing, Challenging and Defending ESTA, workshop co-hosted by PLAAS (UWC), University of Oslo (Norwegian Centre for Human Rights), Stellenbosch Legal Aid Clinic, Stellenbosch Law Faculty, H.F. Oppenheimer Chair in Human Rights Law, 27 October 2008.


Law and Poverty, international conference co-organised with Project Manager of Faculty ‘Hope Project’, Gustav Muller, Stellenbosch Institute for Advanced Studies (STIAS), 29 May – 1 June 2011.


Selection of Guest Seminars Organised under auspices of Faculty Hope Project and Socio-Economic Rights and Administrative Justice Project (SERAJ):

- Prof Danie Brand “Discussion of the Mazibuko judgment”, 18 August 2010.
- Prof Hans Lindahl “In between: Immigration, Distributive Justice, and Political Dialogue”, 4 October 2010.
- Judge Glenn Goosen, Eastern Cape High Court “Rights Activism and Court Orders – Reflecting on Recent Developments”, 26 September 2014.
Annual Human Rights Lectures organised by H.F Oppenheimer Chair since 2004

<table>
<thead>
<tr>
<th>Year</th>
<th>Name of speaker</th>
<th>Title of address</th>
<th>Publication reference in Stellenbosch Law Review</th>
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<tr>
<td>2004</td>
<td>Justice Kate O'Regan</td>
<td>“Equality under our New Constitutional Order”</td>
<td>Unpublished.</td>
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