

# NEWSLETTER: APRIL TO JUNE 2019



The last three months have been a time of reflection, regrouping and strategising. We came into 2019 with the reverberations of 2018's work on sexual harassment in the workplace, and important developments in existing and new cases. We are also gearing up for our 20th anniversary celebrations coming up in August under the theme "Activism in Feminist Lawyering".

## WLC assists sexual harassment victims in BDS-SA incident

In April, the Women's Legal Centre undertook to representing Professor Kil, one of the complainants of sexual harassment carried out by Muhammad Desai, the National Director of Boycott, Divestment and Sanctions South Africa (BDS SA). Our client, along with two other women, lodged complaints with the Board of BDS SA against Mr. Desai on 22 March 2019, following incidents of sexual harassment on the 21st March 2019 in Johannesburg, Gauteng. The board of BDS-SA announced that an independent investigation would be convened. The legal findings of the investigative report and its analysis showed a clear bias in favour of the perpetrator, and placed the burden and onus on the woman to address sexual harassment and sternly resist it. He opts to require that victims of sexual harassment make it clear by verbally informing the perpetrator and others that the behaviour is unwanted and unacceptable. These types of analyses, among others included in the report, are extremely harmful to victims of sexual harassment, and present a bias in favour of male perpetrators. The investigative report is a case in point of the importance of taking a victim centred approach to dealing with sexual harassment. The WLC is consulting with Professor Kil with regards to whether she wishes to take further action. We will continue to support and assist the victims of sexual harassment.



## Muslim Marriages Case heads to Supreme Court of Appeal (May 2019):

The long-standing Muslim Marriages case which was heard in the Western Cape High Court last year resulted in a judgment (August 2018) which obligated the State to enact legislation to recognize Muslim Marriages within two years. The State appealed this judgment and the WLC cross-appealed on a number of grounds, a main reason being that no relief was granted to women who are vulnerable in the interim until legislation is enacted. On 9 May 2019, a full bench of the High Court in the Western Cape granted leave to appeal, and leave to cross-appeal their judgment. It was decided that the matter will be taken to the Supreme Court of Appeal. We are confident that the case and the issues faced by Muslim women will be addressed by the Supreme Court of Appeal in ensuring that the principles of our Constitution are upheld. At the same time, we are mindful that women continue to face a violation of their rights, as well as discrimination on a daily basis because of the lack of recognition of their marriages. Women in South Africa are entitled to equal recognition and protection of their Constitutional rights, regardless of race, gender, religion, economic status or other.

Read the full statement outlining our reasons for cross appealing here.

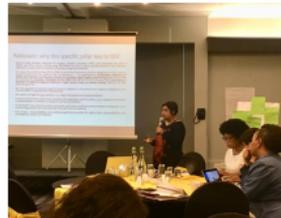
## WLC submission on sexual harassment to the Legal Practice Council's Code of Conduct is accepted: (April 2019):

The Legal Practice Act 28 of 2014 recently drafted a Code of Conduct for all legal practitioners, candidate legal practitioners and juristic entities. The LPC invited submissions for input on the first draft. The Women's Legal Centre found that the first draft did not include any content on sexual harassment. The WLC thus submitted a submission which recommended that the LPC address sexual harassment in its Code of Conduct. We are happy to acknowledge that this submission was accepted, and the Code of Conduct now addresses both "harassment" and "sexual harassment."

It is crucial that disciplinary procedures for dealing with gender misconduct and sexual harassment have to be different from those used in general misconduct matters. What is more crucial is that there have to be procedures that protect the complainant, deal with confidentiality, and create a more inquisitorial approach. Section 95 (1)(G) provides that the Council may make rules on these procedures to be followed by disciplinary bodies that deal with complaints. It will thus be critical that a rule setting out special procedures for sexual harassment matters is created following the passing of the Code of Conduct."

## Submission to the UN Special Rapporteur on Violence Against Women:

The WLC responded to the call for submissions from the UN special rapporteur on Violence Against Women, specifically on Mistreatment and Violence Against Women During Reproductive Health Care with a focus on childbirth. A joint response was submitted with the Legal Resources Centre for consideration in the development of the next thematic report to be presented at the 74th session of the General Assembly in September 2019. The submission focused on the plight of women in South Africa who experience serious human rights violations, in their various forms, when accessing public hospitals in order to give birth, or access prenatal healthcare services. The submissions highlighted the disproportionate effect that poor public health care services have on women in South Africa, and the lack of response to address the root problem by government. It expanded on issues of obstetric violence, gender discrimination, obstetric medical and surgical negligence and more. Lastly, the authors provided recommendations for improvement and emphasized the States duty in ensuring women and children are protected during childbirth and reproductive health care.



## WLC contributes to GBVF National Strategic Plan

The Women's Legal Centre, represented by Director Seehaam Samaai, attended the first Consultative Workshop by the Interim GBV and Femicide Steering Committee (IGBVS) in Johannesburg to feed into the design and drafting of the GBVF National Strategic Plan. On the 1st and 2nd of November 2018, South Africa held a Presidential Summit against Gender-Based Violence and Femicide. It was organized as a result of the #TotalShutdown movement which made demands not only for the summit, but also actions which Government should take to enable the implementation of a GBV response. It builds into a number of key processes including the South African Integrated Programme of Action Addressing Violence Against Women, children and LGBTIQ persons (2019 - 2024) of DSD, and the Civil Society STOP National Campaign and National Strategic Plan on GBV Shadow framework. The overall purpose of the workshop will be to provide an opportunity for critically resourced persons and sectors to feed into the shaping of the conceptualization, design and content of the GBVF Strategic Plan. WLC formed part of the Law and Policy Commission which looks at critical interventions over the next 2, 5 & 10 years to significantly reduce GBV in South Africa. Seehaam also attended the "Theory of Change" workshop for the GBVF Strategic Plan which will underpin the conceptualisation of the plan.

## WLC attends the 63rd annual Commission on the Status of Women (CSW) in New York:

CSW is the principal global intergovernmental body exclusively dedicated to the promotion of gender equality and the empowerment of women at the United Nations. The CSW discussed progress and gaps in the implementation in global and local policies on gender equality, as well as emerging issues that affect gender equality and the empowerment of women. The theme for this year was "Social protection systems, access to public services and sustainable infrastructure for gender equality and the empowerment of women and girls". This speaks to the work that the WLC has been involved in. WLC Director Seehaam Samaai and Attorney Charlene May hosted a side event at the CSW NGO Forum titled "Social Protection: Recognition, Reduction, and Redistribution of Unpaid Care Work". They further been engaged in many other fruitful discussions, including with South Africa's very own Phumzile Mlambo Ngcuka who serves as Executive Director of UN Women.



## WLC Supports the #SexWorkPromise with Asijiki At Parliament (June 2019)

The WLC forms part of the Asijiki Coalition, which advocates for the decriminalisation of sex work. Alongside Asijiki, the WLC gathered outside of parliament on 5 June to give sunflowers to President Ramaphosa in support of the #SexWorkPromise. These actions were intended to highlight the President's commitment to decriminalising sex work and protecting sex workers rights. In late March, during the launch of the South African National AIDS Council, Rhamaphosa handed the leader of the Sisonke sex worker movement, Ms Kholi Buthelezi, a sunflower in a show of solidarity. At the event, Rhamaphosa declared his support for the decriminalisation movement and the human rights of sex workers. The sunflowers are thus a symbol of the President's promise. "We will work with all stakeholders to develop policy around the decriminalisation of sex work," Rhamaphosa said. "...we cannot deny the human and unalienable rights of people who engage in sex work."

In an article for the Sunday Times about the demonstration, Charlene May of the WLC was quoted explaining why criminalisation prevents sex workers from reporting crimes against them. "Police will first ask why were they standing in the street at night..." May said. "There is this bad perception that sex workers are not entitled to services like everyone else and this is caused by the criminalisation of sex work."



## The Centre for Reproductive Rights wins abortion case in Kenya:

The CRR filed a case on behalf of JMM, a 14 year old girl who became pregnant as a result of rape and was unable to access safe abortions. She later died from complications ensuing from an unsafe abortion. She was one of many who die from unsafe abortions in Kenya. " In a groundbreaking decision, the High Court of Kenya ruled that the Ministry of Health's 2014 withdrawal of the "Standards and Guidelines for Reducing Morbidity and Mortality from Unsafe Abortion in Kenya" (Standards & Guidelines), and its subsequent ban on abortion trainings for health care professionals, were arbitrary and unlawful. The Standards & Guidelines was an important policy document that guided health care providers on when and how they could provide safe and legal abortion and post-abortion services". One of the five focus areas of the WLC is " sexual and reproductive health and rights." While we have our own struggles to advocate for, many other countries, especially in Africa, are still fighting big battles with regards to women accessing safe abortions. We share in the joy of such victories around Africa and the world.



## WLC hosts members of German Parliament

The WLC hosted members of the German Bundestag (parliament) from the Parliamentary Friendship Group for Relations with the Southern African States, as part of their visit to South Africa. The delegation included members from The Green Party and the Social Democratic Party. They were interested in the work of the WLC and the nature of women's issues in South Africa. Director Seehaam Samaai, Attorney Charlene May and Advocate Bronwyn Pithey engaged their questions and shared the work of the WLC. The delegates commended the WLC on the work being done and shared sentiments of similar work in Germany. We look forward to strengthening our links worldwide and sharing the work of the WLC across borders.

## Convicted Congolose rapist and musician Koffi Olomide shows cancelled in SA

Koffi Olomide was set to perform two shows in South Africa at the end of June. Mr Olomide has a long history of sexual and physical violence against women. In March 2019, Mr Olomide was convicted of statutory rape in France. In 2016, he was deported from Kenya after a case of assault. In 2012, he was also accused of assaulting a journalist in Zambia. In the spirit of ending impunity, WLC supported the " Stop Koffi Olomide" campaign which called for the denial of his entry, cancellation of his shows, and for government to publicly state their disinvitation. The campaign was succesful in getting his shows cancelled in both Cape Town and Johannesburg.

## International Convention on violence and harassment in the workplace is adopted

The International Labour Conference was held from the 10th to 21st of June in Geneva, Switzerland. At the 107th session of the International Labour Conference in 2018, a resolution was taken that at the next conference, a Convention which is inclusive of violence and harassment in the world of work, would be put forward for adoption. This convention was drafted, and has successfully been adopted! What does this mean for South Africa? In the wake of the multitude of sexual harassment cases in the workplaces carried out on women which were exposed in the last two years, this adoption is an important step towards recognizing the importance of victim-centred approaches to sexual harassment in the workplace. This is the first international convention which addresses violence and harassment specifically in the world of work. Should South Africa ratify the convention, it will be obligated to implement the convention in its own laws and policies as far as possible. The Convention recognises and seeks to address the ways in which violence and harassment in the world of work impacts and affects all workers and includes a very specific analysis on how women are disproportionately affected. Part of the Convention seeks to provide a feminist intersectional vision of women in the world of work and places key obligations on governments to do more to ensure women's substantive equality in the workplace.

We are here for this!  
#WeBelieveHer

## WLC receives two nominations in the WOZA awards

The WOZA awards is a new initiative celebrating women in law. There are a number of categories of awards, one of the most prestigious being the Icon Pinnacle Award, which WLC Director Seehaam Samaai has been nominated to receive! According to WOZA, an organization dedicated to recognizing women in law, the Icon Pinnacle award is given to a female lawyer who “displays iconic achievements embracing thought, innovation, leadership, empowerment of other women and contributions to the law.” With her longstanding and outstanding experience in the public interest legal sector, contributions towards advancing human rights, empowering women and advancing the feminist litigation agenda, we stand behind Seehaam as a nominee of the award. We congratulate Seehaam and support the recognition of the unselfish work of women who are advancing women’s rights.

WLC has also been nominated in the “Law firms with 5 & less women lawyers who lead in SA” category. WLC stands in this category in a league as the only NGO law firm. Watch this space for further developments!

### Board of Trustees update:

We said goodbye to Michelle Huber, and saw the end of Nasreen Rajab-Budlender’s term as Chairperson as she stepped down this year. We thank both Michelle and Nasreen for their valuable contributions. We also welcome Nozizwe Vundla, pictured right, as the new Chairperson.

### READ OUR PUBLISHED OPINION PIECES:

(Hover over the block and click)

[UNPAID CARE WORK BY CHARLENE MAY](#)

[SEXUAL HARASSMENT: THE LIABILITY OF SHAME BY CHARLENE MAY](#)

[SEXUAL HARASSMENT: A SYMPTOM OF A LARGER SYSTEM OF POWER GONE ROGUE BY SEEHAAM SAMAAI AND AISHA HAMDULAY](#)

[DOMESTIC VIOLENCE: BY SEEHAAM SAMAAI](#)

[UN AGENCY ADOPTS CONVENTION ON VIOLENCE AND HARASSMENT AT WORK: BY CHARLENE MAY AND MANDI MUDARIKWA](#)

