

Has South Africa effectively translated its progressive legal framework into meaningful protection and equality for women?

By Bronwen Japhta, Cape Town Intern

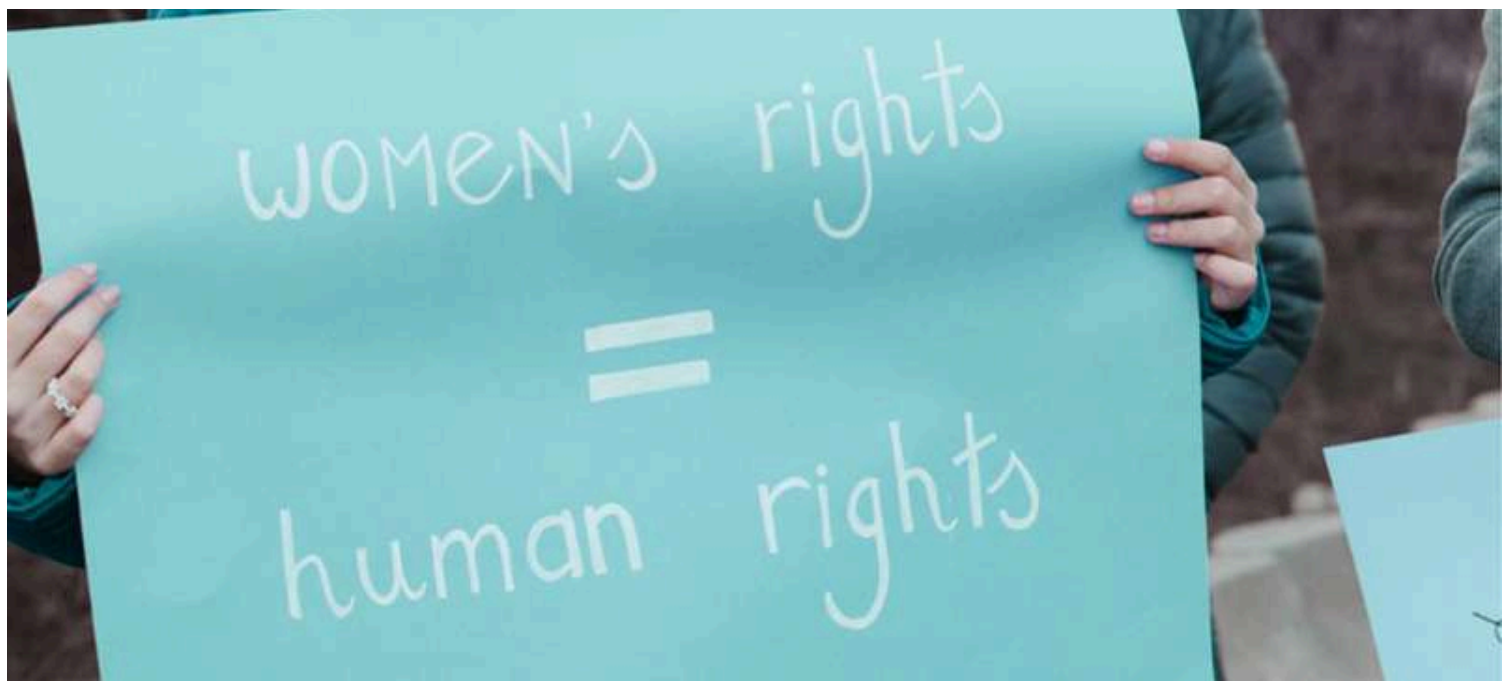
On 9 August 1956, around 20 000 women of all races and cultures marched to the Union Buildings in Pretoria, South Africa to protest against the extension of apartheid pass laws to be imposed on Black women. Upon arriving at the Union Buildings, they stood in silence for thirty minutes before singing what would become one of South Africa's liberation songs:

“Wathint’ Abafazi, Wathint’ Imbokodo”

“You strike a woman; you strike a rock”

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Seventy years later and democratic South Africa continues to commemorate the bravery and resilience of these women every August. Yet, beneath the commemorative speeches and celebration lies an important question: “Has South Africa effectively translated its progressive legal framework into meaningful protection and equality for women?”

There are two realities that co-exist regarding the socio-economic position of women in South Africa. The first reality is one of remarkable progress in that women occupy positions once unimaginable under the apartheid regime. The second reality, however, is that economic inequality continues to affect women disproportionately.

According to Statistics South Africa’s Quarterly Labour Force Survey, South Africa’s official unemployment rate remains above 30%, with women being over-represented in lower-paying sectors such as domestic work, retail, hospitality and informal employment with limited labour protections and income security. Young Black Africans, particularly women, remain the most economically vulnerable demographic in the workplace, despite progressive legislation in place such as the Employment Equity Act 55 of 1998, the Basic Conditions of Employment Act 75 of 1997, the Labour Relations Act 66 of 1995, and the Broad-Based Black Economic Empowerment Act 53 of 2003.

The two realities are also seen when comparing South Africa’s constitutional ideals to the shocking lived reality of women navigating the ongoing pandemic of Gender-Based Violence and Femicide. South Africa continues to record alarmingly high levels of violence against women and children. Thousands of rape cases are reported to the South African Police Service every quarter, while many more incidents of domestic violence and sexual offences remain unreported due to fear, intimidation and lack of confidence in the criminal justice system. Survivors frequently encounter delayed police responses, inadequate investigations, lengthy court proceedings and insufficient psychosocial support. Many women experience secondary victimisation when reporting offences which discourages others from seeking justice.

Perhaps greater investment is required in specialised Sexual Offences Courts, survivor support services, forensic resources, police training and shelters, particularly within rural communities. Protection orders should be processed more efficiently, while repeat offenders should be monitored more effectively through criminal justice information systems.

Another women-specific crisis is period poverty which should be not merely a health issue. It is fundamentally an issue implicating constitutional rights of equality, human dignity, education and health care. For example, many learners continue to miss school during their menstruation phase due to the unaffordability of sanitary products and inadequate sanitation facilities. The South African government removed Value-Added Tax (VAT) on sanitary pads in April 2019 through amendments to the Value-Added Tax Act 89 of 1991 in recognition of this challenge. However, tampons and menstrual cups were initially excluded from the zero-rated list, and access to free menstrual products remains inconsistent across provinces. A comprehensive national menstrual health policy is needed to steer universal access of menstrual hygiene products in schools, clinics and community health centres.

The true legacy of Women’s Month lies not only in celebrating the extraordinary courage of the women who marched in 1956, but in honestly confronting the realities many women continue to endure today. Violence, unemployment, unequal economic opportunity, inadequate access to healthcare and period poverty remain barriers to the full realisation of constitutional rights. Hence, it is concluded that the words spoken outside the Union Buildings in 1956 remain not only a tribute to history, but a continuing call to action. “Wathint’ Abafazi, Wathint’ Imbokodo.” - May these words inspire not only remembrance, but responsibility.

Women's Day Breakfast

By Pearl Khumalo, Acting Regional Manager, Durban



On 7 August 2026, ProBono.Org Durban and Emeris Community Law Clinic hosted a Women's Day Breakfast.

The event featured a panel of legal practitioners from ProBono.Org, Emeris students, and Emeris faculty staff. ProBono.Org facilitated the panel discussion with Adv. Omashani Naidoo (NPA SOCA), Adv. Cheryl Smart (KZN Society of Advocates), Asiya Khan (Department of Justice and Constitutional Development), Xoliswa Jwili (Moyana Jwili Attorneys), and Amanda Zwane (Shepstone & Wylie Attorneys).

The panellists shared their career journeys and reflected on the importance of ethical leadership, the role of legal practitioners in addressing inequality through pro bono work, and the need to advocate for vulnerable groups. They also spoke about the mentors who inspired them, particularly the women who first gave them opportunities in the profession. Their insights offered valuable guidance to aspiring and young legal practitioners, highlighting the importance of sisterhood in the profession, mental health, and maintaining a healthy work-life balance.

A special thank you to our attendees, our sponsors LexisNexis and Daly Morris Fuller Inc., and our partner, Emeris, for supporting this meaningful event.

Giving Back for Mandela Day

CAPE TOWN

By Masi Ncube, Regional Manager, Cape Town



Photo: University of the Western Cape

The Cape Town ProBono.Org Office with the support of the National Bar Council of South Africa and the Cape Town Attorneys Association collected textbooks from members of the legal profession which were donated to law students at the University of the Western Cape (UWC).

The textbook drive, which is a Mandela Month initiative, was prompted by the continued financial barriers many students face in accessing prescribed textbooks to further their education. UWC Lecturer and Law Faculty Community Engagement Coordinator, Cherith Sanger, said that although she has noted an increase in the use of artificial intelligence (AI) by law students, at this stage it cannot replace the value of engaging with legal texts in depth using textbooks.

While AI can make information more accessible, over-reliance on AI could stunt the reading, writing, research and critical thinking skills of law students. The textbook drive encouraged legal practitioners to foster a culture of giving back and their efforts were received with gratitude by the students. It is hoped that the annual initiative can grow from strength to strength with greater participation from the legal sector at large.

DURBAN

By Gugulethu Makhanya, Administrator and Paralegal



On 17 July 2026, ProBono.Org Durban, in collaboration with The Association for the Aged (TAFTA) and Farrell Inc. Attorneys, participated in a meaningful Nelson Mandela Day initiative dedicated to service and kindness. The event was also supported by stakeholders, including the South African Police Service and the eThekweni municipal library. In the spirit of Mandela Day, which encourages every person to give 67 minutes of their time in service of others, the initiative focused on distributing coffee, sandwiches and fruit to members of the community. The team distributed 76 sandwiches, exceeding the intended target of 67 sandwiches, which symbolised Mandela's 67 years of public service.



The distribution reached both homeless individuals and working-class community members, many of whom received the gesture with gratitude. For some, the meal offered immediate relief and comfort; for others, it was a reminder that their presence and dignity are seen and valued. The involvement of elderly participants from TAFTA added a particularly warm and human element to the day, showing that service is not limited by age and that every contribution can make a difference. Mandela Day is a reminder that positive change often begins with simple actions: giving time, offering care and showing goodwill to those around us.



JOHANNESBURG

By Precious Masenya, Communications Intern



On 16 July 2026, the ProBono.Org team joined Ashraful Aid and Lions Cricket at the DP World Wanderers Stadium in Johannesburg for the annual Mandela Day Corporate Volunteer Event. Hundreds of volunteers from organisations and companies across Johannesburg came together to dedicate their time and energy to a common purpose of supporting vulnerable communities.

Working alongside fellow volunteers, the ProBono.Org team helped pack 5,000 food parcels, which are expected to provide support to families and individuals experiencing food insecurity. Nelson Mandela Day is more than a day of remembrance. It is a call to action and a reminder that each of us has the ability to contribute to building a more compassionate and equal society.



Our participation in this initiative reinforces the importance of recognising that dignity, equality, compassion and access to basic necessities are all part of building stronger communities. This 2026 event was the sixth annual Mandela Day employee volunteer event in partnership with Lions Cricket.

Participating in this initiative is a natural extension of our commitment to serving communities and advancing social justice.

Societal Opinion vs Immigrant Children: Accessing public schools and the role of the Constitution

By Nolwandle Ngobese, Durban Intern

The protests outside Addington Primary School in Durban during January 2026 reignited a difficult national conversation regarding immigration, access to public education and the rights of undocumented children.



The protests were reportedly linked to concerns that migrant learners were being prioritised over South African learners, despite data presented by the KwaZulu-Natal Department of Education indicating that most of the school's enrolment consisted of South African citizens. The events resulted in many learners avoiding school following protests concerning the placement of children at the school.

While the debate surrounding immigration and access to public resources is not a new one, the events at Addington raise important questions about the rights of children within South Africa's constitutional framework. They invite consideration of how the state should balance concerns regarding immigration and limited educational resources with its obligation to protect the rights of every child, including South African, migrant, refugee, asylum-seeking and undocumented children.

While the debate surrounding immigration and access to public resources is not a new one, the events at Addington raise important questions about the rights of children within South Africa's constitutional framework. They invite consideration of how the state should balance concerns regarding immigration and limited educational resources with its obligation to protect the rights of every child, including South African, migrant, refugee, asylum-seeking and undocumented children. Unlike many socio-economic rights in the Constitution, the right to basic education is immediate and unqualified. Section 29(1)(a) states that "everyone has the right to a basic education". The use of the word "everyone", rather than "citizens", is significant. It indicates that the right is not limited to South African citizens and extends to children within South Africa, including children of migrants, refugees and undocumented learners.

The right to education must also be considered alongside section 28(2) of the Constitution, which provides that a child's best interests are of paramount importance in every matter concerning the child. Together, these provisions demonstrate the importance that the Constitution places on ensuring that children are able to access education and that their interests are carefully considered when decisions affecting them are made. The discussion surrounding children's access to education must, however, take into account the different legal statuses of children living in South Africa. The terms migrant, refugee, asylum seeker and undocumented person are sometimes used interchangeably in public discourse, although they describe different legal circumstances.

An immigrant child refers to any child who emigrates from their country of origin to live in a new country, while a refugee is a person who has fled their country of origin due to a well-founded fear of persecution or threats to their life and is recognised as requiring protection under the Refugees Act 130 of 1998. An asylum seeker is a person who has sought protection in South Africa and whose application for refugee status has not yet been finally determined. An undocumented child may be unable to produce the documentation required to establish their lawful status in the country.

These distinctions are relevant because the legal frameworks governing immigration and refugee protection differ depending on a person's status. Section 27 of the Refugees Act, for example, provides recognised refugees certain basic rights, including access to education. However, when considering children's access to basic education, the broader constitutional question remains whether differences in immigration status should determine whether a child can access a public school.



The position of undocumented children in relation to access to education was considered in *Centre for Child Law and Others v Minister of Basic Education and Others* (2020), where the High Court considered policies that effectively prevented undocumented children from enrolling in public schools. The Court held that documentation requirements should not operate as an absolute barrier to accessing basic education and declared aspects of the admission policy inconsistent with the Constitution.

The significance of this judgment extends beyond school admission policies. It demonstrates that while administrative and documentation requirements may serve legitimate purposes, their application must be considered alongside the constitutional rights and best interests of children. Children do not determine their own immigration status, and the circumstances surrounding their documentation may often be beyond their control. The legal framework therefore requires careful consideration of how administrative requirements affect a child's ability to access basic education.



South Africa's constitutional obligations are further informed by international law. Section 39(1)(b) of the Constitution requires courts, when interpreting the Bill of Rights, to consider international law. South Africa has ratified the United Nations Convention on the Rights of the Child (CRC), which recognises the right of every child to education without discrimination (Articles 2 and 28), as well as the African Charter on the Rights and Welfare of the Child (ACRWC), which similarly protects children's right to education (Article 11).

These international instruments, read alongside the Constitution, reinforce South Africa's commitment to protecting children's rights and ensuring access to education without discrimination irrespective of nationality or immigration status.

Concerns have been expressed about the pressures facing South Africa's public education system, including overcrowded classrooms, limited resources and infrastructure constraints, as well as the state's capacity to provide quality education to all learners. These concerns raise legitimate questions about how limited educational resources should be managed and allocated in a manner that is fair, sustainable and consistent with the state's constitutional obligations.

The challenge, therefore, lies in finding an appropriate balance. On the one hand, the state has a responsibility to manage immigration effectively and to ensure that public resources are allocated responsibly. On the other hand, the constitutional framework requires that children's rights and best interests remain an important consideration in decisions affecting their access to basic education.

The events at Addington Primary School highlight the tension between pressures on public education, immigration management and children's constitutional rights. Although concerns about overcrowding, limited resources and immigration are legitimate, the state must address them within a framework that protects every child's rights and best interests.

Ultimately, the rights of South African, migrant, refugee, asylum-seeking and undocumented children form part of the broader constitutional commitment to dignity, equality and access to basic education. Upholding these principles affirms not only the rights of individual children but also South Africa's commitment to constitutionalism, the rule of law and the values upon which the democratic republic is founded. While immigration remains a legitimate area of government regulation, constitutional protections do not disappear because an issue is politically debateable. The events at Addington serve as a reminder of the importance of maintaining this balance and of ensuring that, in navigating complex social and policy concerns, the rights of children remain an important consideration.



Our 2025 Annual Report is out. [Click here](#)

PILnet Call for Registrations

By Precious Masenya, Communications Intern

The PILnet Global Forum 2026 is coming to Cape Town from 10–12 November 2026, bringing together legal practitioners, civil society organisations, pro bono leaders, academics and justice advocates from across the globe.

Under the theme “Advancing Access to Justice Worldwide Through Innovation, Resilience, and Solidarity,” the Forum will explore practical approaches to strengthening access to justice and building meaningful collaboration across the global legal community.

Among the featured speakers is Jasmine Simperingham, CHE Program Director: Forced Displacement, who will contribute to two important sessions: “From Paper to Practice: The Legal Community and the Refugee Convention at 75” and “Collective Pro Bono Initiatives Co-Lab.”

Her participation highlights the Forum's focus on pressing issues such as forced displacement, refugee protection and the role of collective pro bono action in addressing global justice challenges.

As the Forum comes to Africa for the first time, Cape Town will provide a unique platform for African and international legal communities to connect, share expertise and build partnerships that advance access to justice worldwide.

Registration is still open until 27 October 2026.

**PILnet**

GLOBAL FORUM

CAPE TOWN, SOUTH AFRICA
10 - 12 NOVEMBER 2026

WHY AFRICA?

Some of the world's most innovative and impactful access-to-justice solutions are being developed right here on the continent. This year, Cape Town will become a global meeting place for legal professionals, civil society organisations and changemakers committed to advancing public interest law.

**EARLY BIRD TICKETS AVAILABLE UNTIL 15 SEPTEMBER 2026**

REGISTER HERE:
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NO ON-SITE REGISTRATION IS AVAILABLE.

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Topic: The importance of Wills and estate planning.

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TUNE IN



HOSTED BY

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The Legal Lifeline is a practical and informative radio show and podcast on 919 FM, a community radio station based in Sandton, Johannesburg. Produced in partnership with ProBono.Org, the show is designed to help listeners understand their legal rights and navigate everyday challenges.

The show is hosted by Advocate Gushwell Brooks featuring expert insights and clear explanations on topics such as:

- Consumer rights and contracts.
- Family law and mediation.
- Workplace issues.
- Cyber law and medical practice law

Time: Every Thursday from 18:00 to 19:00.

Tune in to 919 FM in the Johannesburg/Sandton area, or listen live via the 919 FM official website. Missed episodes are available on iono.fm and the station's podcast page. Listeners can send questions or interact with the show via the station's WhatsApp number at 084 221 2919.

Ashraful Aid strengthens access to justice through furniture donation

By Precious Masenya, Communications Intern



Pro bono lawyers and mediators who staff our help desk along with ProBono.Org National Director, Shafie Ameermia, Ashraful Aid representative, Ismail Timbala, and Booyens Senior Magistrate, Pieter Koen.

On 18 August 2026, ProBono.Org welcomed a meaningful contribution from Ashraful Aid through a furniture handover aimed at supporting its Domestic Violence, and Mediation Help Desks.

The handover was held at Booyens Court in Oakdene, Johannesburg South, and it brought together mediators and attorneys supporting the Help Desks to celebrate a partnership rooted in community service, collaboration and access to justice.

The donated furniture will contribute to creating more functional and welcoming spaces for clients who seek assistance at the Help Desks. These services play an important role in connecting vulnerable families with legal information and advice.

The contribution from Ashraful Aid demonstrates the value of partnerships between civil society organisations and collaborative projects. By supporting the practical needs of organisations working on the ground, such partnerships help strengthen the delivery of services to communities that need them most. The handover also reflects the broader spirit of Ubuntu and social responsibility advocated by Ashraful Aid, while reinforcing ProBono.Org's commitment to improving access to justice for marginalised communities.

ProBono.Org extends its sincere appreciation to Ashraful Aid for its generous contribution and continued support. The partnership is a reminder that meaningful change is strengthened when organisations come together to support communities and advance access to justice. Together, we can create stronger spaces, stronger partnerships and greater access to justice.

STAFF NEWS



New Appointment – Cape Town

Mikhail Petersen has been appointed as a Staff Attorney in the Cape Town office. He holds a Bachelor of Social Science in Politics & Economic History (UCT) as well as an LLB (UCT). He was admitted as an Attorney in 2024. Mikhail believes in the law as a tool for social change and its ability to result in the realisation of the rights of the marginalised. Prior to his current role he has held positions at various NGOs and civil society organisations.

Welcome Mikhail!



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OUR WORK

www.probono.org.za



JOHANNESBURG: 1st Floor West Wing
Women's Jail, 1 Kotze Street, Braamfontein 2017
telephone: 011 339 6080 **fax:** 086 512 2222

DURBAN: Unit 310, 3rd Floor, Cowey Park, 91-123
Problem Mkhize Rd, Morningside, Durban 4001
telephone; 031 301 6178 **fax:** 031 301 6941

CAPE TOWN: JDN House, 26A Shortmarket Street
Cape Town 8001
telephone: 087 470 0721 **fax:** 086 665 6740