



ANNUAL REPORT 2020

EELC

EQUAL EDUCATION
LAW CENTRE

MESSAGE FROM THE EXECUTIVE DIRECTOR



It is hard to believe that it is just under a year since I took over the role of the Executive Director of the EELC in July 2020. 2020 was a year of remarkable resilience for the EELC in a time of great uncertainty for all. The organisation successfully navigated a leadership transition at the height of the COVID-19 pandemic and has continued to grow from strength to strength in its fight for equal and quality education in South Africa.

With the declaration of a national state of disaster and the closing of schools in March 2020 the EELC, alongside other social justice organisations, immediately responded to the devastating impact of the pandemic on education. We relentlessly pushed for the safe re-opening of schools and adequate continued remote learning for all learners in South Africa. On many occasions, we saw the wholesale adoption of the recommendations which we made. Through our efforts, we ensured that policies and responses which were developed were both reasonable and constitutional.

Most notably, we were part of a successful urgent court application alongside SECTION 27, on behalf of Equal Education, challenging the failure to roll-out the National School Nutrition Programme to learners during the National State of Disaster. Our intervention led to the immediate resumption of the nutrition programme and ensured that

over 9 million learners continued to have access to a daily meal during a time of great food insecurity and vulnerability.

We further ensured that the needs of vulnerable learners with disabilities were protected in the Department of Basic Education's plans and responses to COVID-19 and the reopening of schools- in circumstances where they had been left out and overlooked. Our intervention, on behalf of the Centre for Child Law, led to amendments to the policies making provision for proper health and safety measures, to all learners with disabilities who were returning to special schools and special school hostels, as well as to those who remain at home during the COVID-19 pandemic.

The EELC has been innovative and creative in its response to the COVID-19 pandemic and the inevitable change it has brought to our ways of working. Despite not being able to conduct physical consultations, our education advice clinic has remained accessible to learners, parents, and communities in furtherance of their rights to justice and education. Over the course of the year, we attended advice clinic matters dealing with a range of topics including the impact of COVID-19 on schools, school admissions, school fees issues in public and private schools, disciplinary procedures, and infrastructure.

Movement lawyering remains at the heart of the work of the EELC. Our relationship with our comrades at Equal Education has continued in strength through supporting their campaigns,

legally empowering their youth members, and bringing ground-breaking litigation on their behalf to bring about systemic change. It is a great privilege to serve as a movement lawyer to such a young and dynamic social movement. Through our unique partnership, we can ensure that policy and legal developments within education in South Africa are grounded within a social movement and amplify the voices of the many marginalised learners in our country.

I must note the cooperative nature with which the Social Justice Sector responded to COVID-19. How we forged together at the very onset to ensure that we responded to the crises collectively and the important work which we do as organisations in protecting and promoting South Africa's Constitution continues was remarkable.

On my arrival at the EELC I found a strong team of young activist lawyers and staff. I am consistently in awe of their tenacity and unwavering commitment to the work which we do and the clients and communities who we serve. For this I am thankful. This annual report reflects their hard work and strength during an extraordinary time. My deepest thanks to the EELC's Deputy Director, Ms Robyn Beere, who has played a critical role during our period of transition and remains an anchor to both myself and the organisation.

I also wish to pause and give thanks and recognition to EELC's former Executive Director, Ms Nurina Ally, who left the EELC in June 2020 after over 5 years of dedicated service to the organisation. Nurina's invaluable passion and commitment left behind a strong organisation with a solid foundation and legacy. She remains a friend and comrade of the EELC in our struggle for equal and quality education in South Africa. I indeed have the privilege of following on from a strong thread of leaders.

I am grateful to our Board of Trustees who continue to selflessly give of their time to the work of the EELC and who have remained a compass for us as an organisation.

There is still much to do in the fight for equal and quality education in South Africa - under-resourced schools, poor infrastructure, lack of water and sanitation, and the legacy of our apartheid history which continues to haunt our education system and structures. This is the state within which the COVID-19 pandemic found our education system and amplified the difficulties which are already faced. We will continue to forge ahead in dismantling the inequalities of our past and ensuring that every child in South Africa has an equal and quality education! Aluta continua! Matla!

ADVANCING EDUCATION JUSTICE

HOW WE WORK

The EELC's formation was borne out of a recognition of the crucial link between legal advocacy and social mobilisation. In particular, the EELC uses a combination of movement lawyering, community lawyering and research and advocacy.



MOVEMENT LAWYERING

The EELC provides legal support to, Equal Education (EE), a democratic social movement of parents, teachers and high school learners (known as Equalisers). As movement lawyers, the EELC provides legal advice and support, including but not limited to strategic litigation, to further EE's campaigns for equal and quality education.



COMMUNITY LAWYERING

Central to the work of the EELC is advancing access to justice through the provision of advice and legal services to marginalised individuals and communities. The EELC runs a specialist education law clinic, providing legal empowerment and advice to clients nationally. The EELC also runs a series of community-based workshops on education law and constitutional rights across the country.



RESEARCH AND ADVOCACY

The EELC uses legal research and advocacy to advance the right of access to education. This is done through initiating and participating in advocacy activities around key issues in education, monitoring national and provincial legislatures, and making submissions on draft legislation and policy impacting on education. The EELC also publishes research reports to advance knowledge and support advocacy in the education sector.

THEMATIC AREAS FOR 2020

COVID-19

Early Childhood Development

Exclusionary practices in schools

Inclusive Education

Learner Support

Admissions

Private Actors in Education

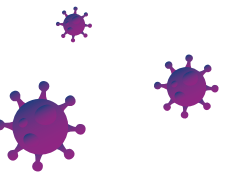
Right to Protest

Sanitation

Transport

Quality

RESPONDING TO COVID-19 IN 2020



The EELC has responded to urgent and emerging issues relating to the impact of the COVID-19 pandemic on the education sector during 2020. This has been achieved through extensive collaboration with various education justice and children's rights advocacy organisations, government, learners and parents.

Some of the key areas of our work in this regard are:

REGULATORY FRAMEWORK FOR COVID-19 AND EDUCATION

Throughout 2020, the EELC, has engaged with the Department of Basic Education ("DBE") making recommendations on the many amendments made to Directions relating to re-opening of schools, exemption from attending school and others. Following from these engagements with the DBE, including the submissions of proposed amendments, revised Directions were published periodically reflecting substantial changes in line with our recommendations. [Read our joint statement.](#)

BUDGET TRANSPARENCY & ACCOUNTABILITY

On 1 June 2020, the EELC together with partner organisations submitted a joint letter to the DBE and National Treasury on the impact of COVID-19 on the education sector budget. The organisations have followed budget developments and on

25 June published a statement on the supplementary budget lamenting the lack of additional funding to the Basic Education sector and noting concern that COVID-19 mitigation measures came at the expense of long-term infrastructure needs. [Read the joint statement](#) and [joint submission](#). The EELC has continued to monitor education budget cuts and expenditure with a view to continued budget advocacy.

#SAFESPECIALSCHOOLS - RIGHTS OF LEARNERS WITH DISABILITIES

On Friday 17 July 2020, the Centre for Child Law (CCL), represented by Equal Education Law Centre (EELC), launched an urgent application in the North Gauteng High Court against the Minister of Basic Education for her failure to adequately provide support, as well as proper health and safety measures, to all learners with disabilities who are returning to special schools and special school hostels, as well as to those who remain at home during the COVID-19 pandemic.

The litigation was a culmination of various attempts since April 2020, by civil society organisations, including Organisations for Persons with Disabilities, to engage as a collective with the Department of Basic Education's (DBE) Inclusive Education Directorate (IED), to monitor progress being made to ensure that the necessary health and safety measures were put in place for learners with disabilities. These include the provision of adjusted and appropriate

personal protective equipment (PPE) to officials and learners, as well as ensuring the provision of educational and therapeutic support to learners with disabilities during lockdown, during their phased return to school, and for those learners who continue to remain at home.

On 4th August 2020, the North Gauteng High Court handed down an order (by consent) compelling the DBE to amend Directions, publish 6 disability specific guidelines and revise the Standard operating procedures to include health and safety measures for learners with disabilities. The EELC, CCL and a number of OPDs worked collaboratively with the DBE to finalise these documents. The EELC continues to monitor the Provincial Education Departments' compliance with the order. [READ MORE](#)

CURRICULUM SUPPORT FOR LEARNERS AT HOME

The EELC together with EE and Section27 made recommendations to the DBE on equitable access to curriculum support resources during COVID-19, including the availability of printed material given that the majority of learners in South African do not have access to online platforms or data.

The organisations also wrote to cell phone service providers advocating for the full listing of zero-rated education sites. [Read our joint op-ed.](#)



Movement lawyering remains at the heart of the EELC's work.



MOVEMENT LAWYERING – LITIGATION

Movement lawyering remains at the heart of the EELC's work. Together with Equal Education, we have undertaken significant work during 2020 aimed at mitigating the impact of COVID-19 on the right to basic education.

#9 MILLION MEALS

On 17 July 2020, Equal Education (EE) and two Limpopo schools, represented by EELC and Section27, obtained a monumental judgement in an urgent application aimed at ensuring that during the period of the National State of Disaster and resulting school closures, meals continue to be provided to over nine million learners who would ordinarily benefit from the National School Nutrition Programme (NSNP). Importantly, the judgement recognised the right to nutrition and its link to the right to basic education.

Following the judgement, Equal Education, Equal Education Law Centre, and SECTION27 have been undertaking the crucial work of public education on the judgment and monitoring its implementation on the ground

and analysing all the PED and DBE's court-ordered reports. See our statements [HERE](#). Our engagement through the structural order has improved the DBE and PED's monitoring end reporting on the NSNP.

In addition to our work on COVID-19 we also continued to support EE in a number of ongoing campaigns and cases:

#RECLAIMTHECITY - SPATIAL JUSTICE AND ACCESS TO EDUCATION

Equal Education, represented by EELC was previously admitted as amicus curiae in this matter involving a challenge by, amongst others, the movement #ReclaimTheCity against a decision by provincial and city officials of Western Cape to sell publicly-owned land to a private school in the prime area of Sea Point. A favourable judgment that has the potential of impacting the devastating effects of existing housing programmes and spatial planning was handed on 31 August 2020.

BASIC NUTRITION



#9MILLIONMEALS
#FAMILIESNEEDNSNP

The submissions made on behalf of Equal Education highlighted the need for government, at all levels, to recognise the interrelated nature of socio-economic rights, and the link between spatial justice and education justice. [Read more](#)

#JUSTICE4MICHAEL- SCHOOL INFRASTRUCTURE IMPLEMENTATION (LIMPOPO)

In terms of the structural order issued by the Court in 2018 in the Michael Komape case, the state was required to ensure that pit latrines in the Limpopo province were eradicated. In February 2020, EELC and EE visited 15 schools in Limpopo and conducted surveys on issues relating to, amongst others, access to toilets and water. On the basis of these visits and as part of the monitoring of the implementation of the structural order [supplementary submissions](#) were made to the Limpopo High Court.

Despite the Norms and Standards on School Infrastructure, these dangerous structures remain in some schools and pose an imminent threat to learner safety. The EELC alongside the other parties in the matter filed Heads of Argument and the matter is due to be re-heard in 2021.

CONSTITUTIONAL DUTIES OF PRIVATE SCHOOLS - AB AND CB V PRIDWIN PREPARATORY AND OTHERS

On 17 June 2020, the Constitutional Court handed down judgment in the case of *AB and Another v Pridwin Preparatory School and Others*. The Court held that independent schools “are not exempt from constitutional obligations” and are required to afford parents and learners a fair opportunity to be heard on whether a decision to terminate a contract with the school is in the best interests of the children concerned.

The EELC represented EE as a friend of the court. EE made submissions on the context and implications of increased privatisation of education in South Africa and, in particular, the rise of low-fee independent schools. As was stated by the majority judgment, penned by Theron J: “As the power and significance of the independent school sector continues to grow, so too does the need for constitutional protection”. EE also made submissions on the meaning and relationship of sections 29(1)(a) and 29(3) of the Constitution, which was reflected in the [judgment](#).





COMMUNITY LAWYERING

ADVICE CLINIC

The EELC runs an education law clinic and receives queries from learners, parents, school governing body members as well as educators via email, Facebook, Twitter and by telephone. Despite not being able to conduct physical consultations due to the COVID-19 pandemic, we have continued to provide advice throughout 2020 and have assisted over 300 clients across the country with education-related matters.

EELC provided legal support in a number of matters related directly to the impact of COVID-19 on basic education. These matters related to issues such as schools' failure to comply with the health and safety Regulations and inadequate school infrastructure and social distancing. School fee and fee exemption related matters were among the highest number of matters received due to the significant economic impact which COVID-19 has had on communities.

Many parents approached us seeking assistance with cases where schools, both public and private schools, made use of irregular or unlawful practices when collecting outstanding school fees. These practices include cancellation of contracts (in case of private school); withholding reports; exclusion of learners where parents are unable to pay school fees; or not allowing learners to write exams.

Other matters included, learner victimization and discrimination; and unlawful and irregular disciplinary proceedings, which include cases of learners being unlawfully excluded from school when testing positive for Covid-19; delivery of education and registration for home schooling; shortage of textbooks; and corporal punishment.

Many of these matters were successfully resolved.



Despite COVID-19 restrictions limiting in person meetings, our community lawyering programme continued using innovative platforms to engage participants.

WORKSHOPS AND TRAINING

COVID-19 restrictions on gatherings and movement had a significant impact on the EELC's ability to hold face-to-face workshops and stakeholder engagements. Despite this we were still able to make use of online platforms (webinars, zoom, Facebook live) to host over **15 workshops** this year. These have included paralegal and SGB training, workshops with EE staff and Know your rights sessions with EE learner members- equalisers.

In addition, we have successfully hosted **2 webinars** discussing various challenges to the ECD Sector and our staff have been panelists on a number of webinars covering topics such as the NSNP case, education during COVID and Learners with disabilities. We further co-hosted a webinar with EE on the Norms and standards for School infrastructure.



THEMATIC WORK

EARLY LEARNING OPPORTUNITIES

The work in this thematic area in 2020 has focused on three primary aspects:

- The function shift of ECD from the Department of Social development to DBE
- The impact of COVID-19 on the ECD Sector
- Amendments to the Children's Act

The EELC has engaged in various advocacy activities calling for support for the early childhood development (ECD) sector during the COVID-19 pandemic. Through direct engagements with DSD and monitoring litigation, the EELC kept stakeholders updated on developments in the ECD sector through our monthly monitoring briefs and two ECD dedicated webinars.

The EELC is a founding member of the Real Reform for ECD campaign which was launched in response to the problematic amendments in the Children's Amendment Bill, 2020 (the "Bill"). The campaign aims to raise awareness about the challenges with the Bill and to empower members of the public to make their voices heard by making submissions to Parliament on the Bill. As a member of the campaign, in order to achieve the campaign goals, the EELC assisted with the development of submission templates and campaign materials to encourage and empower stakeholders to engage with the amendment process. In addition, it reached out to the Chairperson of the parliamentary Portfolio Committee, urging him and the members of the committee to consider the key challenges with the Bill more closely.

The EELC has had several engagements with the DBE and a range of stakeholders to discuss the challenges to the proposed function shift of ECD from DSD to DBE. The EELC is currently conducting research to assist with recommendations for regulatory reform to enable the function shift from DSD to DBE.

LEARNER SUPPORT

Much of the work in this thematic area has centred around:

- Research to build internal capacity and expertise to better understand the complexities of providing adequate support for learning.
- The impact of COVID-19 on learners with disabilities
- Researching the regulatory framework for inclusive education

The EELC has conducted extensive research in this thematic area to inform our advocacy towards increased support for learners in schools. This included research covering the following topics: The efficacy and functioning of school and district-based support teams; the role and functioning of Full-Service Schools and special school resource centres. This work will be consolidated into a report to the DBE and other stakeholders making recommendations for regulatory reform.

THE REGULATORY FRAMEWORK FOR QUALITY LEARNING OUTCOMES

The EELC's work in this thematic area aims to ensure a coherent national strategy and regulatory framework that allows for effective and efficient identification, management, support and monitoring of quality performance in 'underperforming schools.' When a child attends one of the 'underperforming' schools in the country- a school achieving a National Secondary Certificate pass rate of below 60% - their opportunities and prospects in life are severely diminished.

To this end, we undertook a range of activities in 2020, which included, conducting research and an analysis on the broader regulatory framework applicable to underperforming schools and of the provincial reports that provides information on the remedial interventions and strategies used by provinces and DBE, to improve school performance. In addition, to obtaining province specific insight the team also surveyed school principals and district officials for one of the provinces with a view to getting a better sense of the practical remedial interventions and support provided to 'underperforming schools' and the challenges with the implementation of the regulatory framework.

Our preliminary research findings indicate that there is an urgent need for a coherent and effective national strategy and regulatory framework that would ensure continuous investment and commitment from provinces and the DBE for the improvement of these schools. This body of research will inform the publication of a report and the EELC's future work in this area.

MEDIA ENGAGEMENT

The EELC has engaged the media on various education-related matters in 2020.

Follow articles about the EELC on our website [HERE](#). In addition to general media engagement, view a summary of our Media Engagement Highlights for 2020

Authored 25 published op-eds in 2020

31 Radio & 19 TV interviews

Multi-platform audience of 15000 users on Social Media

Referenced in at least 220 media articles (2020)

450 Monthly Subscribers to Monthly Monitoring Brief & Newsletters

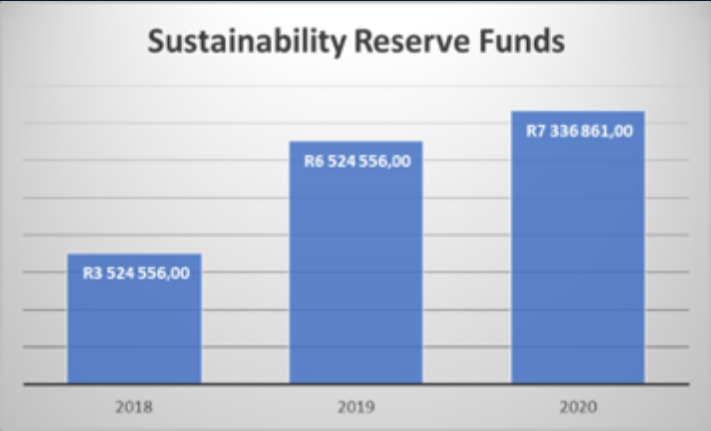
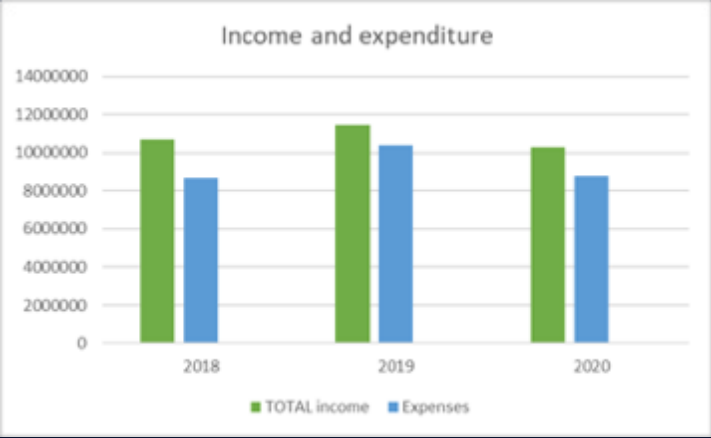
Hosted 2 Webinars on Early Childhood Development

Media & Communications Highlights 2020



www.eelawcentre.org.za

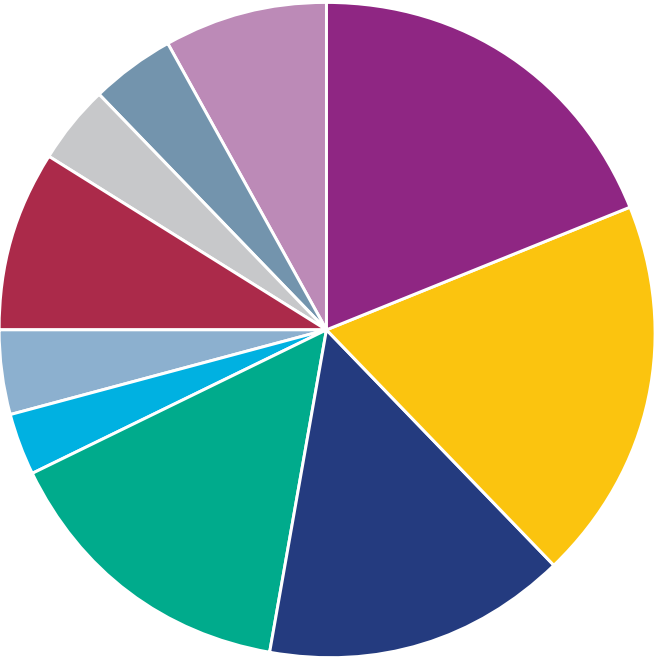
Extracted from the audited annual financial statement for the year ending 31 December 2020



STATEMENT OF FINANCIAL POSITION

FIGURES IN R	2020	2019
Assets		
Non-current assets		
Property, plant and equipment	210 355	217 161
Total non-current assets	210 355	217 161
Current assets		
Trade and other receivables	464 941	38 312
Cash and cash equivalents	16 659 812	14 721 859
Total current assets	17 124 753	14 760 171
Total assets	17 335 108	14 977 332
Trust funds and liabilities		
Trust funds		
Trust Capital	500	500
Accumulated surplus	3 503 434	2 090 691
Sustainability Reserve Fund	7 336 861	6 524 556
Total trust funds	10 840 795	8 615 747
Liabilities		
Current liabilities		
Provisions	115 979	64 509
Trade and other payables	33 427	130 654
Deferred income	6 344 907	6 166 422
Total current liabilities	6 494 313	6 361 585
Total liabilities	6 494 313	6 361 585
Total trust funds and liabilities	17 335 108	14 977 332

GRANTS AND DONATIONS UTILIZED DURING 2019



- Bertha Foundation **19%**
- General donations **19%**
- Cameron Schrier Foundation **15%**
- The Raith Foundation **15%**
- Open Society Foundation for South Africa **9%**
- Claude Leon Foundation **8%**
- Heinrich-Boll-Stifung Southern Africa **4%**
- Ford Foundation **4%**
- The Allen & Overy Foundation **4%**
- The European Union **3%**

NOTE ON THE FINANCIAL POSITION OF THE EELC DURING 2020

Countrywide restrictions on movement and gatherings imposed by government in response to the COVID-19 pandemic had a significant impact on the 2020 budget. The EELC reported an underspend on the budget in excess of R1million primarily on travel, printing and face-to-face engagements. This necessitated the negotiation of no cost extensions to some of our grants. We were able to increase our sustainability reserves to achieve our goal of 12 months cover for core operating expenses.

Annual Financial Statements for the year ended 31 December 2020

Registration details:

Trust: IT 2966/ 2011

NPO: 099 - 658 - NPO

PBO: 930038683

BANKING DETAILS:

FNB:

Adderley Street

ACCOUNT NAME:

Equal Education Law Centre Trust

ACCOUNT NUMBER:

62338566584

Cheque account



THANK YOU TO OUR TEAM, SUPPORTERS AND PARTNERS

The work of the EELC has been made possible by our dedicated and passionate team. Our esteemed Board of Trustees have continued to provide clear guidance and support to the organisation for which we are appreciative. We must also thank the advocates who have provided support to the EELC's matters over the year. Finally, we thank our donors for their contribution to the struggle for equal and quality education for all, including:

Allen & Overy Foundation

Bertha Foundation

Sigrid Rausing Trust

Claude Leon Foundation

Open Society Foundation SA

Cameron Schrier Foundation

Ford Foundation

Heinrich Böll Stiftung

Raith Foundation

The European Union



EQUAL EDUCATION LAW CENTRE

www.eelawcentre.org.za



Third Floor Isivivana Centre, 8 Mzala Street, Khayelitsha, Cape Town



021 461 1421 / 0800 110 752



info@eelawcentre.org.za