

EELC Newsletter - July to November 2019

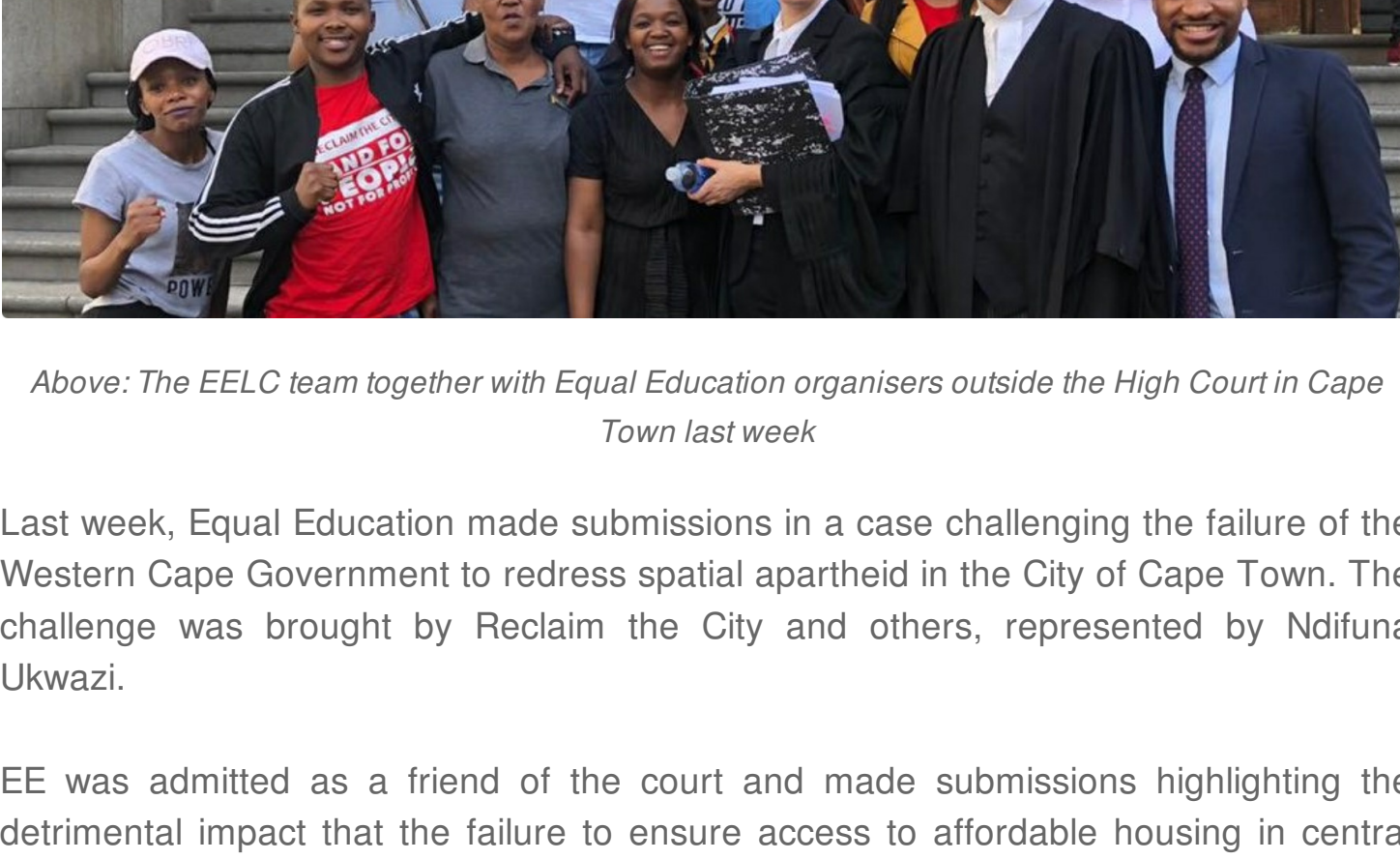
Movement lawyering • Community lawyering • Research and Advocacy

The Equal Education Law Centre (EELC) uses legal advocacy, research, and litigation to advance the struggle for equal and quality education in South Africa.

In our second newsletter for 2019, we provide a snapshot of some of our key areas of work over the second half of this year.

MOVEMENT LAWYERING

#Land4PeopleNOT4Profit - EE makes submissions on the link between the rights to housing and education



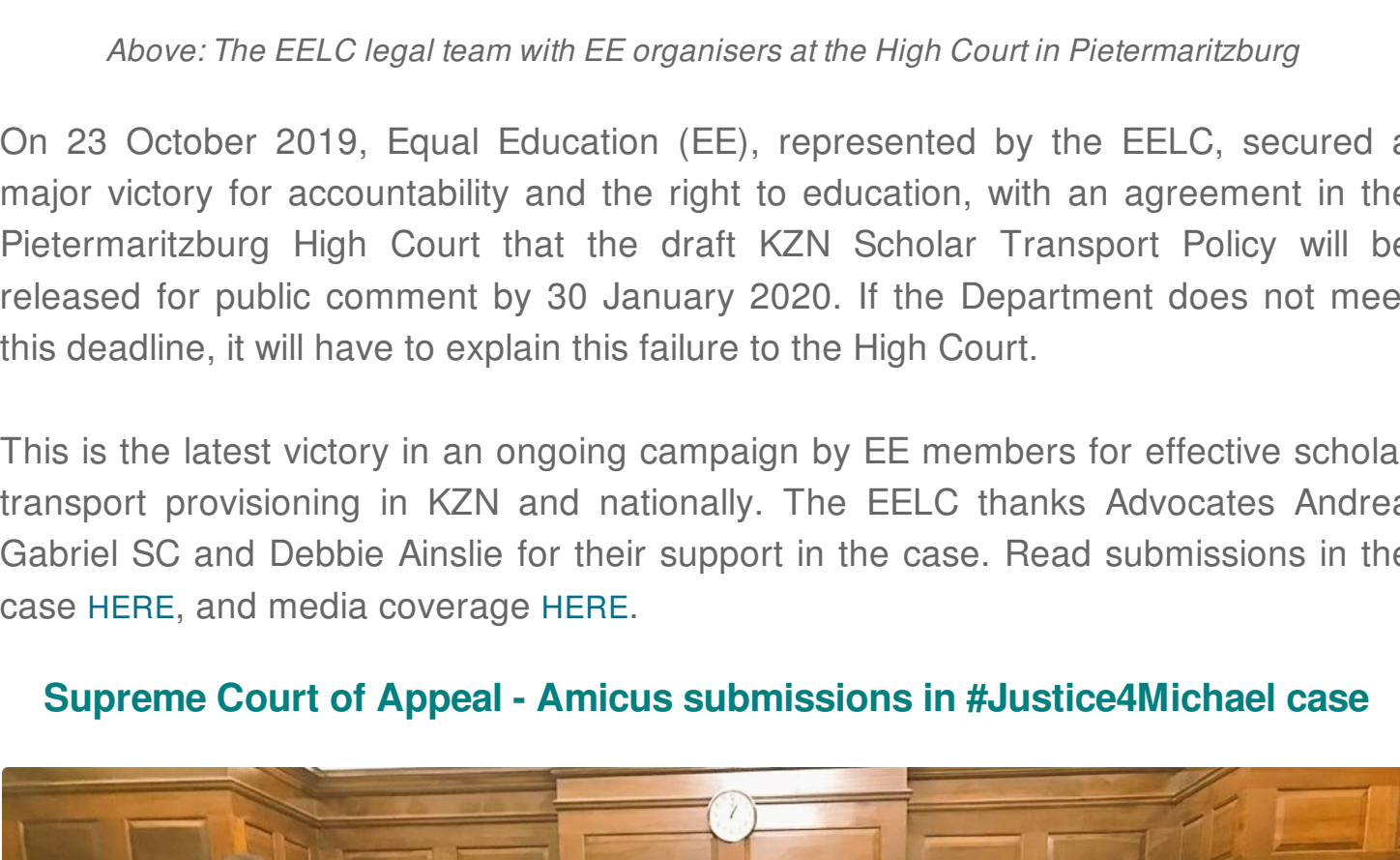
Above: The EELC team together with Equal Education organisers outside the High Court in Cape Town last week

Last week, Equal Education made submissions in a case challenging the failure of the Western Cape Government to redress spatial apartheid in the City of Cape Town. The challenge was brought by Reclaim the City and others, represented by Ndifuna Ukwazi.

EE was admitted as a friend of the court and made submissions highlighting the detrimental impact that the failure to ensure access to affordable housing in central Cape Town has on learners' access to, and enjoyment of, the right to basic education.

In support of its application, EE submitted affidavits from two experts, namely Dr Barbara Holtmann and Prof. Aslam Fataar, and also conducted interviews with school principals and high school learners who, in order to access quality education, are forced to travel long distances to school and back home every day. The EELC thanks Advocates Janice Bleazard and Urdy Naidoo for their support in this matter. Read submissions in the case [HERE](#), and media coverage [HERE](#).

Success: #LongWalkToSchool - Date for release of policy secured

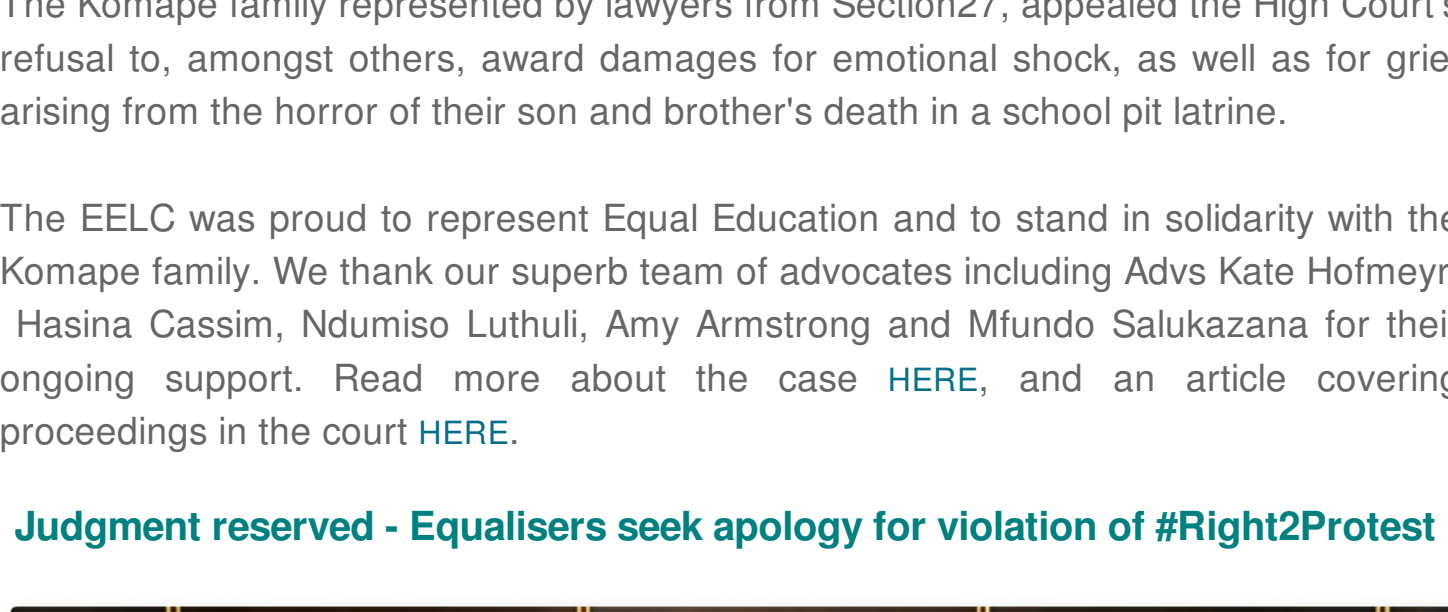


Above: The EELC legal team with EE organisers at the High Court in Pietermaritzburg

On 23 October 2019, Equal Education (EE), represented by the EELC, secured a major victory for accountability and the right to education, with an agreement in the Pietermaritzburg High Court that the draft KZN Scholar Transport Policy will be released for public comment by 30 January 2020. If the Department does not meet this deadline, it will have to explain this failure to the High Court.

This is the latest victory in an ongoing campaign by EE members for effective scholar transport provisioning in KZN and nationally. The EELC thanks Advocates Andrea Gabriel SC and Debbie Ainslie for their support in the case. Read submissions in the case [HERE](#), and media coverage [HERE](#).

Supreme Court of Appeal - Amicus submissions in #Justice4Michael case



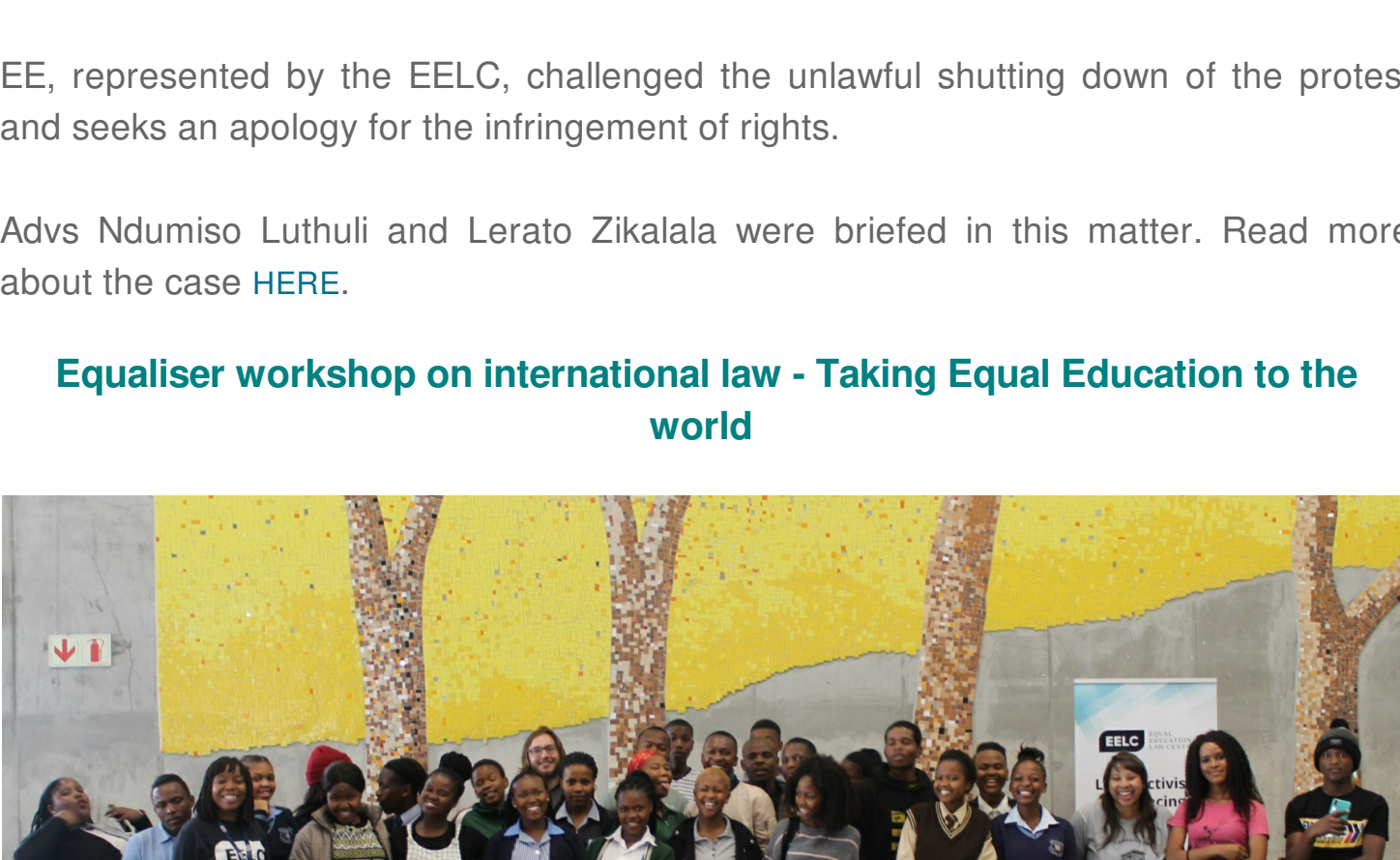
Above: The EELC team together with our advocates and Equal Education at the Supreme Court of Appeal

On 2 September 2019, Equal Education made submissions as a friend of the court in the #Justice4Michael appeal heard by the Supreme Court of Appeal.

The Komape family represented by lawyers from Section27, appealed the High Court's refusal to, amongst others, award damages for emotional shock, as well as for grief arising from the horror of their son and brother's death in a school pit latrine.

The EELC was proud to represent Equal Education and to stand in solidarity with the Komape family. We thank our superb team of advocates including Advs Kate Holmeyer, Hasina Cassim, Ndumiso Luthuli, Amy Armstrong and Mlundo Salukazana for their ongoing support. Read more about the case [HERE](#), and an article covering proceedings in the court [HERE](#).

Judgment reserved - Equalisers seek apology for violation of #Right2Protest



Above: The EELC legal team and EE activists at the High Court in Pietermaritzburg

On 2 August 2019, the EELC represented Equal Education and its members in a case aimed at securing accountability when the right to peaceful protest is shut down.

In July 2017, EE members intended to publicly screen a short film, called the Long Walk to School, outside the Pietermaritzburg office of the KZN DA's. Despite having complied with all the formalities in the Gatherings Act, EE members were ordered to disperse and threatened with the use of teargas. Among the EE members present were Equalisers (school-going members of EE) younger than 18-years-old.

EE, represented by the EELC, challenged the unlawful shutting down of the protest and seeks an apology for the infringement of rights.

Advs Ndumiso Luthuli and Lerato Zikalala were briefed in this matter. Read more about the case [HERE](#).

Equaliser workshop on international law - Taking Equal Education to the world



Above: The EELC and ICJ teams with Equalisers from Johannesburg and Cape Town

In October 2019, the EELC together with the International Commission for Jurists, hosted a workshop for Equalisers (high school learner members of Equal Education) from Johannesburg and Cape Town on using international law mechanisms for advocacy on the right to education.

Equalisers engaged on submissions made to the UN Committee on Economic, Social and Cultural Rights, as well as the Committee's Concluding Observations. Watch a short video on the workshop [HERE](#).

Building the Movement - EELC attends EE National Council meeting



Above: The EELC team facilitating a discussion at EE's National Council

In September 2019, the EELC participated in Equal Education's National Council meeting, which is the movement's highest decision-making structure.

The EELC team presented on our State of Education report and some of the key trends in the basic education sector.

COMMUNITY LAWYERING

EELC law clinic assists over 300 clients

The EELC runs a daily advice clinic, servicing individuals and communities across South Africa. The clinic receives walk-in clients at our offices in Khayelitsha, but also through email, Facebook, twitter and by telephone. These come from learners, parents, school governing body members as well as educators.

From July to November 2019, the EELC assisted approximately 334 clients on a range of issues including, for example, on school admissions, fee exemptions, school infrastructure, corporal punishment, disciplinary processes and withholding of school reports.

In November 2019, Africa Legal published a profile on the EELC's advice clinic. Read more [HERE](#).

Workshops and community engagement



In 2019, the EELC held a total of 37 workshops across 5 provinces with learners, parents, school governing bodies (SGBs) and paralegals. The workshops have covered a range of issues impacting on the right to education. In 2020, the EELC will be hosting a series of workshops aimed at empowering SGB members through training on issues such as school safety, admissions, disciplinary processes and school funding.

Success: EELC secures order requiring adequate sanitation at three Eastern Cape schools



Above: Condition of toilet block at one of the applicant schools

In October 2019, the Eastern Cape High Court (East London) issued an order, by agreement, in an urgent application concerning inadequate sanitation facilities at three Eastern Cape schools. The order followed an agreement reached by the EELC, representing the three schools and the Eastern Cape Department of Education ("the Department").

Learners and educators at the schools lacked safe, usable toilets and an adequate water supply. Whilst the Department initially opposed the application, it acknowledged the pitiful state of ablation facilities and the absence of potable water at the Applicant schools. Accordingly, the parties committed to finding a resolution to the matter which would ensure dignified and adequate sanitation and water supply at all of the schools.

Following engagement, the Department agreed to ensure both temporary and long-term sanitation to all three schools. The agreement has been made an order of court, with specific timelines for implementation and reporting. Read more about the case [HERE](#).

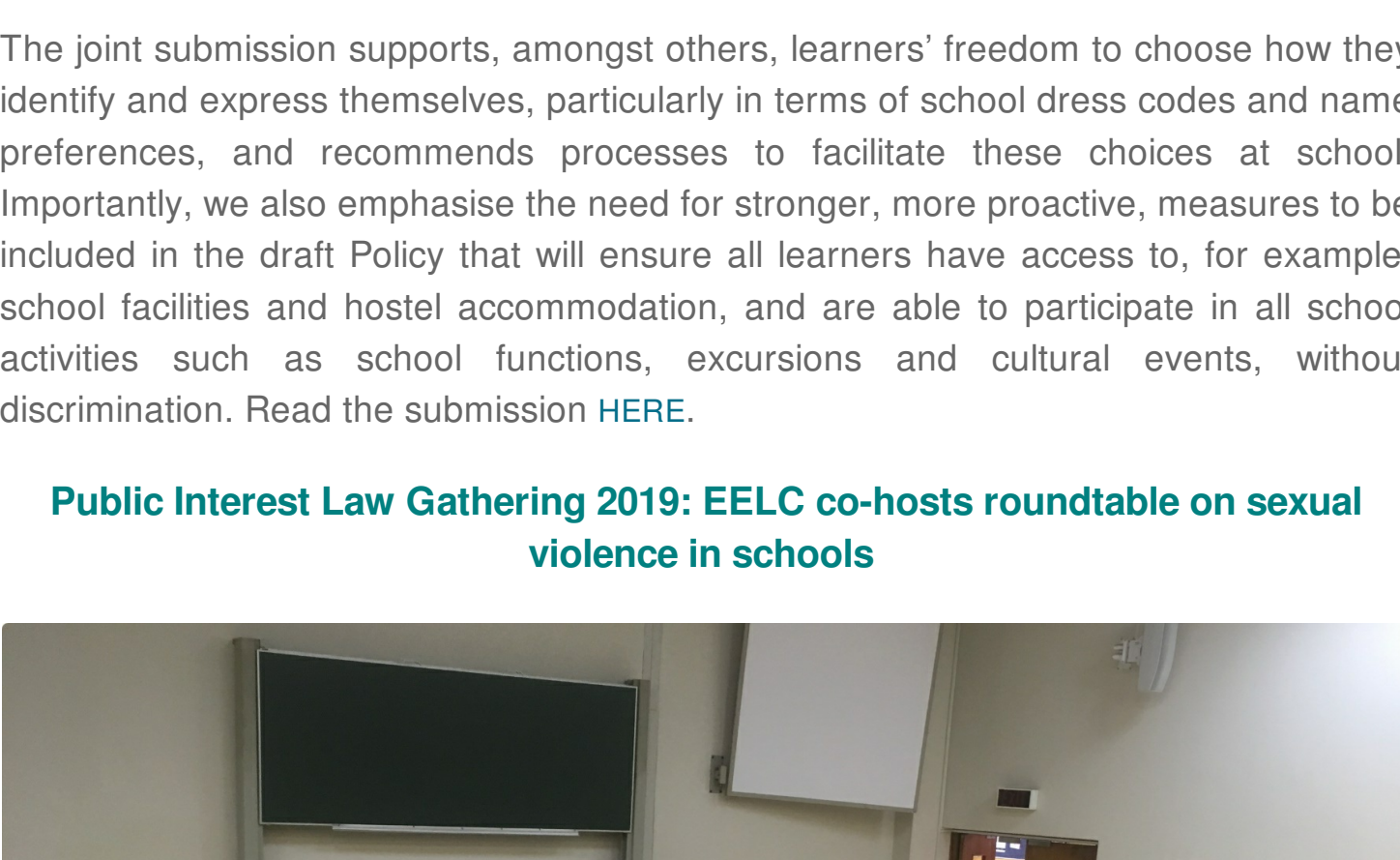
Best interests of the child - EELC appointed as amicus curiae to assist High Court



The EELC has been appointed as a amicus curiae (friend of the court) in a matter involving an early childhood development centre.

As amicus curiae, the EELC has been asked by the Court to ensure that the best interests of the children concerned are taken into account.

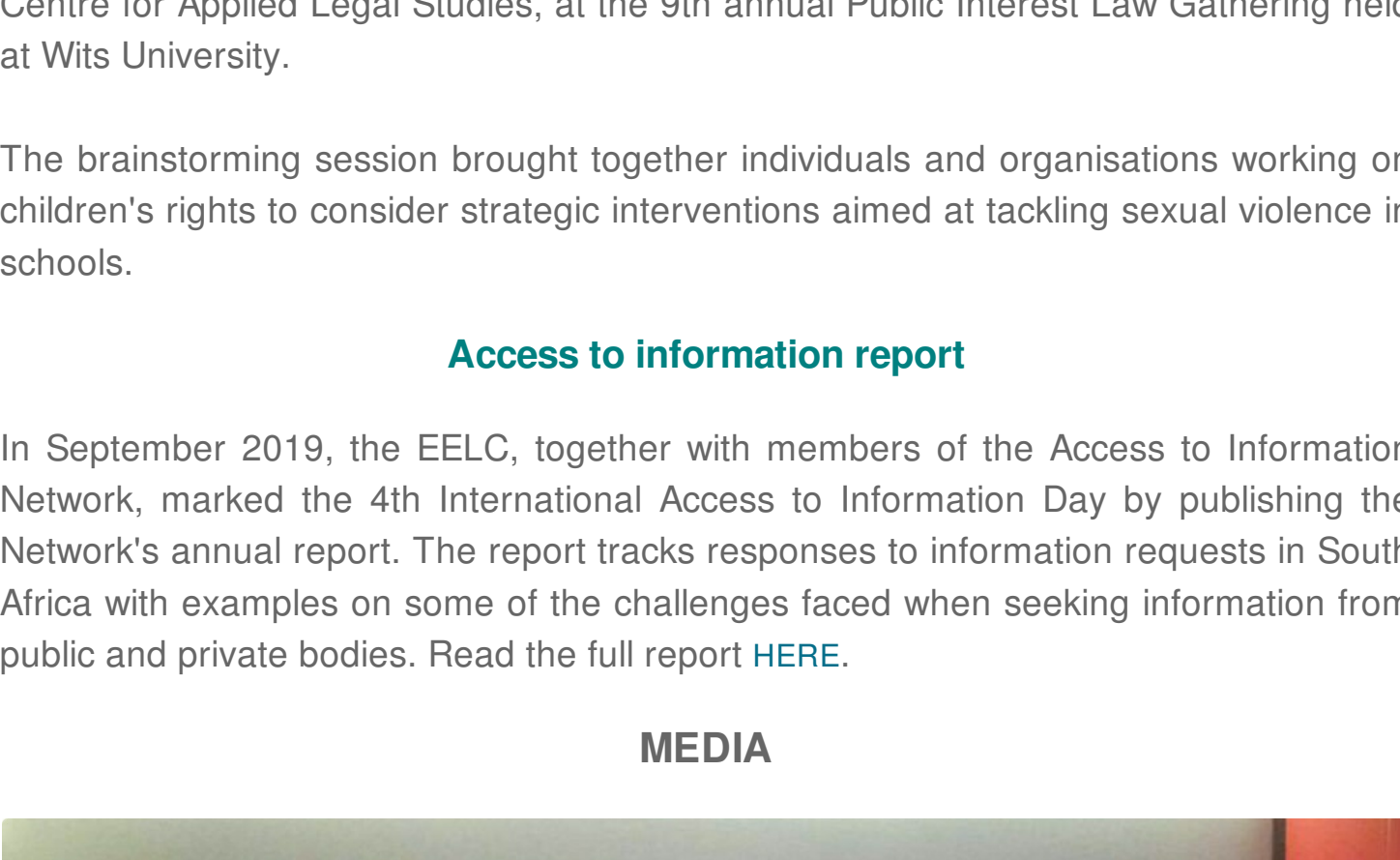
#Lawyering for Change - EELC co-hosts Spring School for Western Cape university students



In the last week of August, the EELC teamed up with the Centre for Law and Society to co-host a three day Spring School with Western Cape law students. The students engaged lawyers and activists from various public interest law organisations and discussed models for public interest lawyering.

RESEARCH AND ADVOCACY

Engaging Parliament on the State of Education



Above: The EELC team making submissions before the Portfolio Committee on Basic Education

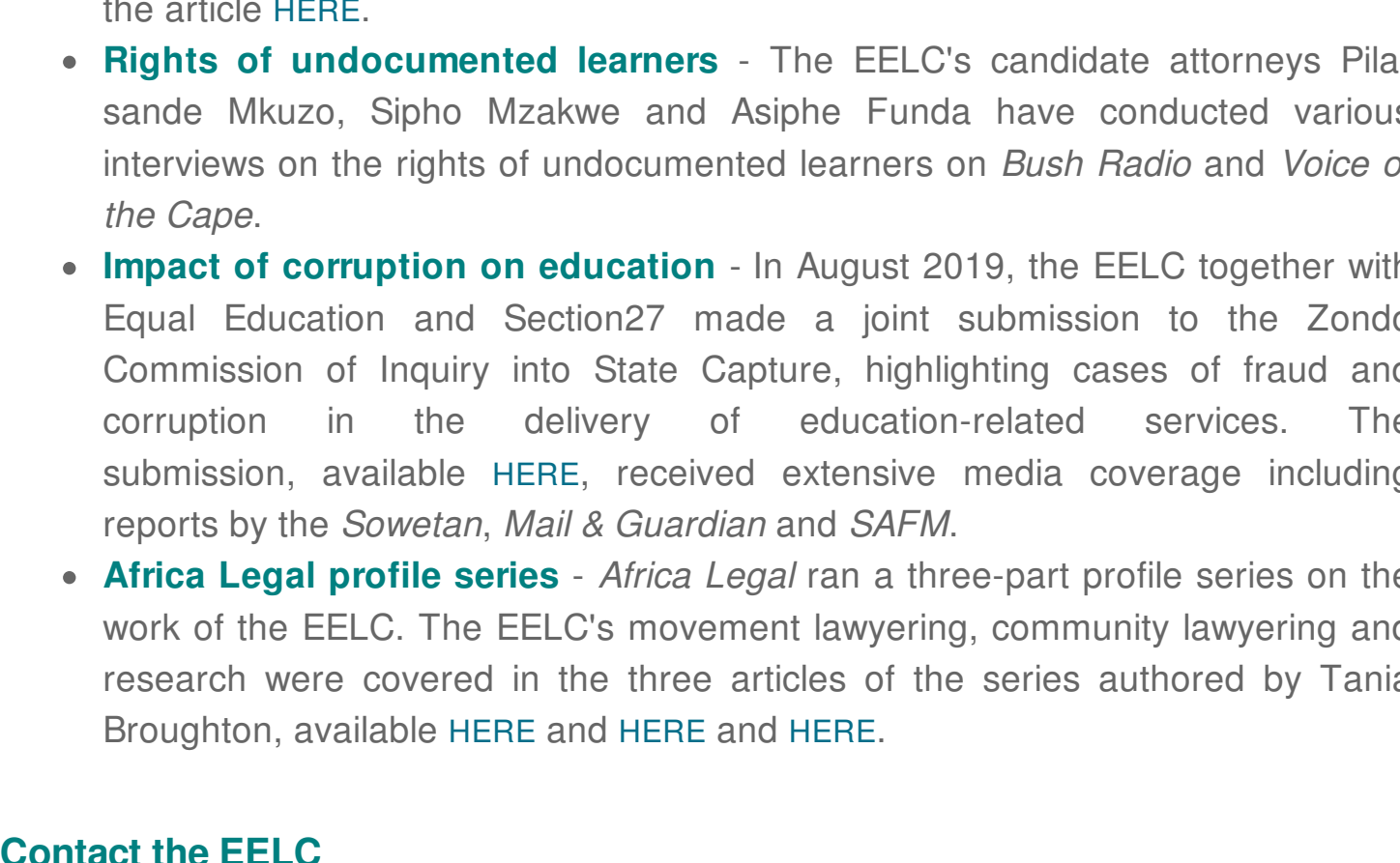
In October 2019, the EELC made oral submissions before the Portfolio Committee on Basic Education on the EELC's State of Education report, covering issues relating to education funding trends, school infrastructure, early childhood development, learner transport and exclusionary admission practices. Read the full report [HERE](#) and media coverage of the Portfolio Committee meeting [HERE](#).

Submission: Policy on sexual orientation and gender identity in schools

On 6 September 2019, the EELC made a joint submission with Equal Education on the Western Cape Department of Education's (WCED) draft Policy on Gender Identity and Sexual Orientation (draft Policy). The draft Policy attempts to guide schools in the way LGBTQIA+ learners must be accommodated, and aims to promote gender and sexual identity and expression in the learning environment.

The joint submission supports, amongst others, learners' freedom to choose how they identify and express themselves, particularly in terms of school dress codes and name preferences, and recommends processes to facilitate these choices at school. Importantly, we also emphasise the need for stronger, more proactive, measures to be included in the draft Policy that will ensure all learners have access to, for example, school facilities and hostel accommodation, and are able to participate in all school activities such as school functions, excursions and cultural events, without discrimination. Read the submission [HERE](#).

Public Interest Law Gathering 2019: EELC co-hosts roundtable on sexual violence in schools



Above: The EELC team facilitating a session at the Public Interest Law Gathering

The EELC co-hosted a roundtable on sexual violence in schools, together with the Centre for Applied Legal Studies, at the 9th annual Public Interest Law Gathering held at Wits University.

The brainstorming session brought together individuals and organisations working on children's rights to consider strategic interventions aimed at tackling sexual violence in schools.

Access to information report

In September 2019, the EELC, together with members of the Access to Information Network, marked the 4th International Access to Information Day by publishing the Network's annual report. The report tracks responses to information requests in South Africa with examples on some of the challenges faced when seeking information from public and private bodies. Read the full report [HERE](#).

MEDIA



Some of EELC's work highlighted in the media in the second half of this year includes:

- Let no child go uncounted** - A Daily Maverick opinion article authored by EELC researcher, Demichelle Petherbridge, on the need for rigorous, accurate data collection processes to ensure effective state planning and the realisation of the right to basic education. The article is available [HERE](#).
- Disciplinary processes in schools** - School disciplinary processes and sanctions can have major effects on the lives and futures of children. In this Daily Maverick op-ed, the EELC's Tarryn Cooper-Bell, Pilsande Mkuze and Aelphe Funda write about the law relating to disciplinary processes in schools. Read more [HERE](#).
- Parliament briefing on State of Education report** - The EELC's presentation to the Portfolio Committee on Basic Education received significant media coverage including by *ETWN*, *the Citizen*, the *Daily Maverick*, *Voice of the Cape*, *PowerFM* and *Radio702*.
- Sports facilities at schools** - The EELC's Executive Director, Nurina Ally, provided comment to *New Frame* on the importance of the norms and standards for school infrastructure as a binding law that provides certain standards by which the broader public can hold government accountable. Read the article [HERE](#).
- Rights of undocumented learners** - The EELC's candidate attorneys Pilsande Mkuze, Sipho Mzawee and Aelphe Funda have conducted various interviews on the rights of undocumented learners on *Bush Radio* and *Voice of the Cape*.
- Impact of corruption on education** - In August 2019, the EELC together with Equal Education and Section27 made a joint submission to the Zondo Commission of Inquiry into State Capture, highlighting cases of fraud and corruption in the delivery of education-related services. The submission, available [HERE](#), received extensive media coverage including reports by the *Sowetan*, *Mail & Guardian* and *SAPM*.
- Africa Legal profile series** - *Africa Legal* ran a three-part profile series on the work of the EELC. The EELC's movement lawyering, community lawyering and research were covered in the three articles of the series authored by Tania Broughton, available [HERE](#) and [HERE](#) and [HERE](#).