

# Costs of Three Cups of Tea: Will a Human Rights Court Make Justice Affordable?

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## Abstract

South Africa's Constitution is restitution-oriented, yet the South African Human Rights Commission (SAHRC) established by the Constitution must use expensive, slow High Court processes to enforce outcomes. The author argued in the Constitutional Court of South Africa with minimal costs as the proceedings were virtual. This led the author to wonder how justice could be affordable for all. More recently, the author was a litigant in the Electoral Court of South Africa, where applicants were unrepresented—and his side won, albeit with higher costs. Questions arising out of why these cases were relatively affordable led the author to propose a Rights Court of South Africa to make litigation for basic rights accessible. The proposed model draws on the strong points of the Electoral Court: nimble processes and a link to a rights-related institution. This Rights Court would replace the Equality Court with a specialist standalone court with concurrent jurisdiction with the High Court but with simpler, more nimble processes aimed at quick results on rights violations. The SAHRC would use this court for litigating violations of the Bill of Rights and the streamlined processes of this court would make for rapid restitution, while not overwhelming the SAHRC with costs. Access to the court would be through the SAHRC, with allowance for direct access if the SAHRC denies a request, to avoid inundating the court. Other countries with a justiciable Bill of Rights could adopt a similar concept.

## Practitioner Points

- If a low-cost rapid form of rights redress is available, use it even if more complex questions will later have to go to another forum.
- If no such option exists, campaign for it; as proposed here, that means an accessible Rights Court.
- In a country without a body similar to South Africa's Human Rights Commission, work towards establishing such a body either as a state institution or as a non-governmental organization, that can facilitate access to the Rights Court or taking cases that go beyond its scope to more formal courts.

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## 1. Introduction

I argue for a specialist Rights Court for South Africa. My argument starts from experience of finding loopholes to litigate inexpensively—while observing that this is not a widely available option. My starting point is experiences with the Constitutional Court of South Africa (ConCourt) and the Electoral Court of South Africa, which I relate to South Africa's Equality Courts and the South African Human Rights Commission (SAHRC).

The [Constitution of the Republic of South Africa \(1996\)](#) includes a justiciable Bill of Rights in Chapter 2. Unless context indicates otherwise, where I refer to a Section or Chapter, that refers to the Constitution. The ConCourt hears matters that require interpreting the Constitution, and stands above the apex court inherited from the apartheid era, the Supreme Court of Appeal. Though such matters can be interpreted in lower courts, the ConCourt can be approached directly on matters of constitutional import ([Liberal Party v The Electoral Commission and Others 2004](#), para. 13). Such direct access has been criticized as too restrictive and hence not pro-poor ([Dugard 2015](#)).

Chapter 9 defines institutions to give life to constitutional rights, including the SAHRC. The SAHRC lacks power to enforce restitution and is hampered by slow, expensive court processes. SAHRC is attempting to remedy this by arguing that it does have the power to enforce rulings. This has been rejected on appeal ([South African Human Rights Commission v. Agro Data CC & another \(2024\)](#)); should the ConCourt also deny the appeal, the SAHRC is left with costly, slow litigation to enforce rulings.

South Africa's court system has its origins in the British system, where solicitors handle simpler matters and barristers argue in higher courts; South African equivalents are attorneys and advocates. Advocates are sometimes referred to (particularly when costs are sought) as 'council'. Since 1995, attorneys may apply for the right to appear in higher courts ([Tshiki and Ndinisa 2021](#)). In general, higher courts are expensive; magistrates' courts are less expensive.

I use South Africa as a basis for arguing for an approachable court specific to rights violations. The same principles could apply in another country with a justiciable bill of rights, modified to their legal traditions.

South Africa has specialist courts with varying jurisdictional models. The Equality Court of South Africa (Equality Court), established in the [Promotion of Equality and Prevention of Unfair Discrimination Act \(2000\)](#)—PEPUDA—hears Section 9 'Equality' matters. High Courts and magistrates' courts double as Equality Courts. Equality Courts have a slow work rate—on average, 2.4 cases decided annually over 2020 to 2024,<sup>1</sup> including none in some years. Is something missing? There are numerous rights violations in South Africa ([Schimmel 2023](#); [Shahaboonin et al. 2023](#); [Dawood and Seedat-Khan 2023](#)); much is written about systemic violations and little done ([Plageron 2023](#)) leading to a perception that rights only exist on paper ([Tait and Taylor 2023](#)). The Bill of Rights covers Sections 9–35 so there is plenty of scope to litigate rights beyond Section 9, hence my interest in making rights more accessible.

On 20 August 2021, I argued in the ConCourt against an unconstitutional delay in local government elections. I took part in a usually extremely expensive form of litigation at almost no cost. Other than printing my founding affidavit to have it commissioned, I had no costs. As I waited to argue, a predecessor imperiously demanded 'Costs of three council!'.<sup>2</sup> What was I to do? Ask for 'Costs of three cups of tea'? That was all that I had spent that day more than usual expenses. Since I was not represented and I am not a lawyer, I could not charge for a lawyer's time.

Virtual proceedings arising because of Covid made this extremely low-cost litigation possible. Usually, litigation higher in the court hierarchy is very expensive. To elites, spending a

1 Cases decided in those years are listed at <https://www.saflii.org/za/cases/ZAEQC/>—none in 2020 and 2023, two in 2021, four in 2022 and six in 2024 for a total of 12 over five years.

2 Complexity of a case is a factor in how many 'council' (advocates) may be included in a costs order.

few hundred thousand (in South African rand)<sup>3</sup> on lawyers may be affordable; a million here or there—as the saying goes—starts to look like real money. Big business and government are less constrained by affordability. SLAPP (Strategic Litigation Against Public Participation) was recognized as an abuse of process in *Mineral Sands Resources (Pty) Ltd and others v. Reddell and others* (2022). *Biowatch Trust v. Registrar Genetic Resources and others* (2009) adds protection against adverse costs orders when litigating for rights, unless a case is frivolous or vexatious. Even so, the balance is still very much against the individual and small civic organizations—particularly the poor.

More recently, I was an applicant in a case before the Electoral Court of South Africa (Electoral Court). Our costs were higher than in my ConCourt case. Electoral Court time-lines for initial filing require same-day service, which is expensive. By contrast, for my ConCourt case, all service was electronic. The other expense was sending hard copy to the court once pleadings (shared electronically) were finalized. The Electoral Court is not only nimble as courts go—in 2024, they published 31 judgments, some of which combined multiple cases—but their judgments aim to get to the heart of the matter and move on.

South Africa's Labour Courts differ from the Equality and Electoral courts in having exclusive jurisdiction; equality as well as electoral issues and intraparty disputes can be and are decided in the High Court. Labour matters may be heard in the High Court if there is a non-labour aspect (*Benyon v. Rhodes University and another* (2016)).

Contrast the flow of Electoral Court cases with the low rate of Equality Court judgments, despite Equality Court availability throughout the country. Would another kind of court focused on human rights, drawing on case studies presented here, be a useful addition?

The remainder of this paper expands on experiences of the Equality Court. I add my lessons from the ConCourt, then I examine how the Electoral Court reduces delay. From this start, I synthesize a possible approach to a Rights Court of South Africa: a new court that would make justice affordable even for those who would struggle to pay for three cups of tea.

## 2. Experience with Equality Courts

The Equality Courts were established with the intention of making them more approachable than regular courts with lower costs and simplified, less formal rules, reducing the need to use lawyers (Kaersvang 2008).

The SAHRC and Commission for Gender Equality are mandated to use Equality Courts to enforce their directives and findings (Powys 2016). That appears to be the ideal alternative to the relief the SAHRC seeks from the ConCourt: if the Equality Courts can provide that function, why not extend their function to the entire Bill of Rights?

Unfortunately, Equality Courts have not functioned as designed, notwithstanding the intentions of PEPUDA. Complaints include that rules are cumbersome and court staff do not understand the enabling legislation, as well as low community awareness (Powys 2016; Franzman 2019). The observation that Equality Courts have failed to deliver on their promise (Bohler-Muller 2006) remains a concern. These issues arise to some extent because the Equality Courts are based on regular courts, mostly magistrates' courts. Cases tend to spill to the High Court when they touch on constitutionality or rights beyond Section 9 (Hunter-Parsonage and Albertyn 2021). Quantity does not apparently trump quality: the Electoral Court has five judges and two additional members, yet it achieves a far high rate of judgments than the nationwide Equality Courts. Part of the problem could also be that magistrates' courts are overwhelmed, with high frequency of multiple appearances ironically making them even more congested (Krönke et al. 2023), implying that improved efficiency could clear cases faster.

That is not to say that Equality Courts have no successes. *September v. Subramoney* addressed legal rights of transgender prisoners (Van Hout 2022). Boundaries of free speech

3 At time of writing, one US dollar is about 19 South African rand: \$1 = R19.

have been explored, with hate speech cases appealed as far as the ConCourt (Mchangama and Alkiviadou 2021). Such issues are important in advancing rights jurisprudence but the low number of cases decided suggest that the Equality Courts model is not working as intended. While results that advance far-reaching issues are noteworthy, Equality Courts do not address routine denial of rights that happens on a far larger scale. Missing from the record of decided cases is the substantial number that do not go to trial with restitution such as an unconditional apology (Hunter-Parsonage and Albertyn 2021). Are overburdened court staff the best people to arrive at such outcomes? Surely rights bodies such as SAHRC are more suited to that role.

### 3. A ConCourt experience

Arising out of the Covid-19 pandemic, the Independent Electoral Commission of South Africa (IEC) approached the ConCourt to seek permission to delay the 2021 South African local government elections later than constitutionally permitted. I was concerned that it was doing so based on uninterrogated science. Members of the enquiry preceding this case included no scientists (Moseneke 2024: para. 11). Though retired Deputy Chief Justice Moseneke is highly regarded, his report (Moseneke 2024) in my view misconstrued the science.

Since the IEC approached the ConCourt as the court of first and last instance, factual argument was excluded. While I am not an epidemiologist, having published only one paper in that field, my work in bioinformatics equips me to assess such evidence better than a person with a legal background. I therefore sought to join the case as an intervenor.

Once admitted, I took my lead from others who knew the court's rules. All documents were electronically shared. The hearing was held using Zoom. All of this was easy and at no cost for me.

I put to the court that the South African Constitution, properly read, means 'black lives matter and poor lives matter' as its restitution requirements go beyond a static reading of rights (Liebenberg and Goldblatt 2007; Albertyn 2019). The implication government failure to deliver for the poor renders elections urgent. I cited violent protests during July 2021 (Vhumbunu 2021), as evidence that delaying elections does not stop political activity. I also cited international evidence of Covid-safe elections.

The court only heeded in my scientific input, which was quoted, if without attribution, in the majority judgment (*Electoral Commission v. Minister of Cooperative Governance and Traditional Affairs and others* (2021), para. 225):

As one of the parties aptly put it, the scientific evidence was shrouded in uncertainty, not because the experts did not know what they were talking about but because they did.

My part in the case set me to thinking: if access was this easy this one time, why is that not generally true? In practical terms, if access were too easy, the ConCourt would be overwhelmed—even if some argue that it should be *more* accessible (Dugard 2015). However, the ConCourt is not the only way to access constitutional rights in South Africa. The duty of lower courts to interpret constitutionality was emphasized in some of the earliest ConCourt judgments (Webb 1998). This is as it should be as Section 2 asserts the supremacy of the Constitution. Even so, approaching courts is slow and expensive.

### 4. Lessons from the Electoral Court

In the November 2021 South African local government elections, I was a candidate for a local party. We won five proportional-representation (PR) seats,<sup>4</sup> after which our seats were

<sup>4</sup> South African municipal councils contain ward councillors elected on a first-past-the-post basis within a bounded locality (ward) and PR councillors, who do not represent a particular locality, but bring the representation of council closer to proportional, as required by Section 157(3) of the Constitution.

hijacked. PR seats in South Africa are held contingent on membership of the party since voters vote for a party, not the individual candidates (a closed-list system). In our case, a group who had no standing to do so held a disciplinary tribunal on flimsy grounds to expel us from our party and hence had us removed from our council seats.

It seemed that we had a straightforward case as the Speaker swore in new councillors while we were still disputing our removal by a dubious disciplinary case conducted by people with no standing to do so. That is where the problem of access to justice started. Our opposition connived to swear in their councillors while we were still challenging their actions, cutting our income before we could secure representation. We can admire cases won by public-interest lawyers (*Sustaining the Wild Coast NPC and others v. Minister of Mineral Resources and Energy and others* (2022); *Unemployed Peoples Movement v. Premier for the Province of the Eastern Cape and others* (2020); *Mlungwana and others v. S and another* (2018)). But such cases litigated by the poor who lack free or inexpensive legal representation are scarce. Our ousted councillors discovered why: obtaining representation without money is hard. Several advocates considered our case and were no help. One required a deposit of R250,000 and that was just the start; he warned that expenses could mount and we could lose with an adverse costs order (R250,000 is far more than the cost of three cups of tea: out of reach for a movement mostly of the poor).

We were advised to approach the Electoral Court late in 2023. We wrote to the IEC demanding that they review their decision to remove us and, when they declined, we approached the Electoral Court. The first applicant did most of the work, with some help from legal professionals. We hoped that we would miss the pre-election rush.<sup>5</sup> Unfortunately, the Electoral Court was already mired in cases. Nonetheless, we went through the usual rounds of affidavits expeditiously:

- 14–18 December 2023—respondents served
- 20 December 2023—founding papers filed
- 10 January 2024—respondents directed to file answering affidavits by 12 January; applicants to file replying affidavits by 16 January
- 19 January: applicants directed to file six copies of paginated hard copy to the court
- 23 January: late papers filed electronically
- 26 January: paginated file delivered to the court
- 26 February: applicants directed to file Heads of Argument by 29 February 16:00; respondents by 4 March, 16:00
- 13 May 2024: judgment handed down

Elapsed time of five months for a judgment is nimble by High Court standards, though slow for the Electoral Court. They decided the matter on Section 20(2A) of the [Electoral Commission Act 51 \(1996\)](#)<sup>6</sup> that gives this court jurisdiction over internal party disputes; this section lacks the rapid timelines for reviewing IEC decisions.

Another peculiarity of the Electoral Court is that its judgments are not appealable ([Electoral Act 1998](#): Section 96(1)), though appeal to the ConCourt is possible (e.g. *Liberal Party v. Electoral Commission and others* (2004)). An implicit assumption of this provision is that the Electoral Court is primarily about taking decisions on review: it is in some sense acting as an appeal court, even if it has concurrent jurisdiction with the High Court.

Aside from rapidity, the Electoral Court did not make an issue of late filings provided there was at least some form of request to condone late filing. As a court that is primarily about access to constitutional rights—mostly Section 19 political rights—it seldom awards costs.

<sup>5</sup> National and provincial elections of 29 May 2024 resulted in a flood of Electoral Court cases.

<sup>6</sup> Section 20(2A) is added in the [Electoral Laws Amendment Act \(2019\)](#).

The court sidestepped issues beyond setting aside unjust removal from elected office. The court ignored administrative justice and compensation; though it mused about why the Municipality may oppose awarding damages, it made no order on that issue (*Mxube and Others v The Electoral Commission of South Africa and Others* (2024)).

What can we learn from this matter? A court that addresses rights issues can be nimble, as well as neither overly legalistic nor technical and can arrive at crisp, useful judgments. The Electoral Court is not always correct; they were for example overruled by the ConCourt in *Electoral Commission of South Africa v. Umkhonto Wesizwe Political Party and others* (2024). It is also noteworthy that the court de facto if not de jure is the IEC's judicial arm. The constitutional basis for the IEC as a Chapter 9 institution makes it bound by Section 181(2), which requires inter alia that such institutions 'must be impartial and must exercise their powers and perform their functions without fear, favour or prejudice'. Nothing could be more partisan than electoral or internal disputes within a party. Such disputes do not involve the will of the electorate, which at least has an objective aspect in that voting is under control of the IEC, not internal machinations. The IEC, rather than being drawn into this, needs to resolve such disputes through a court (Kotzé 2023). The High Court is too slow to resolve such issues especially in the heat of an election, where there is a strict timetable for outcomes.

## 5. Towards a Rights Court

I draw several lessons from these experiences. Access to rights need not be over-complex, time-consuming, costly, or pettifogging. A specialist court can streamline processes immensely. Finally, a Chapter 9 institution can be allied with a specialist court to resolve rights violations. I start from lessons from the ConCourt and Electoral Court examples and end with a synthesis into a proposal for a specialist Rights Court.

The ConCourt has the reputation of being expensive. Printing alone can amount to tens of thousands of rand.<sup>7</sup> The case related to postponing 2021 local elections had one applicant (the IEC) and 11 respondents representing all levels of government and the South African Local Government Association, for a total of 12 parties. After adding eight intervenors and four *amici*, the total was 24 parties, to which the full bench must be added, nine justices, meaning that 33 copies of everything would have been printed in a traditional in-person hearing. Additionally, it is customary to use experienced and therefore expensive counsel (advocates) supported by attorneys. By contrast, my intervention was ludicrously inexpensive. My time was free because I self-represented. For a straightforward rights violation, would the approach I used of studying processes others used to meet the rules be difficult? Do courts really need hard copy supplied to the bench and all participants?

There are pluses and minuses to a specialist court: the Electoral Court for example avoids complex issues such as quantifying compensation. By contrast, *Mogashoa v. African National Congress and others* (2006) deals with compensation for unlawful removal. In our case, the Electoral Court accepted that the IEC has no role in checking whether councillors have been validly removed, whereas a High Court judgment (*Van Niekerk and others v. Nelson Mandela Bay Municipality and others* (2022), para. [34]) ruled the opposite.

The High Court in South Africa is expensive and has a cumbersome two-stage process to accommodate urgency, with interim and final interdicts. Approaching the High Court as an Equality Court reduces the rigidity of the rules; a magistrates' court is even easier. But even so, Equality cases compete for space on a busy court roll and the Equality Court only covers one section of the Bill of Rights. Why is something more like the Electoral Court not possible for *all* rights cases that require rapid resolution with clear-cut issues?

<sup>7</sup> There is a statutory rate for printing and scanning that bulks up such costs considerably. We were self-represented in the Electoral Court and could print at an affordable cost though the statutory rate would have applied if we were awarded costs.

My proposal arising from the above discussion is a Rights Court with branches around the country and approachable remotely through electronic filing. All cases should address a simple rights and restitution question. As with the Electoral Court, the court could make partial restitution for matters too complex to decide quickly. Rights Courts should specialize in constitutional rights, with rules designed for speedy resolution. The final idea is to configure the Rights Court as the judicial arm of the SAHRC, adding this new court as a tool to achieve the SAHRC's purpose. The SAHRC is the appropriate Chapter 9 institution as other rights-oriented Chapter 9 institutions are either specifically mandated to pass on rights violations to them ([Commission for Gender Equality 1996](#): Section 11 (e)(ii)(bb)) or, if they have no litigation power of their own, may refer cases to the SAHRC.

My proposal expands the remit of the Equality Court to the entire Bill of Rights, makes it a standalone court like the Electoral Court and allies it with the relevant Chapter 9 institution: the SAHRC. This new court would be the South African Rights Court (Rights Court).

To control the flow of cases and reduce unnecessary litigation, the SAHRC would be the starting point for access. The SAHRC would conduct an enquiry, offer the option of restitution without litigation, and take the matter to the new court when such options were exhausted. Should the SAHRC refuse to take up a case, complainants could apply for access starting from the basis on which the SAHRC refused to act. With the threat of expedited litigation, parties accused of rights violations would have an incentive to comply with SAHRC directives to avoid legal costs. The SAHRC could also advise complainants if their case lacked merit or was better resolved other ways.

The SAHRC is empowered under Section 13(3)(a) of the [South African Human Rights Commission Act \(2013\)](#) to assist litigants with financial support or under 13(3)(b) to litigate in its own name or on behalf of others. Amending the Act to create a Rights Court could be as short as a few of paragraphs naming the court, specifying its jurisdiction as that of the High Court over matters specific to the Bill of Rights and allowing the Court to make its own rules, consistent with expeditious judgments.

## 6. Conclusion

A Rights Court is a straightforward addition to the South African court system. It replaces an existing specialist court and renders it more approachable. For it to be effective it would need to be properly resourced, and its processes need not be lengthy or expensive.

Like the Electoral Court, it should have nimble rules. For rights violations, there is good cause for rapid resolution. Like the Electoral Court, the Rights Court could focus on core issues, leaving complicated questions to another forum.

Like the Equality Court, its focus is the Bill of Rights—but not just one section. Though it replaces the Equality Court, its matters would not compete with the normal court roll and its judges would be rights specialists.

The involvement of the SAHRC is particularly important for rights of the indigent. With a more accessible court, such litigation is less likely to overwhelm the SAHRC's capacity than acting in the High Court—making it less of a problem if enforcing findings requires a court order. This proposal also addresses the problem of the SAHRC de facto being toothless because of costs and delays of using the High Court.

The general idea could adapt to other countries with a justiciable Bill of Rights, with adjustments to fit their legal tradition. A court that is as easy to approach as a Small Claims Court, with free legal advice, could be set up to rule on clear breaches of the Bill of Rights, and to refer cases too complex for rapid resolution to a more formal court. This would work best with a rights-facilitation body such as South Africa's Human Rights Commission, which would facilitate such cases and provide legal aid for approaching courts where more formal processes were required.

The proposal streamlines access to rights and makes litigation to enforce rights more accessible, especially for the poor. This is a fundamental goal of a restitution-oriented constitution, such as South Africa's.

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## References

- Albertyn, C. 2019. (In)equality and the South African Constitution. *Development Southern Africa* 36(6): 751–66.
- Benyon v. Rhodes University and another* (2016) (5351/2016) [2016] ZAECGHC 161.
- Biowatch Trust v. Registrar Genetic Resources and others* (2009) CCT 80/08 [2009] ZACC 14.
- Bohler-Muller, N. 2006. The Promise of Equality Courts. *South African Journal on Human Rights* 22(3): 380–404.
- Commission for Gender Equality Act 39 of 1996. 1996. [https://www.gov.za/sites/default/files/gcis\\_document/201409/act39of1996.pdf](https://www.gov.za/sites/default/files/gcis_document/201409/act39of1996.pdf). Date accessed 27 November 2025.
- Constitution of the Republic of South Africa, Act 108 of 1996. 1996. <https://www.gov.za/sites/default/files/images/a108-96.pdf>. Date accessed 27 November 2025.
- Dawood, Q., and M. Seedat-Khan. 2023. The Unforgiving Work Environment of Black African Women Domestic Workers in a Post-Apartheid South Africa. *Development in Practice* 33(2): 168–79.
- Dugard, J. 2015. Closing the Doors of Justice: An Examination of the Constitutional Court's Approach to Direct Access, 1995–2013: Political Rights Since 1994 Focus. *South African Journal on Human Rights* 31(1): 112–35.
- Electoral Act No. 73 of 1998. [https://www.gov.za/sites/default/files/gcis\\_document/201409/act73of1998.pdf](https://www.gov.za/sites/default/files/gcis_document/201409/act73of1998.pdf). Date accessed 27 November 2025.
- Electoral Commission Act 51 of 1996. [https://www.gov.za/sites/default/files/gcis\\_document/201409/act51of1996.pdf](https://www.gov.za/sites/default/files/gcis_document/201409/act51of1996.pdf). Date accessed 27 November 2025.
- Electoral Commission of South Africa v. Umkhonto Wesizwe Political Party and others* (CCT97/24) [2024] ZACC 6. <https://www.saflii.org/za/cases/ZACC/2024/6.html>. Date accessed 27 November 2025.
- Electoral Commission v. Minister of Cooperative Governance and Traditional Affairs and others* (2021) (CCT 245/21) ZACC 29. <https://www.saflii.org/za/cases/ZACC/2021/29.html>. Date accessed 27 November 2025.
- Electoral Laws Amendment Act No. 1 of 2019. [https://www.gov.za/sites/default/files/gcis\\_document/201901/42176gon23electorallawsamendment.pdf](https://www.gov.za/sites/default/files/gcis_document/201901/42176gon23electorallawsamendment.pdf). Date accessed 27 November 2025.
- Franzman, D. M. S. 2019. Determining Perceptions Regarding the Functioning of Equality Courts: The Case of Court Clerks in the Gauteng Region. Master's dissertation, North-West University (South Africa). <http://hdl.handle.net/10394/33816>. Date accessed 27 November 2025.
- Hunter-Parsonage, M., and C. Albertyn. 2021. *Emerging from the Shadows? The Equality Courts in South Africa*. NRF SARChI Chair in Equality, Law and Social Justice Research Report 1/2021, School of Law, University of the Witwatersrand. <https://www.wits.ac.za/media/wits-university/faculties-and->

- [schools/commerce-law-and-management/law/documents/sarchi-equality-chair/WITS%20-%20The%20Equality%20Courts%20in%20SA%20-%20Final\\_Interactive.pdf](https://www.wits.ac.za/schools/commerce-law-and-management/law/documents/sarchi-equality-chair/WITS%20-%20The%20Equality%20Courts%20in%20SA%20-%20Final_Interactive.pdf). Date accessed 27 November 2025.
- Kaersvang, D. 2008. Equality Courts in South Africa: Legal Access for the Poor. *Journal of the International Institute* 15(2): 4,9.
- Kotzé, D. 2023. Electoral Management for a Maturing Democracy: A Look at the Contribution of the South African Electoral Commission. *South African Journal of International Affairs* 30(3): 437–53.
- Krönke, M., V. Karth, A. Tilley et al. 2023. *Isidima—Magistrates’ Court Users Survey Report 2023*. <https://www.judgesmatter.co.za/wp-content/uploads/2024/02/DGRU-Court-User-Survey-2023-Research-report.pdf>. Date accessed 27 November 2025.
- Liberal Party v The Electoral Commission and Others* (CCT 10/04) [2004] ZACC 1. 2004. <https://www.saflii.org/za/cases/ZACC/2004/1.html>. Date accessed 27 November 2025.
- Liebenberg, S., and B. Goldblatt. 2007. The Interrelationship between Equality and Socio-Economic Rights under South Africa’s Transformative Constitution. *South African Journal on Human Rights* 23(2): 335–61.
- Mchangama, J., and N. Alkiviadou. 2021. South Africa the Model? A Comparative Analysis of Hate Speech Jurisprudence of South Africa and the European Court of Human Rights. *Journal of Free Speech Law*. 1: 543–78.
- Mineral Sands Resources (Pty) Ltd and others v. Reddell and others.* (2022), (CCT 66/21) [2022] ZACC 37. <https://www.saflii.org/za/cases/ZACC/2022/37.html>. Date accessed 27 November 2025.
- Mlungwana and others v. S and another* (2018) (CCT32/18) ZACC 45. <https://www.saflii.org/za/cases/ZACC/2018/45.html>. Date accessed 27 November 2025.
- Mogashoa v. African National Congress and others* (2006) (138/04) [2006] ZANWHC 35. <https://www.saflii.org/za/cases/ZANWHC/2006/35.html>. Date accessed 27 November 2025.
- Moseneke, D. *A Report to the Electoral Commission of South Africa in terms of Section 14(4) read with Section 5(2)(a) of the Electoral Commission Act*. [https://www.elections.org.za/freeandfair/Live/20210720%20A%20REPORT%20TO%20THE%20ELECTORAL%20COMMISSION%20OF%20SOUTH%20AFRICA%20IN%20TERMS%20OF%20SECTION%2014\(4\)%20READ%20WITH%20SECTION%205\(2\)\(a\)%20OF%20THE%20ELECTORAL%20COMMISSION%20ACT%20\(Final%20edits%20-%2020210726\).pdf](https://www.elections.org.za/freeandfair/Live/20210720%20A%20REPORT%20TO%20THE%20ELECTORAL%20COMMISSION%20OF%20SOUTH%20AFRICA%20IN%20TERMS%20OF%20SECTION%2014(4)%20READ%20WITH%20SECTION%205(2)(a)%20OF%20THE%20ELECTORAL%20COMMISSION%20ACT%20(Final%20edits%20-%2020210726).pdf). Date accessed 27 November 2025.
- Mxube and Others v The Electoral Commission of South Africa and Others* (0012/23EC) [2024] ZAEC. 2024. <https://www.saflii.org/za/cases/ZAEC/2024/15.html>. Date accessed 27 November 2025.
- Plageron, S. 2023. Mainstreaming Poverty, Inequality and Social Exclusion: A Systematic Assessment of Public Policy in South Africa. *Development Southern Africa* 40(1): 191–207.
- Powys, T. J. 2016. Benefit or Impediment? The Operation of the Equality Courts in South Africa. *Agenda* 30(1): 36–48.
- Promotion of Equality and Prevention of Unfair Discrimination Act No. 4 of 2000. [https://www.gov.za/sites/default/files/gcis\\_document/201409/a4-001.pdf](https://www.gov.za/sites/default/files/gcis_document/201409/a4-001.pdf). Date accessed 27 November 2025.
- Schimmel, N. 2023. Commentary—The State of Human Rights in South Africa Approaching 30 Years of Post-Apartheid Democracy: Successes, Failures, and Prospects. *World Affairs* 186(4): 1019–25.
- Shahaboonin, F., O. David, and A. Wyk. 2023. Historic Spatial Inequality and Poverty Along Racial Lines in South Africa. *International Journal of Economics and Financial Issues* 13(1): 102–11.
- South African Human Rights Commission Act 40 of 2013. [https://www.gov.za/sites/default/files/gcis\\_document/201409/37253act40of2013sa-humanrightscm22jan2014.pdf](https://www.gov.za/sites/default/files/gcis_document/201409/37253act40of2013sa-humanrightscm22jan2014.pdf). Date accessed 27 November 2025.
- South African Human Rights Commission v. Agro Data CC & another (Afriforum, Centre for Applied Legal Studies and Commission for Gender Equality intervening as Amici Curiae)* (2024) (39/2023) ZASCA 121 (15 August 2024). <https://www.saflii.org/za/cases/ZASCA/2024/121.html>. Date accessed 27 November 2025.
- Sustaining the Wild Coast NPC and others v. Minister of Mineral Resources and Energy and others* (2022) (3491/2021) ZAECMKHC 55. <https://www.saflii.org/za/cases/ZAECMKHC/2022/55.html>. Date accessed 27 November 2025.
- Tait, K., and W. Taylor. 2023. The Possibility of Rights Claims-Making in Court: Looking Back on Twenty-Five Years of Social Rights Constitutionalism in South Africa. *Law & Social Inquiry* 48(3): 1023–52.
- Tshiki, K., and M. Ndinisa. (2021). The Old Is Gone Embrace the New. *De Rebus*. (Aug.) DR 10. Available at <https://www.derebus.org.za/the-old-is-gone-embrace-the-new/>.

- Unemployed Peoples Movement v. Premier for the Province of the Eastern Cape and others* (2020) (553/2019) ZAECGHC 47. <https://www.saflii.org/za/cases/ZAECGHC/2020/47.html>. Date accessed 27 November 2025.
- Van Hout, M. C. 2022. Navigating the Complexities of (Trans) Gender Expression, Right to Reasonable Accommodation and Security Tensions in South African Prisons: The Judgement of September v Subramoney. *Forensic Science International: Mind and Law* 3: 100077.
- Van Niekerk and others v. Nelson Mandela Bay Municipality and others* (2452/2022) [2022] ZAECQBHC 31. <https://www.saflii.org/za/cases/ZAECQBHC/2022/31.html>. Date accessed 27 November 2025.
- Vhumbunu, C. H. 2021. The July 2021 Protests and Socio-Political Unrest in South Africa: Reflecting on the Causes, Consequences and Future Lessons. *Conflict Trends* 2021(3): 3–13.
- Webb, H. 1998. The Constitutional Court of South Africa: Rights Interpretation and Comparative Constitutional Law. *University of Pennsylvania Journal of Constitutional Law* 1: 205–83.