



**HELEN SUZMAN  
FOUNDATION**

ANNUAL  
REPORT  
**2023**

For Justice  
For Peace  
For Equality



Helen Suzman became an MP in 1953, going on to serve for a further 36 years. For 13 of those years, Helen was the sole Progressive MP in Parliament and for 6 years was the only female parliamentarian. She consistently challenged discriminatory legislation, and the spate of security laws introduced by the Apartheid government. She worked tirelessly as a public servant, lending her voice to those who were powerless and persecuted. It is to honour these values that the Helen Suzman Foundation (HSF) continues her life's work.



The HSF promotes constitutional democracy, rule of law and human rights. Our mission is to ensure that key institutions of constitutional democracy in South Africa are strengthened and protected so that they, domestically and internationally, deliver on the Constitution’s promise – particularly for vulnerable persons unable to use the ordinary political process to safeguard their rights. We carry out our mission by litigating in the public interest; engaging with law and policy makers through written and oral submissions; providing spaces for public discussion; advocating for vulnerable persons and by promoting our work in the media. In this report, HSF provides a summary of its work during its financial year 1 March 2023 to 29 February 2024.



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# Note From Our Executive Director



We've had an enormously successful year of advancing HSF's mission through public interest litigation, engagement with law and policy makers and by providing spaces for deliberative public dialogue. This report aims to highlight the work that encompasses each of these avenues of our work and we appreciate you taking the time to reflect over the past year with us.

A highlight of our public interest litigation remains the Zimbabwean Exemption Permit (ZEP) case where judgment was handed down on 28 June 2023. In a significant victory for ZEP holders and their families – and indeed all South Africans concerned with fair, reasoned government decision-making – the court held that they were entitled to a fair process, due consultation, and sound reasoning when decisions of calamitous moment are made regarding their lives and livelihoods.

Earlier in June 2023, interdicts were granted against the private prosecutions launched by former President Jacob Zuma against Billy Downer, the lead prosecutor in his long-running corruption trial and journalist Karyn Maughan. The judgment indicated express agreement with the HSF's submissions that Mr Zuma's own court documents made manifest his ulterior, abusive purpose. Moreover, former Mozambican Finance Minister, Manual Chang was successfully extradited to the USA to stand trial in early July. This ends a concerted campaign, which HSF opposed, to have Mr Chang returned to Mozambique where he would have been assured certain immunity. Also in July the Constitutional Court dismissed the appeal of the Commissioner of Correctional Services, leaving in place the Supreme Court of Appeal's order, which HSF had sought, that Mr Zuma was unlawfully granted medical parole.

HSF considers the participatory element of our democracy to be a crucial feature of our constitutional system and regularly engages with Parliament, and other organs of state, when they call for comments on new legislation or government policies. This year, HSF made several submissions to Parliament and policy makers in the Executive to secure important reforms to our laws.

Current events in South Africa offer no shortage of topics for discussion and debate. HSF is committed to providing spaces that attract experts to discuss our country's pressing issues to help separate the signal from the noise. To this end, we held several successful roundtable dialogues and hosted our annual Helen Suzman Memorial Lecture, delivered by former Constitutional Court Justice, Johan Kriegler on the timely topic of electoral reform.

This past year, however, HSF was saddened to see Gary Ralfe's departure from our board as trustee and Chairperson. Gary stepped down after 16 years of faithful service in guiding HSF as we carried out our mission of defending and promoting constitutional democracy in South Africa. We are as grateful for Gary's tenure as we are delighted for his successor, Kalim Rajab, to begin his. Kalim took up the position of Chairperson in November 2024, after serving as our Vice Chairperson. We look forward to another impactful year ahead under his leadership.

Yours sincerely,  
Naseema Fakir



# Public Interest Litigation



## ○ Securing Fair Process for Zimbabwean Exemption Permit Holders

The ZEP secures the right to lawfully live and work in South Africa for roughly 178 000 of its holders and their families. It has done so in some form or another since 2009, when Zimbabwe’s political and economic collapse forced mass migration into South Africa. With no end in sight for Zimbabwe’s repair, ZEP holders have built lives in South Africa over the last fifteen years – lives which the Minister of Home Affairs threw into disarray when he decided to summarily terminate the ZEP in late 2021. HSF challenged that decision in the Pretoria High Court for being taken without any consultation with ZEP holders nor any effort to understand the impact of terminating the ZEP on them. HSF’s challenge was a resounding success, with the High Court finding in our favour in June 2023. The Minister resisted his clear legal duty to follow a fair and rational process by appealing to the Supreme Court of Appeal and then to the Constitutional Court.

As of 29 February 2024, HSF was awaiting directions from the Constitutional Court regarding whether the matter will be set down for hearing. Notably, in December 2023, the Minister extended the ZEP once more to the end of November 2024 to give its holders an opportunity to apply for another one-year permit. While this decision brings welcome relief to ZEP holders, its ultimate effect of ending the ZEP, still without consulting its holders, means the Minister has not yet met his legal duty.



Since HSF launched litigation in this matter, it has come to light that ZEP holders have battled various administrative difficulties given the uncertain future of their permits. We have seen this manifest in ZEP holders losing out on banking services, lease renewals and vehicle licenses. This is often due to ignorance on the part of service providers regarding the correct legal position – namely that the ZEP remains a perfectly lawful means by which to reside in South Africa. As such, HSF assists affected ZEP holders by writing them letters explaining that they are lawful residents in South Africa. These letters have been successful in bringing about significant change to the everyday lives of ZEP holders.



## ○ Corruption and Social Justice in Mozambique

In *Glenister II*, the Constitutional Court observed that corruption “undermines the ability of the government to meet its commitment to fight poverty and to deliver on other social and economic rights guaranteed in [the] Bill of Rights.” The Court’s insight should serve as a reminder that despite the political spectacle of high-profile corruption cases, those most vulnerable are the immediate victims of a corrupt state. That was certainly true for the people of Mozambique when their former Finance Minister and member of Parliament, Manual Chang allegedly defrauded the Mozambican state of some \$2bn in development loans. After being charged for corruption by American authorities, Mr Chang was arrested in Johannesburg while travelling to the UAE. A dispute ensued when Mozambique tried to secure Mr Chang’s extradition there, instead of to the USA.

In 2021, HSF joined a collective of Mozambican civil society organisations and successfully challenged South Africa’s decision to extradite Mr Chang to Mozambique, where he would be assured immunity because of his prior political office, instead of the USA. The Mozambican government then appealed the High Court’s decision to the Constitutional Court. On 24 May 2023, the Constitutional Court dismissed the appeal and paved the way for Mr Chang to be extradited to the USA to face prosecution on 12 July 2023. Mr Chang’s extradition, and the legal precedents that facilitated it, represent a significant victory in the fight against corruption in Southern Africa.





## ○ The National Commissioner of Correctional Services v Helen Suzman Foundation

It is a basic requirement of rational government that state institutions exercise their power as prescribed by law. This is what the Medical Parole Advisory Board did when it reviewed and rejected former President, Jacob Zuma's application for medical parole following his imprisonment for contempt of court. When the then National Commissioner of Correctional Services, Arthur Fraser, undermined the Board's powers by overriding its decision and placing Mr Zuma on Medical Parole, HSF successfully took the matter on review. The matter was unsuccessfully appealed to the SCA and then appealed to the Constitutional Court. On 13 July 2023, the Constitutional Court dismissed the Commissioner's appeal, leaving in place the SCA's order that Mr Zuma was unlawfully granted medical parole.

## ○ Billy Downer v Jacob Zuma

During the height of State Capture, South Africa's judiciary often stood as the lone branch of government willing and able to resist political actors set on eroding our constitutional democracy. In recent years, however, we have seen our courts used to pursue cynical political ends. In a particularly egregious instance, last year, former president, Jacob Zuma launched a baseless private prosecution of Billy Downer, the lead prosecutor in his long running corruption trial, and journalist Karyn Maughan, who covered the trial from its start. Both Mr Downer and Ms Maughan sought interdicts to prevent their private prosecutions from proceeding. HSF appeared as friend of the court before the Pietermaritzburg High Court on 22 March 2023.

Judgment was handed down on 7 June 2023, granting both Mr Downer and Ms Maughan their interdicts. In its reasoning, the court agreed with HSF's submissions that Mr Zuma's very own court documents revealed his ulterior purpose in prosecuting Mr Downer. The court's finding was crucial to ensuring that judicial processes are not co-opted for sinister political ends.







# Engagement with Law and Policy Makers



## ○ Defending Civil Society Against Overregulation

In August 2023, a fire ripped through a derelict building in Johannesburg's CBD, killing nearly eighty people. In the fire's aftermath, instead of reflecting on the manifold governance failures that contributed to the tragedy, Speaker for the City of Johannesburg, Colleen Makhubele blamed civil society. This is not the first time that civil society has been the target of unwarranted attack in the public discourse. Recently, however, we have seen something more sinister. In the last two years, government has twice proposed legislation that would hamper civil society in carrying out its work. The first was an attempt in 2022 to introduce a regressive universal registration regime for non profit organisations in an apparent effort to stave off South Africa's 'grey listing' by the Financial Action Task Force. The second in 2023 was by awarding the South African Intelligence Agency with extensive vetting powers via the General Intelligence Laws Amendment Bill (GILAB) that could easily be turned on civil society organisations – and the individuals who work for them.

*HSF made submissions* in response to each, condemning them for the risks they posed to civil society. In the end civil society's collective voice overcame the proposed universal registration regime for non profit organizations. However, at the time of writing, GILAB's proposed vetting powers remain a potential danger while we wait for the National Council of Provinces to deliberate thereon.

## ○ Strengthening Policing Institutions

The Independent Police Investigative Directorate (IPID) is designed to impartially investigate police wrongdoing in South Africa. Historically, HSF has litigated to defend IPID's independence from undue political interference – particularly the Minister of Police. Despite the Constitutional Court's clear findings in HSF's favour in *McBride v Minister of Police and Others*, two Bills were introduced – one by the Civilian Secretariat for the Police Service and the other by the National Assembly – inexplicably proposed that IPID's Executive Director be appointed solely by Cabinet, doing away with the National Assembly's historic role.

*HSF made submissions* in response to both, arguing that they would not serve IPID's independence from undue political influence. HSF also recommended that the appointment process for IPID's Executive Director include an advisory panel. When the bill was sent to the National Council of Provinces for consideration, the National Assembly accepted HSF's submissions – which were shared by several other civil society organizations.





## ○ Preventing Corruption at Eskom

Despite South Africa's electricity crisis having no end in sight the Minister of Finance attempted to exempt Eskom from its ordinary duty to report wasteful and irregular expenditure in its financial statements. When National Treasury announced that it had abandoned the exemption, HSF was listed alongside other members of civil society, and the South African public at large, who had voiced opposition in their submissions.

## ○ Strengthening State Infrastructure to Combat Gender Based Violence.

To strengthen the state's capacity to fight gender based violence, a Bill was tabled that would establish the National Council on Gender-Based Violence and Femicide (Council). HSF welcomed the establishment of the Council but submitted that it should be more inclusive of non conforming gender and sexual identities and that it be subject to parliamentary oversight in carrying out its functions. In response to our submission, the Portfolio Committee on Women, Youth and Persons with Disabilities invited HSF to give an oral presentation of our submissions. When the bill was revised, HSF's recommendations concerning the composition of the Council were included.





## ○ Depoliticizing the Public Service

South Africa's dark history of State Capture is, in crucial part, a tale of undue political control over key appointments in the public service. As such, it is imperative that the public service be regulated to, as far as possible, prevent political interests from interfering with the demands of sound government. HSF has advocated for public service reform in three ways.

### Reforming the Public Service Commission

In the last year, two bills were tabled that sought to reform the Public Service Commission (PSC), which section 196 of the Constitution has created to monitor the public service. However, each bill stopped short of giving the PSC a meaningful role appointing high level officials. This not only sells short the PSC's potential to act as an independent check on the appointment powers of members of the executive, it also goes against government's own policy position set out in the National Framework Towards the Professionalisation of the Public Sector. As such, *HSF submitted* that the bills should craft a role for the PSC in appointing high level personnel – in particular, members of the board and executive management of state owned enterprises, national and provincial Directors General and municipal managers.

### Depoliticising the Public Service

In response to the Public Service Amendment Bill, *HSF welcomed* efforts to devolve operational power in the public service away from their political executive authorities and towards administrative heads of department in national and provincial governments. However, HSF cautioned that without crafting a role for the PSC in appointing administrative heads of department in the first place, the Bill stops short of meaningfully insulating administrative heads of department from undue political influence. This is especially so in the case of the Bill's proposed national head of the public service in the Presidency, who is poised to be an influential actor in the public service.

### Insulating the Public Service from Corruption

In response to the Public Administration Management Amendment Bill, *HSF submitted* that it be revised to better insulate the public service from corruption by providing for stronger monitoring and enforcement mechanisms in respect of public servants doing business with the state. Moreover, HSF submitted that section 9 of the Public Administration and Management Act 11 of 2014 should finally be brought into effect, which would oblige senior public servants to disclose their financial interests.





## ○ Protecting Whistleblowers

Whistleblowers, the quiet champions of bringing about accountability for corruption, often suffer greatly once their acts of bravery are made public. It is therefore imperative to create an environment that supports whistleblowers – both to incentivise them to report corruption in the first place and to protect them once they do. To this end, the Department of Justice and Constitutional Development introduced a policy paper of proposed reforms to the regime for protecting whistleblowers. *HSF made submissions* that welcomed these reforms but cautioned that important suggestions from civil society had been overlooked to the detriment of whistleblowers and the vital national interests that they serve. In particular, HSF submitted that government should develop the requisite institutional capacity to effectively implement its proposed reforms and that whistleblowers who approach civil society or the media be given the same protection owed to those who approach their employers.

## ○ Reforming the National Prosecuting Authority

In October 2023, government proposed legislation that would make the Investigative Directorate for Corruption (Directorate) a permanent structure within the National Prosecuting Authority (NPA). The Directorate was formed by Presidential proclamation to prioritise high level corruption related crimes following the revelations of the State Capture Commission. *HSF welcomed efforts* to make the Directorate permanent but cautioned that if it is to be a truly effective independent corruption-fighting unit, the NPA's top leadership, under whose management the Directorate would ultimately fall, could not continue to be appointed solely by the President and the Minister of Justice. In January 2024, the proposed legislation was approved by the National Assembly and sent to the National Council of Provinces, where HSF repeated its earlier submission.

## ○ Criticizing The White Paper on Reforming South African Refugee and Immigration Laws

Regrettably, anti migrant sentiment has become a fixture in South Africa's public discourse. It stands to be resisted in and of itself, but especially when it gives rise to regressive policy change. In the closing months of 2023, the Department of Home Affairs published for comment its *White Paper on Citizenship, Immigration and Refugee Protection: Towards a Complete Overhaul of the Migration System in South Africa* (White Paper). HSF called out the White Paper for offering South Africans a barely discernible solution to the challenges that migration poses to South Africa. Instead of a properly researched and reasoned policy response to the inevitability of continued migration into South Africa, the White Paper wishes it away and blames continued migration into South Africa's already strict legal regime which regulates refugee protection, immigration and citizenship. Furthermore, *HSF expressed concern* at the White Paper's apparent dismissal of the principle of *non-refoulement*, the foundational principle of international refugee protection, which prevents those seeking refuge from being deported to countries where they would be at risk of persecution.



# Fostering Deliberative Public Dialogue



## ○ HSF Book Club

On 23 February 2023, *HSF held its first Book Club event* at our offices. We hosted Dr. Nechama Brodie, in conversation with Khaya Sithole, to showcase her book *'Farm Killings in South Africa.'* Dr. Brodie shared insight of the historical context of farm killings, their historical roots and the complex patterns of oppression that animate them.



## ○ The Helen Suzman Memorial Lecture

On 16 November 2023, former Constitutional Court Justice, Johan Kriegler *delivered* a lecture entitled *Elections: Facts and Fantasies*. Justice Kriegler reflected on his experience as the Chairperson of the Independent Electoral Commission and warned against relying too heavily on electoral reform to make South Africa's government more responsive and accountable to voters. Instead, Justice Kriegler argued, real change will come with a change in South Africa's political culture.





## ○ HSF Roundtable Series

### Re-imagining Local Government

Local government, despite its well known dysfunction, remains indispensable to delivering the basic services essential to the Constitution's vision of a dignified existence for all who live in South Africa. It is, therefore, crucial that civil society keeps an open dialogue on the state and prospects of local government in South Africa. To this end, *HSF hosted a Roundtable discussion* on 25 April 2023 where we asked how local government might be re-imagined to better achieve its objectives. We were delighted to be joined by Lukhona Mnguni, Executive Director of the Rivonia Circle, Dr Tracy Ledger, Senior Researcher and Programme Lead at PARI, Lance Joel, COO of SALGA, and Philile Ntuli, a full-time commissioner at the SAHRC.

### Russia, Ukraine, and a Constitutionally Informed South African Foreign Policy

On 13 July 2023, *our panel reflected on South African policy towards the Russia-Ukraine war* and, in light of the ICC warrant of arrest issued against Russian President Putin, discussed South Africa's future foreign policy informed by its constitutional and human rights obligations. Our panel comprised HSF's Executive Director, Nicole Fritz, businessman and activist, Mcebisi Jonas and Director General at Department of International Relations and Cooperation, Zane Dangor, with academic and activist Rekgotsofetse Chikane facilitating.

### Artisanal Mining in South Africa

On 28 September 2023, *HSF hosted* a Roundtable discussion to understand how best artisanal mining can be brought under a workable regulatory framework. We were delighted to be joined by journalist, Kimon De Greef, who provided a gripping first-hand account of the artisanal mining community in Welkom that was inspired by his New Yorker piece, *The Dystopian Underworld of South Africa's Illegal Gold Mines*. Mining historian, Professor Keith Breckenridge revealed how artisanal mining had its roots in the early mining history of South Africa. Social activist and mining lecturer at the University of Witwatersrand, Dr Janet Munakamwe also gave insight into how migrant communities engage in artisanal mining.







## Articles

### South Africa's Foreign Policy

'SA on thin ice with exercise to help test arms available for war on Ukraine', available [here](#).

'Feting of Russia perfected in West's citadels', available [here](#).

### Migration and HSF's ZEP Litigation

'SA must take the lead in urging global framework for treatment of migrants', available [here](#).

'Aaron Motsoaledi's promised regularization is a myth for ZEP holders', available [here](#).

'Disagree with Helen Suzman Foundation if you want but stop attacking its director' published by *News 24*, available [here](#).

'Don't use migrants as scapegoats' published as a reader's letter by the *Sowetan*, available [here](#).

### Corruption and Accountability

'No place for state capture beneficiaries in cabinet reshuffle', available [here](#).

'Tshwane must stop violating Hammanskraal residents' rights', available [here](#).

'Who would put up their hand to lead when their life could be in danger?', available [here](#).

'Judiciary fails to get it right over issues of sexual harassment', available [here](#).

'X marks the spot where the fundamentals of democracy were put to the torch', available [here](#).







# Staff



**Naseema Fakir**  
**(March 2023 – current)**  
Executive Director

**Nicole Fritz**  
**(January 2022 – December 2023)**  
Outgoing Executive Director

**Juliet Briggs**  
**(March 2022 – March 2024)**  
Director of Finance and Operations

**Deborah Petersen**  
**(March 2024 – current)**  
Director of Donor Relations and Operations

**Christopher Fisher**  
**(February 2021 – current)**  
Head of Research and Advocacy

**Sophie Smit**  
**(March 2021 – current)**  
Researcher

**Ezekiel Kekana**  
**(January 2023 – current)**  
Researcher

**Luke Oosthuizen**  
**(November 2023 – current)**  
Researcher

**Chelsea Ramsden**  
**(February 2021 – May 2023)**  
Senior Researcher

**Divashnee Naidoo**  
**(August 2022 – April 2024)**  
Researcher

**Matshabello Mokone**  
**(September 2022 – March 2023)**  
Outreach and Communications Officer

**Yvette Ondinga**  
**(June 2022 – current)**  
Office Administrator

**Thuli Mbhele**  
**(January 2018 – current)**  
Office Assistance





# Board of Trustees



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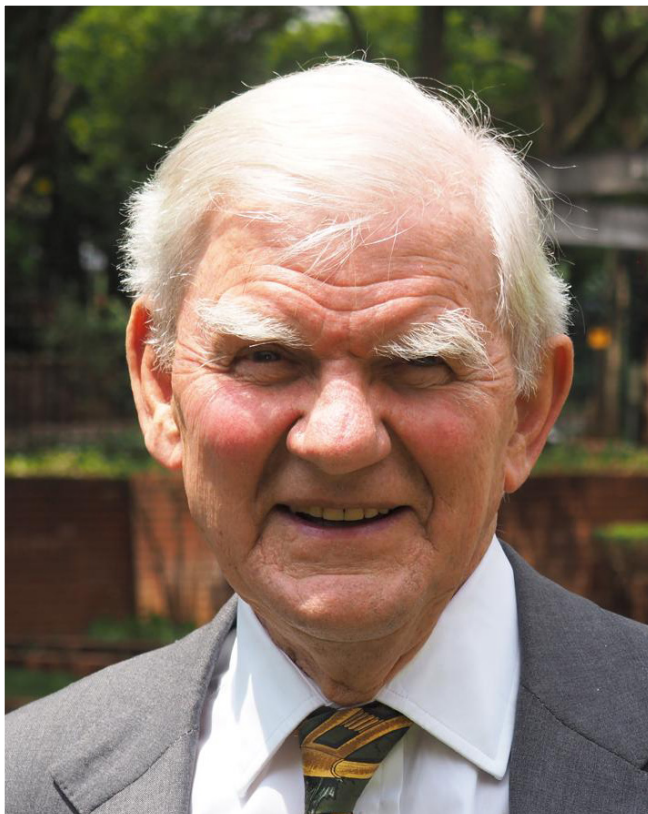
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(June 2023 - current)  
Trustee



*Mr Gerhard Maritz Ralfe*



*Mr Kalim Rajab*



[www.hsf.org.za](http://www.hsf.org.za)

**Tel:**

+27 11 482 2872

**Address:**

North Block,

La Val Office Park

45 Jan Smuts Avenue, Westcliff, 2193

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**Banking details:**

The Helen Suzman Foundation Trust FNB

(Platinum Business Account)

Branch: 240129 (Mall of Africa)

Account number: 63059483536

SWIFT code: FIRNZAJJ



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