

Yoliswa Dwane Public Lecture 2024

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‘The Local and Global: Connecting Struggles for Justice and Equality’

The Annual Lecture is held to honour [Equal Education’s](#) (EE) co-founder [Yoliswa Dwane](#) and pays tribute to her work and contribution to education justice in South Africa. The 2024 Lecture is hosted by EE and the [Centre for Law And Society](#) (CLS). Yoliswa passed away on 21 October 2022.ⁱⁱ

Introduction

1. I want to thank you all, [Equal Education](#), the [Centre for Law and Society](#) at the University of Cape Town, for the honour and invitation to give this lecture. And to the Dwane family especially.
2. Let me start off by saying that no lecture to honour Yoli will be complete without speaking about the current on-going genocide in Gaza. Yoli would have been at the FRONT of every march for ethnic cleansing to end. This is why this lecture and tribute comes at a disheartening, and horrible global time, where every single word we utter, every single word we write, and every action we take, or do not take, will be remembered for generations to come – because:
 - a. As Yoli always pointed out in her work, in her deeds: we are all the children and grandchildren of apartheid – we know it all too well.
 - b. In a world beset with gross inequality we know what apartheid meant and means still for us here, and so too, for the people under military apartheid occupation in Gaza and Palestine;
 - c. We know that all forms of apartheid should be condemned, and that genocides in our lifetime, must be stopped.
 - d. Growing up I learnt that if we can’t do *anything* about the injustice then at least we should *lift it up*’- we should tell everyone about it. Or else, our silence is deemed to be complicity. And one thing about Yoli – she was not scared to speak up, she took no prisoners, so to speak.
3. I also need to be clear: I have no illusions about the ability of the law, our legal system or international law and its systems, or international bodies and its rules to ‘lift up’ that injustice.
4. In all of my work, it has become clear to me that we really do live in a world where *solidarity is just a word*ⁱⁱⁱ – where racism and dehumanisation^{iv} of black and brown people is rife, where

some people's hospitals and schools can be bombed, with impunity. Where teachers and professors and surgeons and journalists can be killed and kidnapped^v; where lifesaving medicines are turned into commodities like cars and jewellery^{vi}; where girl children cannot get an education school^{vii}; where people live on streets not in homes; where children cross rivers to learn; where a flushing toilet is like a diamond- precious and rare. But when all of this injustice is widely reported and also streamed on our screens – we cannot claim we did not know.

5. So, against this backdrop- today, I will try to honour Yoli's memory and activism.
6. I should add that I called Yoliswa "Yoli" – because she decided -unilaterally to call me Fats – a nick name from my years at the AIDS Law Project (ALP) (now [Section 27](#)) when we acted for the [Treatment Action Campaign](#) (TAC) in several of its legal cases.
7. I will return to how the work of an older TAC and that of a younger EE are so connected – and so too it's legal arms – the [Equal Education Law Centre](#) (EELC) and the then ALP.
 - a. We cannot escape each other it seems: Many of EE's first set of General Secretaries and leadership team came from a TAC university student volunteer cohort, and the current General Secretary [Noncedo Madubedube](#) is HJI's Deputy Chairperson, and has been with HJI since we started, almost four years ago.

Some anecdotes

8. The first time I met Yoli was in 2008 during the height of the May 2008 xenophobia pogroms^{viii} that had violently swept South Africa- when we were at the ALP and TAC offices on 122 Long Str in Cape Town providing humanitarian and legal support.
9. Yoli and Doron Isaacs – the co-founders of Equal Education (EE)- were sharing a desk in an office on the TAC floor. He introduced me to Yoli as his "law school friend" and explained the beginning of the formation of EE. They were going to start a social movement, he said!
10. At that time, Yoli did not say a lot, she simply smiled. I thought she was shy, and I also thought that this was a very difficult project to embark upon so close after graduating law school. I was to learn later, that Yoli was definitely not shy, and that the project was indeed possible.
11. As an issue close to my heart, I had hoped Doron and Yoli, with the first organisers (Lumkile and Joey), research teams, advisors, education experts and the communities that they represented, would turn education apartheid in our country, on its head.
 - a. Within 5 years the team at EE did just that and they still do some 16 years, 5200 members, 4048 equalisers, 192 facilitators, and 5 provinces - later, becoming the 'youth-led mass democratic movement' the early organisers and co-founders had always intended it to be.

- b. EE is now a leading grassroots voice on education-related matters in SA and elsewhere. And like the TAC and others before it, and I hope others after it, ‘EE members have marched, written letters, held night vigils, met with government officials and public representatives, advocated in the media, made submissions to Parliament and, where necessary, taken legal action with the assistance of the EELC, the [Legal Resources Centre](#) (LRC) and in partnership with others, to deliver major victories for learners across South Africa’.^{ix}
12. One of the last times I saw Yoli before she passed away, was a few years ago when I was a donor, and she was a grantee raising funds for EE. We had a meeting with the leadership team and Yoli was definitely not she- outspoken and chatty in fact.
13. Her words that day struck me: when we probed (as donors do) the working relationship between EE and EELC and how the legal cases, advocacy work, and movement building connect – she said, as if incredulously, in a tone of ‘how can YOU not understand this’: “but Fats! – it is easy, it is like TAC and the ALP...” – I am happy to know in some small way that our previous work inspired her. Needless to say, we stopped asking more questions and gave the grant!
14. But she too had no illusions about the power of the law and its rules: as someone trained in law and as a long standing activist herself, coupled with her family’s rich history in the anti-apartheid struggle^x Yoli understood the law’s limits, yet still saw the connection and need for a legal arm of EE to give legal voice to its mass mobilisation and vice versa.
15. And for those of us schooled in public interest and social movement lawyering at TAC, we know all too well that law, lawyers and lawyering mean nothing if communities are not behind any legal demand for policy change.
16. Yoli was able to straddle all of that: her lived experience of a child of apartheid and her family’s anti-apartheid work and contribution, her legal training, her political acumen that Jason Brickhill in his fantastic 2023 Inaugural Lecture^{xi}, Doron Isaacs in his moving 2022 tribute^{xii}, and so many others have eloquently written about – all of which is known to all of you.
17. And here I am reminded about what Jason recalled when Adv Geoff Budlender SC was lead counsel in the Norms and Standards case: he “saw the Norms and Standards case as “a latter-day TAC”, recalling that “it was fundamentally similar...when people came to see me, in the campaign on the ground and the nature of the issue. It just felt like the TAC” (referencing the famous mother to child transmission case brought by the TAC^{xiii}).
18. Well sis Yoli – wherever you are- I do get it and yes it has worked: EE is now a pioneering social movement led by brave leaders, creating awareness, exposing injustice, using politics and the law, relying on evidence and critically, building a movement.

- a. It *makes* change, incremental, frustrating at times.
- b. Otherwise, who else would have loudly told the world that the black child in South Africa post 1994 is STILL disadvantaged with a two tier education system in one of the most unequal societies in the world?

I honestly cannot imagine the education and public interest litigation space without EE, and its sister, EELC.

‘Every generation has its struggle’ – Inequality

19. On inequality- I want to go back to the title of Jason’s lecture last year: *‘Every generation has its struggle...’*.
20. This slogan is not just on our t-shirts- it was conceptualised and mastered by EE’s members and is a perfect explanation of what EE is all about: a realistic nod to the past and future, but also a clear signal that a new generation of activists are now on the front line. And that even if apartheid is legally over, young people will not be silenced or condemned to wait and wait for substantive equality to materialise. That especially in a democracy, inequality must be challenged.
21. Of course, unfair discrimination, race, racism, inequality, privilege, apartheid and education are interlinked:
 - a. I too, like Yoli, grew up under apartheid with, among others, an inferior apartheid education system at a time of land dispossession, poor healthcare, separateness, race based persecution and unjust laws.
 - b. I too am my family’s first woman lawyer.
 This is why I suppose every slogan, every case, every campaign by EE hit home for me – I got it immediately: from EE’s work on broken windows; to sanitation and shitty toilets; to lack of text books, desks and chairs; to unfilled teacher posts; to lack of sport and basic school infrastructure; to long travel distances and lack of subsidised transport; to sexual assault in schools and teacher abuse; to hunger in schools; to underperforming schools; to learner violence; – i.o.w. all the *elements* that make up the NORMS AND STANDARDS for a regular functioning school.
 The lack of it – many of us know it well-either lived it or live it now.
22. This is why EE’s [Norms and Standards campaign, litigation and victory](#)^{xiv} was critical. A campaign and case that Yoli was central to, in having ‘as Jason described: establishing *“that the substantive content of the right includes safe and adequate school infrastructure, alongside*

other cases confirming that the right also includes [teachers](#), [textbooks](#), [furniture](#), [scholar transport](#) and [school nutrition](#)".

CAMPAIGNING AGAINST A BACKDROP OF LOCAL AND GLOBAL INEQUALITY

So, we all know this - but I need to stress it today because it has to underpin our work going forward:

- a. Due to the legacy of apartheid, colonialism, racism- South Africa remains one of "the most economically unequal country in the world...and this inequality has grown in the last decade".
 - b. Wealth inequality is alarming, despite BBBEE and other policies: Still, the richest 10% of people, the majority of whom are white, own more than 90% of the country's wealth. And incredulously, as health and education campaigners have warned time after time –government's budget austerity has worsened inherited poverty, resulting in systemic inequality. These are also the brutal legacies of apartheid and the consequences of our negotiated political settlement.
 - c. Many groups working on economic and budget policy have year after year sounded the alarm bells that poverty in our country is alarmingly high -we know, we see it everyday, you cannot escape it in our neighbourhoods, on the streets, everywhere. This is even after 1994, and more so for women, and for black South African women and children.
 - i. For example, in 2019 already, it was reported that Black African children, who constituted about 85% of the "child" population, accounted for about 94% of all poor children then.^{xv}
 - d. In addition, government spending on health care continues to decline in real terms and spending per learner is not at optimal levels either (in the public sector).
 - e. According to researchers at the SAMRC, even this year's budget for health, announced days ago, **fails** to address poverty related health issues" – among other shortcomings.^{xvi}
23. But, economic and political inequality is by design, man-made.
24. It also thrives because of a **global** backdrop of staggering economic inequality and global trade, regulatory, and economic policies or rules that do not prioritise the economic upliftment of poor people in the Global South especially – and, instead, these systems force us to rely on charity, donations and what I call 'voluntary benevolence' from philanthrocapitalists and richer governments – usually in exchange for something else.
25. Let's talk about wealth inequality: The advocacy group Oxfam recently released its 2024 Inequality Report^{xvii}- it shows that right now, just a **handful** of billionaires and financiers- a small

group of predominantly super-rich men in the Global North- reign over a system of global economic apartheid.

- a. The mammoth corporations and monopolies they control have historically created unprecedented wealth and inequality – on the backs of the poorest people everywhere, and of the poorest nations.

26. To put the global wealth disparity crisis in perspective, Oxfam’s Inequality Report reveals that:

- a. Since 2020 (the start of the COVID pandemic) almost **five billion people** have become **poorer**.
- b. Poverty at current rates will not be ended for 230 years, but we could have our first **trillionaire** in just over a decade.
- c. The richest **1% of nations emit more carbon pollution** than the bottom two-thirds of humanity.
- d. Seven out of ten of the world’s biggest corporates have either a **billionaire CEO** or a billionaire as their principal shareholder.

27. As campaigners for access to medicines we know all too well what this economic and trade apartheid means – we know too well about the billionaires whose decisions rule over it, and the impact it has on us.

- a. While huge pharmaceutical corporations grow their owners profitable and powerful beyond measure, ordinary people in countries across the world are denied timely access to medicines that could save their lives. People are literally dying, forced to protect the corporate bottom line.
- b. Entire nations that contribute to scientific research too, are prevented from making medicines in unfettered ways, that could help free them from neocolonialism and arbitrary rules.

28. But why am I talking about health and medicine access, racism, inequality, access to educational opportunities and apartheid here? Because in Doron’s moving tribute to Yoli on her passing in 2022 he said:

*“Yoliswa was my friend and I truly loved her. She died of liver cancer. This could happen to anyone. But it’s also inescapable that the way she died, diagnosed only days before the end, would be **less likely** to happen to a rich person, to a white person. She made many and tangible advances in fighting for justice but did not escape the injustice of being **born poor and black**. That is devastating. May her spirit be carried onward, the spirit of solidarity”.*^{xviii} [emphasis added]

29. In other words, he was pointing out the social and political determinants of ill health in our country: race, gender, age, environment, income and wealth.
30. And here, the COVID pandemic was a textbook case of how the political determinants of health can shape the world's response to a devastating global pandemic: In COVID we saw richer nations making it very clear to us all that their lives mattered more than black and brown people in the Global South. How else does one explain the pervasive vaccine apartheid we witnessed?

From HIV to COVID: When Solidarity is just a word^{xxix}

- *On the push for transparency to "let the light in"...^{xx}*

31. As with the AIDS crisis, and then with COVID, the creed of intellectual property fundamentalism preached to us by the ultra-wealthy has been to tell us to monopolise and privatise the manufacture and supply of publicly created medicines, while relying on voluntary market measures – not effective regulation or compulsory measures. This is why patents and patenting matter.^{xxi}
32. With COVID, like the AIDS crisis in the late 1990s, big pharmaceutical monopolies backed by rich country governments talked *solidarity* but acted to prevent poor countries from accessing timely supplies of lifesaving COVID-19 vaccine technologies, an issue the HJI has highlighted since our establishment in 2020. The same is generally true for access to TB, HIV and cancer diagnostics, medicines and vaccines.
33. Corporations made massive profits for their super-rich shareholders in the COVID pandemic, quickly minting^{xxii} a new set of pharmaceutical billionaires in the process. All while vaccine nationalism^{xxiii} prevented the proper management of the pandemic, causing untold suffering and death, needlessly.
34. The cost? "At least fourteen million people lost their lives in two years; these are excess deaths associated with the pandemic. Many of these deaths were preventable. And yet, while the tools existed to mitigate the pandemic from December 2020 already, the political will to share supplies and knowledge was absent."^{xxiv} This has been described as a "moral failure" even by the World Health Organization (WHO).^{xxv}
35. In addition, the World Trade Organization (WTO), scuppered all attempts by Global South countries to pause the very trade and Intellectual Property rules that make access to vaccines difficult and impossible even in a pandemic.
 - a. And unsurprisingly they did it again just days ago, there is now NO WTO agreement on diagnostics and treatments for COVID.^{xxvi}

36. While the WTO supposedly ‘negotiating’ access in 2021, the HJI documented that in 2021 South Africa had negligible and staggered access to vaccines, waiting very long for supplies to come in.
37. This while people and our colleagues and friends were getting vaccinated in the Global North and elsewhere, with even two shots of vaccine doses. But why this unevenness?
38. At the time, the South African Government, acting through the National Department of Health entered into agreements with private manufacturers and/or suppliers for the supply of vaccines.
- a. But the contracts were a **secret** and in fact came at great cost to our ‘national sovereignty’.
 - b. In the pandemic and during a two year [declared disaster](#) the HJI asked to see the vaccine contracts. We were told it was secret; that government would prejudice itself in future negotiations if it broke its undertaking to keep the contracts under wraps; that it was confidential; that the Department was bound to what are called NON DISCLOSURE AGREEMENTS (NDAs).^{xxvii}
 - c. Well, we know the law and we did not like that answer! We felt that [the public](#) had a right to see the contracts, and to know what is in them. We used our mediocre access to information laws to secure access via a ground- breaking, and global first judgment.
39. The High Court Judgment^{xxviii} affirmed the public interest in disclosure and procurement transparency and ordered the unredacted disclosure of all the signed contracts (there were four agreements) as well as negotiating documents with other companies.
- a. We shared what was disclosed to us with the public and analysed it with a group of local and global health advocacy and research groups.^{xxix}
40. What do these contracts tell us?
- a. Well, the terms and conditions are so far from the solidarity promised that they beggar belief. We found that in “all four Contracts/Agreements, the pernicious nature of pharmaceutical bullying was evident: the terms and conditions were overwhelmingly one-sided and favoured multinational corporations”.
 - b. And once publicly released, within hours and days, government officials finally admitted, that it was [“screwed”](#) in these negotiations.
 - c. IN our analysis we found that the most egregious was Johnson & Johnson that was “trading scarce or very delayed supplies for extractionist terms and conditions” demanding the right to^{xxx} export some 30 million [vaccines finished in East London by Aspen Pharmaceuticals](#) to Europe, while we desperately waited for supplies and faced

devastating waves of infection. Even by the Presidents account we became “beggars”^{xxxix}
- begging for vaccine supplies on the global market.^{xxxix}

41. Thankfully, the High Court mitigated and addressed some of the uglier sides to secret one-sided contracting in the COVID pandemic.

- a. And the judgment will have far-reaching implications not just for the next set of pandemic procurement negotiations but also for substantial state led procurement due to take place under National Health Insurance (NHI).
- b. The case also affirmed that in a constitutional democracy, even *emergency procurement* cannot be secretive, and commercial confidentiality clearly does not translate to blanket secrecy that can override the public interest.
- c. However, despite this legal victory, even more pharmaceutical corporations are insisting on (NDAs in every part of the world- not just in South Africa– with broad confidential information clauses, to suppress the disclosure of pricing and supply terms, particularly in negotiations covering monopoly health products such as HIV medicines.
- d. Let me add here as an aside that one of the most ridiculous aspects of litigating this case was when the pharmaceutical companies and government stated that even the *legal name and legal service address* of the companies that we bought vaccines from were “confidential” – they refused to confirm those details – so we sued the department and told them it was their duty to serve the papers on whomever it contracted with. Yoli, I know, would have scoffed and then laughed at this pathetic response.

42. The impact of the case elsewhere in the world has also been significant – I share this to encourage even more public interest litigation designed not just for the benefit of South Africa, but to benefit and support other groups and work too elsewhere in the world:

- a. The judgment and court ordered unredacted disclosure is a first, and it has helped transparency activists elsewhere in the world to demand the same openness because it involves the SAME companies.
- b. It has also led to a global call for bodies such as UNICEF and GAVI to commit to procurement openness, to release all health products contracts with phrma;
- c. The case and its lessons have become a rallying point for price transparency in the ongoing global Pandemic Treaty negotiations.

My point here, is there is no “wasted” legal case^{xxxix} there is always impact, some immediate, some in 20 years’ time, some much later- and often our duty is to ‘lift the injustice’ up by recording it via legal processes.

43. Now let me briefly turn to why lawyering and litigation cannot be in isolation of non-legal avenues, when grappling with the global exercise of political and trade power:
- a. Even if we win cases for improved domestic transparency involving global multinational companies whether on education or health or climate, our focus has to also be on the relevant international trade and rights bodies-that govern themselves with rules that we as the people have not directly designed (some governments may have).
44. If we don't grapple with the reality of how global trade power operates, we will only have limited success. Let me explain:
- a. Many of us in the health activist community have for a long time even before COVID, argued that the World Trade Organization (WTO) [based in Geneva] is not fit for purpose and does not serve for people in the Global South or poor patients. The way the WTO responded to the COVID crisis) basically, a non-response) proves our point.
 - b. In my view, the WTO represents everything that is wrong with capitalism: it commodifies life- saving medicines so that medicines are treated like a luxury: jewellery^{xxxiv} or a designer [handbag](#).
 - c. The WTO forces and compels member states, poor and developing countries to subscribe to a set of norms, which if resisted, attracts trade and diplomatic pressure or - bullying. But richer member states rule the roost there.
45. The WTO trades rather in diplomatic pressure and bullying. The clearest examples of this have been its pathetic mishandling of the AIDS crisis almost 20 years ago, where IP rules were regarded as more important than access to ARVs for people living with HIV, and again now, in its disastrous handling of negotiations on access to COVID diagnostics, treatments and vaccines.
- a. During COVID, for almost two years, groups around the world supported a bold 2020 pandemic joint proposal from South Africa and India called the "[TRIPS waiver proposal](#)". *Note: Foreign policy geeks one should not underestimate the resentment of certain Global North governments towards South Africa for both its leadership on the TRIPS WAIVER proposal in 2020, and just a few year later, for bringing the ICJ Genocide charge against Israel in 2023 -see below.)*
 - b. I have previously explained that the SA governments TRIPS WAIVER proposal was prompted by the immense likelihood of human suffering in the COVID pandemic (which came to pass); prior knowledge and experience of how selfishly governments and companies protected intellectual property monopolies during the AIDS crisis; and to atone for our governments own mishandling of the AIDS crisis and its denialism in the late 1990s and early 2000s, costing many lives.

- c. “The South African and Indian governments in October 2020, [sought to ensure](#) that intellectual property barriers would not block access to lifesaving COVID-19 vaccines and treatments, among other technologies, so that these lifesaving medical products would be treated as global public goods, not as commodities to be manufactured, priced, and distributed at the whims of private profiteers. The proposal was supported by one hundred countries, sixty-five co-sponsors (also member states of the WTO), [Nobel laureates](#), the director general of the [World Health Organization](#), the head of [UNAIDS](#), [faith leaders](#), [trade unions](#), health groups, the African Union, researchers, scientists, economists, activists as well as politicians in several countries. But the proposal was actively blocked, by richer countries, mainly by the US, EU, UK, Australia, Canada, Switzerland and Japan”. Essentially, “high-income countries delayed and prevented textual negotiations and took it upon themselves to decide what low-income countries needed.”^{xxxv}
- d. Eventually, in mid-2022, despite the death, infections, illness, economic and other forms of disruption, including on learning, especially for and in the Global South, we were bullied into such a [weak](#) deal on vaccines that we regard it as a “[a slap in the face of poor countries](#)”.

But do not despair- in years of taking on corporate and government abuse, impunity and power, rarely have I felt more hopeful. Movements are uniting, connecting issues like climate, education and health justice with medicine access. Despite the bullying, in the last few years, Global South countries have among others: showed leadership at the WTO on COVID; taken on vested pharmaceutical interests;^{xxxvi} are at the ICJ, charging Israel with genocide;^{xxxvii} and at the ICJ to take on the colonial occupation of Palestinian territories.^{xxxviii}

EE’s Internationalist Solidarity

46. At last year’s lecture, Jason described the five historical features of EE’s approach to its work in its almost 16 years of existence- namely:
 - a. building the movement;
 - b. articulating a positive vision for society;
 - c. building technical expertise and an evidence base;
 - d. **solidarity**; and
 - e. using the Constitution and the law as one tool of struggle.^{xxxix}

47. On “internationalist solidarity” – Jason referenced the powerful example of EE’s previous support for students and learners in Chile and elsewhere, facing government repression.^{xi}
48. This year, I want to give the example of EE’s internationalist solidarity with the people of Palestine, and those living in Gaza:
- a. In January 2024, many of us in the social justice sector received an email from the General Secretary of EE asking us: *How do we contribute to and stand in absolute solidarity with Palestine; and in all of our varying contexts, to stand against neoliberalism, apartheid and all forms of repression?* It was an invitation to stand in solidarity, during a genocide.
 - b. In addition, EE’s GS informed us that over the 2023 holidays it was actually working with global groups to stand witness: using the *amicus curiae* tool in a foreign court- where [Equal Education](#) joined an [amicus brief](#) of 77 international human rights organisations led by the Center for Constitutional Rights (CCR) in the USA, in an urgent appeal brought on behalf of *Defense for Children International-Palestine*.
 - c. The case was filed in November 2023, a few weeks before the [SA government filed](#) its ground breaking and important case against Israel at the ICJ, in December 2023.^{xii}
 - d. The *Defense for Children International-Palestine* case, filed in a US federal court, is against the US government (President Biden, Secretary of State Blinken, US Secretary of Defense Austin) for [failure to prevent genocide, and complicity](#) in the Israeli government's [unfolding genocide](#) in Gaza.^{xiii}
49. In addition to using these legal tools available to it, EE has also indicated support for [Youth of the World for Palestine](#) through protest action and civil disobedience including “joining upcoming actions to protest Israel’s military aggression on the people of Gaza and its occupation of Palestine”.^{xiiii}

GAZA, Occupied Palestine: Why post-apartheid South Africa’s international solidarity matters

Often I am asked - why does the SA government and our solidarity on Gaza, matter- when Gaza is thousands of miles away?

50. This is the same question people asked in the anti-apartheid movement.
51. It matters because like apartheid South Africa, Palestine has been subjected to a brutal apartheid regime, since 1948, through on-going colonial settler occupation. International pressure is a strong tool to use to force political change and to isolate rogue states militarily (as with apartheid South Africa).

52. It matters because the *two ICJ* and the *Defense for Children International-Palestine* cases - whatever your critique of international law and its limits may be - signal that impunity cannot be indefinite for rogue, military colonial occupiers and states.
- a. As you must know already, on 26 January 2024, the International Court of Justice (ICJ) found that South African charge of genocide against Israel is plausible, and as such, in its provisional measures placed the strongest duty of obligation both on Israel to *desist* in its actions and on other signatories to the [Genocide Convention](#)^{xliv} to take measures within their power to *prevent genocide*, failing which, they will be regarded as **complicit** in war crimes.
53. Our solidarity now, at the least, must involve calling for an immediate embargo on arms sales and military cooperation with Israel, among others.

Health justice and Gaza, Palestine:

54. The people of Palestine experience medical apartheid, many of us sitting in this room (or our families) did too.
55. In addition, for over four months now, health workers in Palestine and health activists worldwide have stressed that the purposive and systematic destruction of the health system relied upon by 2.2 million people in Gaza is a depraved crime. We have said that “once the health system is destroyed, injuries cannot be treated, primary care cannot be delivered, and famine cannot be managed – in other words, life cannot be sustained”^{.xlv}
- a. Just yesterday, over 100 people queuing for bread in Gaza, were massacred while queuing – we call it the “bread massacre”^{.xlv}
 - b. This week, over 40 organisations working on health and social justice around the world, put out an [urgent call](#) to the global health and human rights community. In our OPEN LETTER^{xlvii} we also called for an immediate and sustained ceasefire.
 - c. We do because the targeting of the health system^{xlviii} by the Israeli Defence Forces amount to war crimes and genocide.
 - d. With more evidence of scholasti-cide, edu-cide, medi-cide, and genocide, our eight [health related demands also](#) calls on the social justice community, universities, professional medical bodies, organisers of the 2024 AIDS conference and the World Medical Association to not be complicit in genocide, to condemn it, and to take certain meaningful actions against it. We have also called on all AIDS activists and PrEP users

to target TEVA, an Israeli generic pharmaceutical company for boycott, divestment and sanctions.

56. Since Yoli was an alumni of UCT – and the UCT law school in particular – and we are here at UCT today, I want to end by talking about higher institutions and the solidarity that you need to show now.
57. I know that Yoli would have welcomed and supported the UCT academics who have currently proposed a set of resolutions to UCT's Senate that ask UCT to end all institutional engagements with Israeli Universities; express solidarity with Palestinian academia under destruction; defend academic freedom and insist that no UCT academics work with IDF researchers. This will be debated in the UCT Senate soon.^{xlix}
58. My appeal to you is that if you are a university student, or academic or know one, in any university in South Africa, or in your social justice and education work partner with any research units or departments at UCT, WITS, elsewhere- demand that they take appropriate measures to actively, not just in words, break with apartheid.
59. We also call on you, for your solidarity in whatever work you do, without delay, to:
 - a. Call out Israel's war crimes and unequivocally condemn the genocide that is underway in Gaza.
 - b. Because food, water and aid are being used as weapons of war, to call for resumed and increase funding for the critical work of UNRWA, and other agencies/groups – so that they can scale up humanitarian, health care, food and water assistance in Gaza and the region.^l

It is time to end all apartheid collaboration. Others did that for us too. **Never forget!**

Long live the memory and spirit of Comrade Yoliswa (Yoli) Dwane, long live.

ⁱ [Fatima Hassan](#) is a human rights lawyer and social justice activist, founder and director of the HJI. She is the recipient of the 2022 Calgary Peace Prize and is a 2023 Echoing Green Fellow.

ⁱⁱ *Yoliswa was born in the Eastern Cape, in Dimbaza, and went to school there, later moving to Khayelitsha in the Western Cape. She graduated from the University of Cape Town (UCT) in 2007 with a degree in film and media studies and a postgraduate LLB. She dedicated her life to advancing social justice as a community activist. She led EE as the Chairperson of its National Council (Board) from 2012 to 2018, and was also the head of EE's Policy, Communications and Research Department from 2008 to 2016. Yoliswa was key to the formation of [the Equal Education Law Centre](#) (EELC) and served on its Board from 2011 to 2019. Via Equal Education (EE).*

See also: *Remembering Yoliswa Dwana*. Doron Isaacs. Available at: www.news24.com/news24/southafrica/news/remembering-yoliswa-dwane-20221024

ⁱⁱⁱ See here: *The great Covid-19 Vaccine Heist (Part Two): Moderna – when solidarity is only a word*. Fatima Hassan. January 2021. Available at: <https://www.dailymaverick.co.za/opinionista/2021-01-24-the-great-covid-19-vaccine-heist-part-two-moderna-when-solidarity-is-only-a-word/>. And see: *Solidarity is just a word - a global pandemic of hoarding, with a focus on vaccine nationalism*. Fatima Hassan. Keynote Address delivered at Netherlands Society for Tropical Medicine and Global Health Annual Conference 2022. October 2022.

^{iv} See also on Palestine: *Israel–Palestine: dehumanisation and silencing*. Mishal S Khan and *Alu Tacon Tinua* (pseudonym). *The Lancet*. 16 February 2024. DOI: [https://doi.org/10.1016/S0140-6736\(24\)00043-6](https://doi.org/10.1016/S0140-6736(24)00043-6)

^v *Israel's unrelenting war on Gaza healthcare requires urgent action*. F Hassan, L London, S Manjra. 14 February 2024. Available at: <https://www.aljazeera.com/opinions/2024/2/14/israels-unrelenting-war-on-gaza-healthcare-requires-urgent-action>

^{vi} See: <https://www.theguardian.com/global-development/2024/feb/14/wto-fails-to-reach-agreement-on-providing-global-access-to-covid-treatments>

^{vii} See: <https://www.unicef.org/education/girls-education>

^{viii} See TAC, ALP (Section 27) and also: https://www.atlanticphilanthropies.org/wpcontent/uploads/2010/07/4_What_happened_c.pdf

^{ix} According to EE it has: ‘...won tangible victories in schools, securing: school infrastructure regulations, billions in government funding for infrastructure, a scholar transport policy and scholar transport to over 3 000 learners...defended the rights of students who faced exclusionary policies, and been instrumental to the reform of feeder zone policies which entrench segregation...prevented schools being unlawfully closed, and worked towards schools remaining democratic and inclusive spaces when new school policies are introduced...campaigns and secured improvements to countless specific schools across South Africa. Recognising the intersectionality of socio-economic rights...joined and contributed to social justice struggles beyond education...to defend hard-won democratic and constitutional gains. A democratic movement, EE's National Council (is made up of learners, parents, post-school youth, and experienced activists along with our General Secretary and Deputy General Secretary) are elected at ...a National Congress, held every three years.’ See: <https://equaleducation.org.za/our-movement/>

^x See *Remembering Yoliswa Dwana*. Doron Isaacs. Available at: www.news24.com/news24/southafrica/news/remembering-yoliswa-dwane-20221024

^{xi} YOLISWA DWANE MEMORIAL LECTURE 2023: ‘Every generation has its struggle’ – *Activism and the law in the fight for social justice*. Jason Brickhill. 24 February 2023. Available at: <https://www.dailymaverick.co.za/article/2023-03-16-every-generation-has-its-struggle-activism-and-the-law-in-the-fight-for-social-justice/>

^{xii} *Remembering Yoliswa Dwana*. Doron Isaacs. Available at: www.news24.com/news24/southafrica/news/remembering-yoliswa-dwane-20221024

^{xiii} <https://www.saflii.org/za/cases/ZACC/2002/15.html>

^{xiv} <https://equaleducation.org.za/2013/12/02/equal-education-norms-and-standards-victory/>

^{xv} Institute for Economic Justice, Section 27. 2019. See https://www.iej.org.za/wp-content/uploads/2020/02/IEJ_Fact_Sheet_July_2019_HLPF-1.pdf

^{xvi} *Budget 2024 fails to address poverty-related health issues and inspire NHI trust*. SAMRC Researchers. 28 February 2024. Available at: <https://www.spotlightnsp.co.za/>

“Health has been allocated a total of R848-billion over the medium-term expenditure framework. This includes R11.6-billion to address the 2023 wage agreement, R27.3-billion for infrastructure and R1.4-billion for the National Health Insurance (NHI) grant. Compared with the Medium-Term Budget Policy Statement in October last year, the government is now adding R57.6-billion to pay the salaries of teachers, nurses and doctors, among other critical services. In real terms, the health budget is shrinking.

Also see: *Budget 2023 – opportunity missed to refocus public health spending?* Russell Rensburg, Rural Health Advocacy Project. 23 February 2024. Available at: <https://www.spotlightnsp.co.za/2023/02/23/opinion-budget-2023-opportunity-missed-to-refocus-public-health-spending/>

^{xvii} *Inequality Inc: How Corporate Power Divides Our World And The Need For A New Era Of Public Action*. OXFAM. January 2024.

Available at: <https://oi-files-d8-prod.s3.eu-west-2.amazonaws.com/s3fs-public/2024-01/Davos%202024%20Report-%20English.pdf>

And see: <https://www.oxfam.org/en/research/inequality-inc>

^{xviii} See: *Remembering Yoliswa Dwana*. Doron Isaacs. 24 October 2022. Available at: www.news24.com/news24/southafrica/news/remembering-yoliswa-dwane-20221024

^{xix} *Vaccine apartheid is racist and wrong*. Fatima Hassan. 23 May 2022. Available at: <https://speakingofmedicine.plos.org/2022/05/23/vaccine-apartheid-is-racist-and-wrong/> - see also Calgary 2022 Peace Prize Speech: *Vaccine apartheid is racist and wrong*: Fatima Hassan, May 2023. <https://healthjusticeinitiative.org.za/2022/05/12/calgary-peace-prize-speech-vaccine-apartheid-is-racist-and-wrong/>

^{xx} *THE GENEVA HEALTH FILES INTERVIEW: There is really no moral, legal, justifiable ground for this level of secrecy, you need to bring the light in*. Geneva Health Files. Newsletter Edition #49. 25 October 2023. Available at: https://genevahealthfiles.substack.com/p/fatima-transparency-contracts-south-africa-covid?utm_source=%2Fsearch%2Fhassan&utm_medium=reader2 And see: *Dissecting South Africa's COVID-19 Vaccine Procurement Contracts & their Global Implications*. Geneva Health Files. Newsletter Edition #198. 29 September 2023. Available at: <https://genevahealthfiles.substack.com/p/contract-south-africa-covid-19-gavi-covax-hji>

^{xxi} See for example the work of I-MAK here: <https://www.i-mak.org/burden-of-patent-thickets/>

^{xxii} The Peoples Vaccine Campaign: See: <https://peoplesvaccine.org/take-action/sotr/>

^{xxiii} *Profiteering from vaccine inequity: a crime against humanity?* Hassan, Yamey, Abbasi.

BMJ 2021; 374 doi: <https://doi.org/10.1136/bmj.n2027> 16 August 2021.

^{xxxiv} THE BIG PHARMA BULLIES: ONE-SIDED: MULTI-STAKEHOLDER ANALYSIS: SOUTH AFRICAN COVID-19 VACCINE PROCUREMENT CONTRACTS. HJI and MULTI-STAKEHOLDER GROUP, 5 September 2023. Available at: https://healthjusticeinitiative.org.za/wp-content/uploads/2023/10/HJI_One-Sided-FINAL-10-10.pdf

^{xxxv} <https://news.un.org/en/story/2021/01/1082362#:~:text=%E2%80%9Cneed%20to%20be%20blunt,from%20WHO%20headquarters%20in%20Geneva>

^{xxxvi} <https://www.theguardian.com/global-development/2024/feb/14/wto-fails-to-reach-agreement-on-providing-global-access-to-covid-treatments>

^{xxxvii} All legal papers and the Department of Health's Answering Affidavit is available at: <https://healthjusticeinitiative.org.za/pandemic-transparency/#contracts>

^{xxxviii} Health Justice Initiative v Minister of Health and Information Officer NDoH, (10009/22) [2023] ZAGPPHC 689 (17 August 2023). Gauteng High Court, Millar J. <https://www.saflii.org/za/cases/ZAGPPHC/2023/689.html>

^{xxxix} THE BIG PHARMA BULLIES: ONE-SIDED: MULTI-STAKEHOLDER ANALYSIS: SOUTH AFRICAN COVID-19 VACCINE PROCUREMENT CONTRACTS. HJI and MULTI-STAKEHOLDER GROUP, 5 September 2023. Available at: https://healthjusticeinitiative.org.za/wp-content/uploads/2023/10/HJI_One-Sided-FINAL-10-10.pdf

^{xxx} THE BIG PHARMA BULLIES: ONE-SIDED: MULTI-STAKEHOLDER ANALYSIS: SOUTH AFRICAN COVID-19 VACCINE PROCUREMENT CONTRACTS. HJI and MULTI-STAKEHOLDER GROUP, 5 September 2023. Available at: https://healthjusticeinitiative.org.za/wp-content/uploads/2023/10/HJI_One-Sided-FINAL-10-10.pdf

^{xxxi} <https://www.news24.com/news24/politics/government/we-are-not-beggars-treat-us-as-equals-ramaphosa-tells-world-leaders-20230624>

^{xxxii} THE BIG PHARMA BULLIES: ONE-SIDED: MULTI-STAKEHOLDER ANALYSIS: SOUTH AFRICAN COVID-19 VACCINE PROCUREMENT CONTRACTS. HJI and MULTI-STAKEHOLDER GROUP, 5 September 2023. Available at: https://healthjusticeinitiative.org.za/wp-content/uploads/2023/10/HJI_One-Sided-FINAL-10-10.pdf

^{xxxiii} <https://www.news24.com/news24/politics/government/we-are-not-beggars-treat-us-as-equals-ramaphosa-tells-world-leaders-20230624>

^{xxxiiii} See for example: *Politics By Other Means: Law in the Struggle Against Apartheid, 1980-1994*. Richard Abel. Available at: https://biblio.co.uk/book/politics-other-means-law-struggle-against/d/1589870455?aid=frg&gad_source=1&gclid=Cj0KCQiA84CvBhCaARIsAMkAvkL3CcXyRVwHS1BH_-bto5NnqraA2ObCoSOVx-fsE5qzbWJ72p4UtUaAm-HEALw_wcB

^{xxxv} See here: <https://www.msfaccess.org/> and 'Medicines should not be regarded as a luxury': <https://www.msf.org/medicines-shouldnt-be-luxury>

^{xxxvi} *A New and Weak WTO Deal on TRIPS is Not Fit for Purpose. An ineffective multilateralism*. Think Global Health. Fatima Hassan. 1 July 2022. <https://www.thinkglobalhealth.org/article/new-and-weak-wto-deal-trips-not-fit-purpose>

^{xxxvii} See the case of Colombia: <https://reliefweb.int/report/colombia/colombia-takes-significant-next-step-expand-peoples-access-affordable-hiv-treatment-and-moves-forward-compulsory-license-hiv-medicine-dolutegravir>

^{xxxviii} APPLICATION OF THE CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE IN THE GAZA STRIP (SOUTH AFRICA v. ISRAEL). <https://www.icj-cij.org/sites/default/files/case-related/192/192-20231228-app-01-00-en.pdf>

^{xxxix} Between 19 and 26 February 2024, the International Court of Justice (ICJ) held a landmark sitting to hear oral arguments by 51 countries and three international organisations on the legal consequences of Israel's continued occupation of Palestinian territories.

"In what is a first in the history of the International Court of Justice (ICJ), [52 States and three international organisations](#), the Organisation of Islamic Cooperation (OIC), the African Union (AU) and the Arab League, submitted written comments as well as oral presentations to a case. The procedure concerns an advisory opinion requested from the ICJ in December 2022, before the current conflict, by the United Nations General Assembly on the "legal consequences arising from the policies and practices of Israel in the Occupied Palestinian Territory, including East Jerusalem." See: <https://unric.org/en/occupied-palestinian-territories-first-days-of-hearings-at-the-international-court-of-justice/>

^{xl} YOLISWA DWANE MEMORIAL LECTURE 2023: 'Every generation has its struggle' – *Activism and the law in the fight for social justice*. Jason Brickhill. 24 February 2023. Available at: <https://www.dailymaverick.co.za/article/2023-03-16-every-generation-has-its-struggle-activism-and-the-law-in-the-fight-for-social-justice/>

^{xli} YOLISWA DWANE MEMORIAL LECTURE 2023: 'Every generation has its struggle' – *Activism and the law in the fight for social justice*. Jason Brickhill. 24 February 2023. "Over the last decade, Chile has been engaged in its own existential constitutional struggle, which is very much unfinished. EE saw itself as being in conversation and in solidarity with students in Chile, united in struggle despite differences of language, history and geography. EE has also supported the struggle for peace and freedom." Available at: <https://www.dailymaverick.co.za/article/2023-03-16-every-generation-has-its-struggle-activism-and-the-law-in-the-fight-for-social-justice/>

^{xlii} APPLICATION OF THE CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE IN THE GAZA STRIP (SOUTH AFRICA v. ISRAEL) PROVISIONAL MEASURES <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240126-ord-01-00-en.pdf>

On 26 January the ICJ Ordered that: (See para's 78 – 85):

"...Israel must, in accordance with its obligations under the Genocide Convention, in relation to Palestinians in Gaza, take all measures within its power to prevent the commission of all acts within the scope of Article II of this Convention, in particular:

(a) killing members of the group;

(b) causing serious bodily or mental harm to members of the group;

(c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; and

(d) imposing measures intended to prevent births within the group.

80. The Court further considers that Israel must take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life faced by Palestinians in the Gaza Strip.

85. The Court deems it necessary to emphasize that all parties to the conflict in the Gaza Strip are bound by international humanitarian law...".

^{xliii} Filed on 13 November 2023 in the Federal Court in California, USA: The CCR reports that “[f]ollowing a historic hearing that included testimony from seven Palestinian plaintiffs and witnesses as to the scale of destruction in Gaza and the impact on their families and communities, on January 31, 2024, the court found that Israel’s assault and siege on the Palestinian people in Gaza plausibly constitute genocide and “implo[r]ed” the Biden administration to examine its “unflagging support” for Israel. Notwithstanding these findings, the court denied [CCRs] preliminary injunction motion and granted the government’s motion to dismiss the case on the grounds that it lacked jurisdiction over the administration’s conduct of foreign relations. [CCR] appealed the decision on February 8, 2024, and [an] expedited briefing was granted on February 27”. See: <https://ccrjustice.org/home/what-we-do/our-cases/defense-children-international-palestine-v-biden> - See also: <https://ccrjustice.org/home/press-center/ccr-news/legal-case-against-joe-biden-enabling-israels-genocide-against-gaza>

^{xliiii} Email correspondence, EE GS. January 2024.

^{xliiv} Lemkin Institute for Genocide Prevention: <https://www.lemkininstitute.com/>

^{xliv} *Israel’s unrelenting war on Gaza healthcare requires urgent action*. F Hassan, L London, S Manjra – available at: <https://www.aljazeera.com/opinions/2024/2/14/israels-unrelenting-war-on-gaza-healthcare-requires-urgent-action> Israel has been targeting hospitals across Gaza- under international law, this is tantamount to a war crime. [Only 15](#) of Gaza’s 36 hospitals remain open, and only three are undamaged. [None are fully functional](#).

^{xlvi} <https://www.aljazeera.com/news/2024/2/29/dozens-killed-injured-by-israeli-fire-in-gaza-while-collecting-food-aid>

^{xlvii} OPEN LETTER: 27 February 2024. *Over 40 health groups urgent call to the global health and human rights community, health professional bodies, and global health institutions. Gaza’s health system has been deliberately bombed out of existence. This is genocide. Silence is complicity*. Available at: <https://health4palestine.com/>

^{xlviii} OPEN LETTER: 27 February 2024. *Over 40 health groups urgent call to the global health and human rights community, health professional bodies, and global health institutions. Gaza’s health system has been deliberately bombed out of existence. This is genocide. Silence is complicity*. Available at: <https://health4palestine.com/>

Note: [“At least 337 health workers have been killed](#) including two of only four pathologists in Gaza. Many others have been injured, arrested and even tortured.”

^{xlix} *The deafening silence of South African universities*, Savo Heleta. <https://africasacountry.com/2023/10/the-deafening-silence-of-south-african-universities>. “UCT and Wits have produced more co-authored scholarly publications with institutions from apartheid Israel than any African country over the past decade”. And “over the past decade, half of South Africa’s research collaboration with apartheid Israel was done by the University of Cape Town (UCT) and the University of the Witwatersrand (Wits), closely followed by the University of Johannesburg. Other universities that collaborate significantly with Israeli institutions are the University of KwaZulu-Natal, Stellenbosch University, the University of South Africa, the University of Pretoria, and the University of the Free State.”

¹ See also: UNRWA Statement <https://healthjusticeinitiative.org.za/2024/01/30/health-activist-groups-joint-press-statement-2/>