



# SABWIL

*Igama lamakhosikazi malibongwe*

## SABWIL HUMAN RIGHTS COURT

Set down on 11 December 2019, 10am

Africa Room, AFSA Chambers, Sandton

**Case No: 1112/19**

*In the matter between:*

**PERSON, Donald**

First Applicant

**PERSON, Mila**

Second Applicant

*and*

**MINISTER OF HOME AFFAIRS**

Respondent

*and*

**UBUNTU NOW**

*Amicus Curiae*

## #s20 SHRC Case Scenario

---

**SABWIL NPC Directors:** Adv. Lindi Nkosi-Thomas SC (Chair); Attorney Tasneem Moosa (Vice-Chair); Rashida Lorgat (Educator); Adv. Gcina Malindi SC; Adv. Aslam Bava SC; Adv. Ayesha Tiry (CEO); Adv. Sam Martin; Adv. Tiny Seboko; Adv. Ori Ben-Zeev; Attorney Abigail Ronald-Louw; Attorney Zaahira Tiry; Alumnus Cameron Gumbrill

**SABWIL Alumni National Executive Committee:** Madillo Mofokeng (President); Boitumelo Nqai (Deputy President) Attorney Sphehile Nxumalo (Secretary-General); Nolwazi Biyela (Deputy Secretary-General); Kgoledi Ndaba (Treasurer); Nthabiseng Mehlohonolo (Media and Public Relations Officer); Mogowe Mangena (Academic and Legal Research Officer); Attorney Veroschka Motimele (Projects and Events Co-ordinator)

Igama Lamakhosikazi Malibongwe | [www.sabwil.org.za](http://www.sabwil.org.za)

**SABWIL NPC 2017 / 395281 / 08**



# SABWIL

*Igama lamakhosikazi malibongwe*

- 1 In December 2018 a coalition of international forces that included the South African National Defence Force defeated the “New Atlantian Republic” (“**NAR**”), a white supremacist militant group that had taken control of a region of approximately 80 000 square kilometres in North Africa, including territory in Libya, Egypt, Chad and Sudan, in the wake of violence and unrest in that area.
- 2 The NAR was widely condemned as a terrorist group and as a threat to peace and stability in the region. On the premise that the white race was superior to other races it sought to create what it called a “true patriarchal Republic” in the classical Greek sense, where “every white man would be responsible for the governance of the Republic”.
- 3 The NAR attracted thousands of men and women from all around the world. Apart from its territorial conquest, it was guilty of a number of gross human rights violations, including establishing a local and international slave trade, torture, and the massacre of civilians in the region. Foreign aid workers and

---

**SABWIL NPC Directors:** Adv. Lindi Nkosi-Thomas SC (Chair); Attorney Tasneem Moosa (Vice-Chair); Rashida Lorgat (Educator); Adv. Gcina Malindi SC; Adv. Aslam Bava SC; Adv. Ayesha Tiry (CEO); Adv. Sam Martin; Adv. Tiny Seboko; Adv. Ori Ben-Zeev; Attorney Abigail Ronald-Louw; Attorney Zaahira Tiry; Alumnus Cameron Gumbrill

**SABWIL Alumni National Executive Committee:** Madillo Mofokeng (President); Boitumelo Nqai (Deputy President) Attorney Sphesihle Nxumalo (Secretary-General); Nolwazi Biyela (Deputy Secretary-General); Kgoledi Ndaba (Treasurer); Nthabiseng Mehlohonolo (Media and Public Relations Officer); Mogowe Mangena (Academic and Legal Research Officer); Attorney Veroschkka Motimele (Projects and Events Co-ordinator)

Igama Lamakhosikazi Malibongwe | [www.sabwil.org.za](http://www.sabwil.org.za)

**SABWIL NPC 2017 / 395281 / 08**



journalists were captured and held ransom. If the ransom was not paid, they would be brutally executed and the video of their execution was distributed on social media.

- 4 The influence of NAR extended beyond its boundaries. Terrorist attacks were committed in its name in Toronto, London, New York and Paris. Despite its territorial defeat, analysts warn that the influence of NAR remains a real threat and believe that reprisal attacks may follow in the countries involved in the military campaign against NAR.
- 5 The defeat of NAR has left thousands of women and children in refugee camps in the region. These are persons that either joined NAR from various countries around the world or persons that were born within the territory controlled by NAR.
- 6 Among these refugees is Ms Rachel Person, the daughter of the applicants. During 2015, when NAR's power and control in the region was at its zenith, she

---

**SABWIL NPC Directors:** Adv. Lindi Nkosi-Thomas SC (Chair); Attorney Tasneem Moosa (Vice-Chair); Rashida Lorgat (Educator); Adv. Gcina Malindi SC; Adv. Aslam Bava SC; Adv. Ayesha Tiry (CEO); Adv. Sam Martin; Adv. Tiny Seboko; Adv. Ori Ben-Zeev; Attorney Abigail Ronald-Louw; Attorney Zaahira Tiry; Alumnus Cameron Gumbrill

**SABWIL Alumni National Executive Committee:** Madillo Mofokeng (President); Boitumelo Nqai (Deputy President) Attorney Sphehile Nxumalo (Secretary-General); Nolwazi Biyela (Deputy Secretary-General); Kgoledi Ndaba (Treasurer); Nthabiseng Mehlohonolo (Media and Public Relations Officer); Mogowe Mangena (Academic and Legal Research Officer); Attorney Veroschka Motimele (Projects and Events Co-ordinator)



was reported missing on Radio 702 and on social media. Her story attracted significant interest and a nationwide investigation was carried out until it was discovered, two weeks later, that she had boarded a flight to Cairo, Egypt with the intention of joining NAR and to marry one of its fighters.

7 Rachel is now 19 years old and was interviewed, holding her three month old son, Mikael, by an ENCA journalist in the refugee camp. In that interview she said that she hoped to return home to South Africa soon with her son and mentioned that if she stayed in the refugee camp that Mikael would die, “just like my daughter did last March”. Her daughter was 18 months old when she died of pneumonia in the refugee camp. Rachel was not apologetic for her involvement in NAR and indicated that if she could go back in time she would do so again.

8 It is a well-known fact that persons in Rachel's refugee camp face a serious shortage of supplies and are at high risk of contracting disease.

---

**SABWIL NPC Directors:** Adv. Lindi Nkosi-Thomas SC (Chair); Attorney Tasneem Moosa (Vice-Chair); Rashida Lorgat (Educator); Adv. Gcina Malindi SC; Adv. Aslam Bava SC; Adv. Ayesha Tiry (CEO); Adv. Sam Martin; Adv. Tiny Seboko; Adv. Ori Ben-Zeev; Attorney Abigail Ronald-Louw; Attorney Zaahira Tiry; Alumnus Cameron Gumbrill

**SABWIL Alumni National Executive Committee:** Madillo Mofokeng (President); Boitumelo Nqai (Deputy President) Attorney Sphesihle Nxumalo (Secretary-General); Nolwazi Biyela (Deputy Secretary-General); Kgoledi Ndaba (Treasurer); Nthabiseng Mehlohonolo (Media and Public Relations Officer); Mogowe Mangena (Academic and Legal Research Officer); Attorney Veroschkka Motimele (Projects and Events Co-ordinator)



# SABWIL

*Igama lamakhosikazi malibongwe*

9 After her interview the Department of Home Affairs issued a media statement in which it was indicated that *“Ms Person’s citizenship in South Africa has been formally revoked in accordance with the South African Citizenship Act 88 of 1995 (hereafter the “**Citizenship Act**”) and she will be turned away from South Africa if she attempts to return.”*

10 In a live interview on the SABWIL YouTube Channel, the Minister of Home Affairs explained the position adopted by the Department. He indicated that under section 6(1) of the Citizenship Act Rachel had ceased to be a South African citizen when she voluntarily joined NAR and adopted “citizenship” from its proto-state. Furthermore, to the extent that was necessary, the Minister had made an order depriving Ms Person of her South African citizenship under section 8(2) of the Act because it was in the public interest to do so. He is quoted as having said the following:

*“The Constitution says that we South Africans believe that South Africa belongs to all who live in it, united in our diversity. Section 1 says that one*

---

**SABWIL NPC Directors:** Adv. Lindi Nkosi-Thomas SC (Chair); Attorney Tasneem Moosa (Vice-Chair); Rashida Lorgat (Educator); Adv. Gcina Malindi SC; Adv. Aslam Bava SC; Adv. Ayesha Tiry (CEO); Adv. Sam Martin; Adv. Tiny Seboko; Adv. Ori Ben-Zeev; Attorney Abigail Ronald-Louw; Attorney Zaahira Tiry; Alumnus Cameron Gumbrell

**SABWIL Alumni National Executive Committee:** Madillo Mofokeng (President); Boitumelo Nqai (Deputy President) Attorney Sphesihle Nxumalo (Secretary-General); Nolwazi Biyela (Deputy Secretary-General); Kgoledi Ndaba (Treasurer); Nthabiseng Mehlohonolo (Media and Public Relations Officer); Mogowe Mangena (Academic and Legal Research Officer); Attorney Veroschka Motimele (Projects and Events Co-ordinator)

Igama Lamakhosikazi Malibongwe | [www.sabwil.org.za](http://www.sabwil.org.za)

**SABWIL NPC 2017 / 395281 / 08**



*of our values is non-racialism and non-sexism. She disavowed this. By joining NAR, she said to all South Africans and to the world: 'I do not believe that people of colour are equal to white people, and I believe that white people are superior to all other people.' She is not a South African."*

- 11 The Minister also indicated that because Ms Person's father is a British citizen, she automatically held British citizenship. He indicated that she could always live in the United Kingdom.
  
- 12 The applicants have brought a formal application against the Department of Home Affairs for a declaratory order that section 6(1) of the Citizenship Act did not apply to their daughter's circumstances, and praying to review and set aside the decision of the Minister in terms of section 8(2) of the Act. The application was brought on behalf of their daughter as well as on behalf of their minor grandson. For the purposes of this suit, their *locus standi* to launch the application is not in issue.

---

**SABWIL NPC Directors:** Adv. Lindi Nkosi-Thomas SC (Chair); Attorney Tasneem Moosa (Vice-Chair); Rashida Lorgat (Educator); Adv. Gcina Malindi SC; Adv. Aslam Bava SC; Adv. Ayesha Tiry (CEO); Adv. Sam Martin; Adv. Tiny Seboko; Adv. Ori Ben-Zeev; Attorney Abigail Ronald-Louw; Attorney Zaahira Tiry; Alumnus Cameron Gumbrill

**SABWIL Alumni National Executive Committee:** Madillo Mofokeng (President); Boitumelo Nqai (Deputy President) Attorney Sphesihle Nxumalo (Secretary-General); Nolwazi Biyela (Deputy Secretary-General); Kgoledi Ndaba (Treasurer); Nthabiseng Mehlohonolo (Media and Public Relations Officer); Mogowe Mangena (Academic and Legal Research Officer); Attorney Veroschka Motimele (Projects and Events Co-ordinator)

Igama Lamakhosikazi Malibongwe | [www.sabwil.org.za](http://www.sabwil.org.za)

**SABWIL NPC 2017 / 395281 / 08**



- 13 In their founding papers the applicants allege that section 6(1) of the Act applies only to citizenship or nationality that is obtained from a recognised state. NAR was never a recognised state by any international body or by any country. Importantly, South Africa did not recognise NAR as a state, but rather as a terrorist organisation that had seized territory from other countries, and participated in the military campaign to restore those territories.
- 14 The applicants also allege that the Minister could not exercise his powers under section 8 of the Act simply because he did not like Rachel, or because she was racist. They point out that if this were the case countless South Africans may be deprived of their citizenship simply because of the views that they hold, either openly or secretly.
- 15 The applicants aver that their daughter and their grandson are not a threat to anyone and never directly participated in any militant activity. There is therefore no basis to exercise the powers set out in section 8 of the Act. They allege that

---

**SABWIL NPC Directors:** Adv. Lindi Nkosi-Thomas SC (Chair); Attorney Tasneem Moosa (Vice-Chair); Rashida Lorgat (Educator); Adv. Gcina Malindi SC; Adv. Aslam Bava SC; Adv. Ayesha Tiry (CEO); Adv. Sam Martin; Adv. Tiny Seboko; Adv. Ori Ben-Zeev; Attorney Abigail Ronald-Louw; Attorney Zaahira Tiry; Alumnus Cameron Gumbrill

**SABWIL Alumni National Executive Committee:** Madillo Mofokeng (President); Boitumelo Nqai (Deputy President) Attorney Sphehile Nxumalo (Secretary-General); Nolwazi Biyela (Deputy Secretary-General); Kgoledi Ndaba (Treasurer); Nthabiseng Mehlohonolo (Media and Public Relations Officer); Mogowe Mangena (Academic and Legal Research Officer); Attorney Veroschka Motimele (Projects and Events Co-ordinator)



the decision violates Rachel and Mikael's rights under the Constitution and that it falls to be set aside.

16 In addition to this, Mikael is a minor child and falls under the provisions of section 28 of the Constitution. He is entitled to the rights set out therein, and his best interests are paramount. Because there is a real risk that he may die in the refugee camp he and his mother, Rachel, must be returned to South Africa.

17 The applicants concede that Mr. Person is a British citizen, but point out that he has no family or connections in the United Kingdom and that it would be impossible for Rachel to survive all alone with a three month old baby if she were allowed entry to the United Kingdom. The government of the United Kingdom has at any rate taken a similar stance to the one taken by South Africa in respect of the NAR refugees, and it is unlikely that she will be granted entry to the United Kingdom.

---

**SABWIL NPC Directors:** Adv. Lindi Nkosi-Thomas SC (Chair); Attorney Tasneem Moosa (Vice-Chair); Rashida Lorgat (Educator); Adv. Gcina Malindi SC; Adv. Aslam Bava SC; Adv. Ayesha Tiry (CEO); Adv. Sam Martin; Adv. Tiny Seboko; Adv. Ori Ben-Zeev; Attorney Abigail Ronald-Louw; Attorney Zaahira Tiry; Alumnus Cameron Gumbrill

**SABWIL Alumni National Executive Committee:** Madillo Mofokeng (President); Boitumelo Nqai (Deputy President) Attorney Sphesihle Nxumalo (Secretary-General); Nolwazi Biyela (Deputy Secretary-General); Kgoledi Ndaba (Treasurer); Nthabiseng Mehlohonolo (Media and Public Relations Officer); Mogowe Mangena (Academic and Legal Research Officer); Attorney Veroschkka Motimele (Projects and Events Co-ordinator)



- 18 The Minister of Home Affairs opposes the application. He argues that Ms Person effectively renounced her citizenship, even if in favour of an organisation that was not a recognised state. This step was taken unilaterally by her and without the involvement of South Africa at all. Her choices, and in particular her choice of residence and her choice of nationality should be respected. Section 6(1) therefore applies to her and she lost South African citizenship by operation of law, without any steps being taken by the South African government.
- 19 To the extent that section 6(1) does not apply, the Minister alleges that he was empowered to make a decision in accordance with section 8(2) of the Citizenship Act, and did so to the extent that it was necessary.
- 20 The Minister submits that the concern from the perspective of the South African government is not merely that Ms Person is racist. It is that she has joined a terrorist organisation that has positioned itself as an enemy of South Africa and

---

**SABWIL NPC Directors:** Adv. Lindi Nkosi-Thomas SC (Chair); Attorney Tasneem Moosa (Vice-Chair); Rashida Lorgat (Educator); Adv. Gcina Malindi SC; Adv. Aslam Bava SC; Adv. Ayesha Tiry (CEO); Adv. Sam Martin; Adv. Tiny Seboko; Adv. Ori Ben-Zeev; Attorney Abigail Ronald-Louw; Attorney Zaahira Tiry; Alumnus Cameron Gumbrill

**SABWIL Alumni National Executive Committee:** Madillo Mofokeng (President); Boitumelo Nqai (Deputy President) Attorney Sphesihle Nxumalo (Secretary-General); Nolwazi Biyela (Deputy Secretary-General); Kgoledi Ndaba (Treasurer); Nthabiseng Mehlohonolo (Media and Public Relations Officer); Mogowe Mangena (Academic and Legal Research Officer); Attorney Veroschka Motimele (Projects and Events Co-ordinator)



of South Africa's allies on the continent. Ms Person has not apologised for her involvement in NAR, and in fact alleged in her interview that she was proud of her journey to and participation in "the new Zion for the Aryan race". On this basis it is not in the public interest to allow Ms Person to return to South Africa as a citizen.

- 21 The Minister also alleges that there are serious security concerns that militate against allowing Ms Person to enter into South Africa. Although it does not appear that Ms Person was directly involved in any violence at NAR, it is clear from her interview that she still firmly shares in its ideology and would probably support that organisation, or similar organisations, in South Africa. There is therefore a real threat that she may support persons or organisations in acts of terrorism against South Africa. In light of the fact that South Africa was one of the key parties in the battle against NAR in North Africa, this is a serious threat and one that the South African government cannot ignore.

---

**SABWIL NPC Directors:** Adv. Lindi Nkosi-Thomas SC (Chair); Attorney Tasneem Moosa (Vice-Chair); Rashida Lorgat (Educator); Adv. Gcina Malindi SC; Adv. Aslam Bava SC; Adv. Ayesha Tiry (CEO); Adv. Sam Martin; Adv. Tiny Seboko; Adv. Ori Ben-Zeev; Attorney Abigail Ronald-Louw; Attorney Zaahira Tiry; Alumnus Cameron Gumbrell

**SABWIL Alumni National Executive Committee:** Madillo Mofokeng (President); Boitumelo Nqai (Deputy President) Attorney Sphesihle Nxumalo (Secretary-General); Nolwazi Biyela (Deputy Secretary-General); Kgoledi Ndaba (Treasurer); Nthabiseng Mehlohonolo (Media and Public Relations Officer); Mogowe Mangena (Academic and Legal Research Officer); Attorney Veroschka Motimele (Projects and Events Co-ordinator)



- 22 The Minister notes that Ms Person is eligible for citizenship in the United Kingdom, and that the United Kingdom has not refused her entry. It argues that the Court should not engage the speculative argument that it may do so. She should engage all options open to her and not compel South Africa to accept her first.
- 23 The Minister acknowledges that Ms Person's son has been placed in a precarious and difficult position. This is the sole result of Ms Person's conduct and the South African government cannot be required to go out of its way to rescue them, particularly where there is a real threat to safety and security if Ms Person is returned to South Africa. Again, nothing prevents Ms Person from returning to the United Kingdom together with her son, where she may rely on the social assistance of that state.
- 24 *Ubuntu Now*, a non-profit organisation based in Johannesburg, has joined these proceedings as *amicus curiae*. According to its mission statement its

---

**SABWIL NPC Directors:** Adv. Lindi Nkosi-Thomas SC (Chair); Attorney Tasneem Moosa (Vice-Chair); Rashida Lorgat (Educator); Adv. Gcina Malindi SC; Adv. Aslam Bava SC; Adv. Ayesha Tiry (CEO); Adv. Sam Martin; Adv. Tiny Seboko; Adv. Ori Ben-Zeev; Attorney Abigail Ronald-Louw; Attorney Zaahira Tiry; Alumnus Cameron Gumbrill

**SABWIL Alumni National Executive Committee:** Madillo Mofokeng (President); Boitumelo Nqai (Deputy President) Attorney Sphehile Nxumalo (Secretary-General); Nolwazi Biyela (Deputy Secretary-General); Kgoledi Ndaba (Treasurer); Nthabiseng Mehlohonolo (Media and Public Relations Officer); Mogowe Mangena (Academic and Legal Research Officer); Attorney Veroschka Motimele (Projects and Events Co-ordinator)



# SABWIL

*Igama lamakhosikazi malibongwe*

central goals are “to ensure that government officials are held to account for their conduct and to prevent the radicalisation of the youth of South Africa so that the dignity of each person is respected as envisaged by section 10 of the Constitution, Act 108 of 1996 and the African philosophy of *Ubuntu*”.

25 Ubuntu Now argues that South Africa has a domestic and international obligation to return Ms Person to South Africa and to put her on trial for her alleged criminal activity. It argues that this has the following benefits:

25.1 Ms Person can be held to account for her conduct, if she is in fact guilty of any criminal act;

25.2 Ms Person will not be punished with exile when she is innocent, if she is found not guilty of any criminal act;

---

**SABWIL NPC Directors:** Adv. Lindi Nkosi-Thomas SC (Chair); Attorney Tasneem Moosa (Vice-Chair); Rashida Lorgat (Educator); Adv. Gcina Malindi SC; Adv. Aslam Bava SC; Adv. Ayesha Tiry (CEO); Adv. Sam Martin; Adv. Tiny Seboko; Adv. Ori Ben-Zeev; Attorney Abigail Ronald-Louw; Attorney Zaahira Tiry; Alumnus Cameron Gumbrill

**SABWIL Alumni National Executive Committee:** Madillo Mofokeng (President); Boitumelo Nqai (Deputy President) Attorney Sphesihle Nxumalo (Secretary-General); Nolwazi Biyela (Deputy Secretary-General); Kgoledi Ndaba (Treasurer); Nthabiseng Mehlohonolo (Media and Public Relations Officer); Mogowe Mangena (Academic and Legal Research Officer); Attorney Veroschka Motimele (Projects and Events Co-ordinator)

Igama Lamakhosikazi Malibongwe | [www.sabwil.org.za](http://www.sabwil.org.za)

**SABWIL NPC 2017 / 395281 / 08**



- 25.3 Ms Person and her son may be reintegrated into society, thereby decreasing the risk that they will be involved in any terrorist activities in the future.
- 26 *Ubuntu* Now warns that by revoking Ms Person's citizenship the South African government had created a real risk that Ms Person and her son would be stateless. They therefore have every reason to join terrorist organisations and partake in acts of terror around the world, and they have no reason not to do so.
- 27 *Ubuntu* Now also warns that it is unknown how many South Africans joined NAR and of those how many are still alive, but that there may be as many as 4 000 South African citizens in the refugee camps in North Africa after the military campaign against NAR, and as many as 2 000 children. This case therefore has important implications on how the South African government will conduct itself towards all of these persons.

---

**SABWIL NPC Directors:** Adv. Lindi Nkosi-Thomas SC (Chair); Attorney Tasneem Moosa (Vice-Chair); Rashida Lorgat (Educator); Adv. Gcina Malindi SC; Adv. Aslam Bava SC; Adv. Ayesha Tiry (CEO); Adv. Sam Martin; Adv. Tiny Seboko; Adv. Ori Ben-Zeev; Attorney Abigail Ronald-Louw; Attorney Zaahira Tiry; Alumnus Cameron Gumbrill

**SABWIL Alumni National Executive Committee:** Madillo Mofokeng (President); Boitumelo Nqai (Deputy President) Attorney Sphesihle Nxumalo (Secretary-General); Nolwazi Biyela (Deputy Secretary-General); Kgoledi Ndaba (Treasurer); Nthabiseng Mehlohonolo (Media and Public Relations Officer); Mogowe Mangena (Academic and Legal Research Officer); Attorney Veroschka Motimele (Projects and Events Co-ordinator)



28 Having perused through the record, this Court calls for submissions on the following aspects:

28.1 Does section 6(1) of the South African Citizenship Act 88 of 1995 apply in this matter? If so, what are the consequences of that provision of the Act in respect of Rachel and in respect of Mikael?

28.2 If section 6(1) of the Act does not apply, was the Minister of Home Affairs empowered to revoke the citizenship of Rachel and Mikael in accordance with section 8(2) of the Act?

28.3 If the Minister was empowered to revoke their citizenship under section 8(2) of the Act, did this decision violate Rachel or Mikael's right to citizenship under section 20 of the Constitution? Did it violate any of their other constitutional rights?

---

**SABWIL NPC Directors:** Adv. Lindi Nkosi-Thomas SC (Chair); Attorney Tasneem Moosa (Vice-Chair); Rashida Lorgat (Educator); Adv. Gcina Malindi SC; Adv. Aslam Bava SC; Adv. Ayesha Tiry (CEO); Adv. Sam Martin; Adv. Tiny Seboko; Adv. Ori Ben-Zeev; Attorney Abigail Ronald-Louw; Attorney Zaahira Tiry; Alumnus Cameron Gumbrill

**SABWIL Alumni National Executive Committee:** Madillo Mofokeng (President); Boitumelo Nqai (Deputy President) Attorney Sphesihle Nxumalo (Secretary-General); Nolwazi Biyela (Deputy Secretary-General); Kgoledi Ndaba (Treasurer); Nthabiseng Mehlohonolo (Media and Public Relations Officer); Mogowe Mangena (Academic and Legal Research Officer); Attorney Veroschkka Motimele (Projects and Events Co-ordinator)

Igama Lamakhosikazi Malibongwe | [www.sabwil.org.za](http://www.sabwil.org.za)

**SABWIL NPC 2017 / 395281 / 08**



# SABWIL

*Igama lamakhosikazi malibongwe*

- 28.4 If the decision did violate the constitutional rights of Rachel or Mikael, was the Minister nevertheless justified in making his decision? Can the Minister rely on section 36 of the Constitution?
- 28.5 Should this Court take a different approach in respect of the minor child (Mikael) than in respect of Rachel?
- 28.6 What is the appropriate remedy, if applicable?

On this 27<sup>th</sup> day of August in 2019 and at Johannesburg

The Chief Registrar

The Deputy Registrar

---

**SABWIL NPC Directors:** Adv. Lindi Nkosi-Thomas SC (Chair); Attorney Tasneem Moosa (Vice-Chair); Rashida Lorgat (Educator); Adv. Gcina Malindi SC; Adv. Aslam Bava SC; Adv. Ayesha Tiry (CEO); Adv. Sam Martin; Adv. Tiny Seboko; Adv. Ori Ben-Zeev; Attorney Abigail Ronald-Louw; Attorney Zaahira Tiry; Alumnus Cameron Gumbrill

**SABWIL Alumni National Executive Committee:** Madillo Mofokeng (President); Boitumelo Nqai (Deputy President) Attorney Sphesihle Nxumalo (Secretary-General); Nolwazi Biyela (Deputy Secretary-General); Kgoledi Ndaba (Treasurer); Nthabiseng Mehlohonolo (Media and Public Relations Officer); Mogowe Mangena (Academic and Legal Research Officer); Attorney Veroschkka Motimele (Projects and Events Co-ordinator)

Igama Lamakhosikazi Malibongwe | [www.sabwil.org.za](http://www.sabwil.org.za)

**SABWIL NPC 2017 / 395281 / 08**