

Monthly Report for March

Projects Abroad Human Rights Office, Cape Town South

Summary

March has continued to be a busy month for PAHRO. We persist in receiving many new clients, of which the majority are refugee related cases. The UCT Refugee Office was closed until mid-March, which contributed towards our influx of clients. Volunteers and interns have had many opportunities to attend court with Sherwin Daniels, working on cases for our Child Justice project.

Social Justice Projects

Bonnytown

Workshop one: Smoking

The topic of the workshop was the effects that smoking has on an individual's body. This is a very relevant topic, as many of the boys at Bonnytown do smoke, and thus the volunteers/interns prepared a presentation highlighting the dangers related to the habit. Following this, we ran a quiz to find out whether the boys are aware of the impact of cigarettes, and to separate fact from fiction.

Workshop two: Life After Bonnytown

We started this workshop with an ice-breaker to encourage everybody to interact with one another, after which the group was divided up. Having broached the topic of "Life after Bonnytown", the boys were open and honest about what they hope to achieve for themselves, with some saying that they want to get a house, get married and have children, while others stated that they hope to make amendments with members of their family and their friends.

The topic of gangs also arose, which many of the boys wanted to be in, and often were, a part of. However, their attitude seemed to shift, and many recognised that such a life tends to lead to negative consequences including prison sentences, and they held the value of making their families proud as more important. It was a great workshop, which not only got the boys thinking of the reality of their future, but was a real eye-opener for many of the PAHRO volunteers and interns!

Workshop three: Human Rights

As the date of this workshop fell just two days before Human Rights Day in South Africa, it seemed relevant that this should be the topic for the session. This day is celebrated annually on March 21st in remembrance of those who were involved in the Sharpeville Massacre in 1960, the details of which were relayed to the boys through a presentation created by our volunteers and interns. The message that we wanted to get across was not only to teach them about the history of their country, but also to emphasise how so many people have given up so much for the sake of their fellow citizens and future generations. Following the presentation and subsequent discussion, the boys made posters depicting the fundamental human rights which they deemed as most important, and through which many truly expressed their feelings and emotions on the topic. For example, some of the boys drew rainbow-coloured hands, symbolising the freedom that we now have as the 'Rainbow Nation'.

Workshop four: Team Building

We ran a workshop based upon the importance of working together as a team, while also having strong leadership skills. We prepared some relevant games and activities, some of which encouraged the boys to work with, and learn from, one another, while others were devised for them to take control of certain situations.

Vredelus Huis

Workshop one: Sex Education

We decided to run a workshop on safe sex – this turned out to be a slightly awkward, yet interesting topic of discussion! The volunteers/interns prepared a presentation containing information about the risks of having unprotected sex, such as unwanted pregnancies, and sexually transmitted diseases and infections. Perhaps surprisingly, some of the girls said that they choose to abstain until they are emotionally ready, or until they are in a secure relationship and ready to have children. It turned out to be an open, honest and informative session.

Workshop two: Art

We wanted to allow the girls to express themselves, and thus we held a workshop involving abstract art as a means for them to free their emotions. The girls really enjoyed this session, and some of the work which they produced was excellent. A few were open to sharing the meaning behind their paintings, which related to the ups-and-downs which they have faced during their lives, or their aspirations for a positive future.

Workshop three: Human Rights

This workshop fell four days before Human Rights Day, and thus we ran the same session as aforementioned at Bonnytown.

Workshop four: Refugees and Xenophobia

We decided to engage the girls in a discussion regarding refugees and xenophobia. To begin, we asked the girls if they understood these two terms many of which did not. Having anticipated this, we had downloaded various videos on the subject matter. We often come across a certain attitude from locals, whereby people tend to think that refugees are easily able to come into the country and get jobs, whereas it's so much more difficult for South Africans to gain employment. Although at first the girls did not seem to be very interested, this soon changed! By the end of our session, many of them had expressed the desire to help refugees and to put a stop to xenophobic attacks. It was a very interesting topic for both the girls and for our volunteers and interns, who all learned a lot from one another.

St Anne's

Workshop one: Human Rights in Criminal Law

The topic of the workshop was centred upon the murder trial of Oscar Pistorius. A couple of the ladies present had heard about it, others were unaware of the proceedings or even who Oscar is. We gave a brief explanation of the facts of the case, as we know them, and then discussed some elements based on the Bill of Rights; for example, the right to access information versus the right to privacy, and the right to a fair trial. We also highlighted the fact that, under the Constitution, Oscar Pistorius has exactly the same rights as the ladies who are in the shelter. This brought up much discussion on the role of money in preparing a defence, something which these women do not have. We also discussed the role of race in

the judicial system, and how the case would have been different had Oscar been the victim, rather than the accused.

Workshop two: The Bill of Rights

Following the previous week's discussion, we brought the Bill of Rights to St Anne's, as the ladies had expressed an interest in learning more about what rights they have under the Constitution. They were very interested, and keen to learn about all of their rights, how to identify when they are being violated, and what steps to take when this occurs.

Workshop three: Human Rights in a Global Perspective

Given the ladies' interest in knowing and realising their fundamental rights, and their belief that their social and racial status deprives them of said rights, we decided to hold a discussion about rights in various countries around the world. The volunteers/interns told the ladies about how things are run where they originate from, but also looked at countries, such as Arabic countries, where women's rights, in particular, are severely curtailed by the laws of the land. The aim was to try to relate the fact that women here do have measures in place to protect them, and a great amount of freedom comparatively, and that they should feel empowered to ensure that they are able to realise them. The ladies were visibly shocked at some of the restrictions that are placed on women in other countries, and found the topic fascinating; it seemed to further encourage their want to know their Constitutional rights.

Workshop four: Sex Education for Future Generations

The volunteers wanted to hold a workshop in relation to sex education, including topics on unwanted pregnancy, contraception and the transmission of infections and diseases. Given the nature of the circumstances under which the ladies are at the shelter, it is a delicate topic and has to be handled carefully – these women have children, many of whom were “unwanted”. For this reason, it was advised that the workshop take the angle of how they will communicate these topics with their children as they grow up, and what advice they will give. This worked out very well, and we held some interesting debates incorporating human, women's and children's rights. After the discussion, we played ‘Taboo’; there were two teams, and one person had to describe the word on a card to their team members, without using the word itself. The volunteers and ladies all enjoyed it.

Sisters Incorporated

Workshop one: Job Interviews

The volunteers/interns carried out a workshop on job interviews. This included holding a mock interview, as well as a role-play: they acted out how a good interview would go, and how a bad one would go. The ladies were encouraged to point out the differences, and it seemed to really boost their confidence.

Workshop two: The Bill of Rights

As with St Anne's, the volunteers and interns went through the Bill of Rights. They also discussed human and women's rights in other countries, the contrast between here and, for example, Muslim countries, and how their rights are realised under this democracy. After this, they and the ladies relaxed, had a chat and painted each others' nails.

Workshop three: Sisters Incorporated was cancelled due to PAHRO's Human Rights Day event.

Workshop four: Conflict Resolution and Non-Violent Communication

The volunteers/interns and ladies discussed what conflict is, how and where it stems from, and types of reactions that we have. This was emphasised by a role-play exercise prepared by the volunteers, which highlighted positive and negative reactions to a scenario. Following this discussion, they played Pictionary, which is like Taboo as played at St Anne's, except that you draw something as opposed to describing it.

Human Rights Day

Human Rights Day has been celebrated each year in South Africa on March 21st since 1994, in order to commemorate the Sharpeville Massacre.

On this day in 1960, a crowd of approximately 5000 people, recruited by the Pan Africanist Congress, gathered outside Sharpeville police station to protest against the Pass Laws, a form of passport system designed to segregate the population and curtail the freedom of movement of Africans. The police opened fire on the crowd resulting in 69 deaths within just two minutes, and about 180 people seriously wounded.

In 1998, the Truth and Reconciliation Commission found that the police actions constituted "gross human rights violations" and excessive force was unnecessarily used to stop a gathering of unarmed people.

As this day is a public holiday, we decided to hold an event the day before. PAHRO staff, volunteers and interns made their way to an area of Cape Town called the Grand Parade. This location tends to host large numbers of underprivileged people, and so we decided to find out what they know about their human rights. Dividing into four groups, with one staff member in each, and armed with white boards and marker pens, we began engaging with the public. Each group asked slightly different questions: "Do you know your rights?"; "What rights do you know?"; "What rights do you have?" and "What rights do you need?".

These questions sparked quite a bit of debate and, in some cases, people became rather emotional, engaging in long debates about the socio-economic problems in South Africa, in particular faced by low-income coloureds, and by refugees. People were invited to write something down on the white boards and, should they agree, to have their photograph taken with it, thus putting a face to the emotion.

We had also taken flyers, which depicted a summary of the Bill of Rights, which we handed out to those with whom we engaged, along with the contact details for our office.

Some of the answers which we received were quite startling, such as "I have no rights", while others echoed a much-felt sentiment here in Cape Town, stating that "The government should listen to us". All in all, it was an interesting and thought-provoking event for all those involved.

Josfien Fraeyman: "Many of the people did not know their rights, so it was interesting for us to make them aware of what their rights are".

Jens-Christian Friedmann: "Some people had strong political opinions and some wanted white people to be expelled from South Africa. Some people also wanted to know what PAHRO can do for the country."

Zoe Canet: "I realised a lot of people felt they were not heard or helped by the South African government, as many of them felt they did not have rights. This was also good publicity for the office as many of the people did not know of PAHRO's existence, and many were made aware about their rights."

Kristel Van Kruisbergen: "We talked to a homeless person that wasn't happy about the name being changed from Sharpeville Massacre to Human Rights Day, because she felt that the next generation would not know what Sharpeville was about or why Human Rights Day really exists."

Legal Services

The following are some of the cases which are currently active at PAHRO:

Refugee Case 1

The client is an asylum seeker from Somalia. His application for Refugee status had been rejected. He needed assistance with lodging his notice of Intention to Appeal. As the client was lodging his appeal late, we also had to attend to a condemnation of the late filing of his Notice of intention to Appeal. The client had been given 48hours within which to furnish these documents to the Cape Town Refugee Reception office. What made this client's case exceptionally difficult is that he did not have a copy of the written reasons for the rejection of his application. Therefore we prepared counter argument to his rejection based on objective factors relating to the region of Somalia where he is from. Stating that there are events seriously disrupting public order in terms of section 3(b) of the Refugee Act and thereby this should have been taken into account in the consideration of his case for refugee status.

We worked under pressure and were successful in lodging his documentation at the Refugee Reception office. The Client was subsequently furnished with an appeal hearing date for April and we shall attend to prepare Heads of Argument for the same. We managed to obtain a copy of the client's written reasons for rejection as well as his initial consultation notes from the Refugee Reception office these will be used in the preparation for his hearing.

Refugee Case 2

The client is an asylum seeker from the Democratic Republic of Congo, and needed assistance with lodging her Notice of Intention to Appeal. It was interesting to read up on the area of the DRC where the client comes from. There is so much to learn about other countries and the experiences that people go through as a result of civil war. I was touched by the client's gratitude for our assistance and the fact that we were able to attend to the Appeal Affidavit in such a short period. It was also a high pressure situation as we needed to complete the Notice of Appeal as the client, who was given 30 days within which to lodge her appeal, came two days before she was due to hand in her Notice. We therefore needed to ensure we completed the application and furnished it back to her before the 30 day period expired.

Kidnapping Case

Our client came to see us following the kidnapping of her baby. The perpetrator was subsequently apprehended and the baby reunited with the mother. The client attended our office with a newspaper article of the story relating to this event. It appears that the lady who had kidnapped the baby was suffering from depression after having had a miscarriage. The perpetrator sneaked into the client's house and took the baby while the client had gone to the nearby shops, leaving her child sleeping.

Initially, it was unclear what sort of assistance the client wanted from us. On prodding her and discussing the matter in depth, we realised she is afraid that this incident may reoccur and that she may not be as lucky next time as the perpetrator lives close to the house.

A case was opened against the perpetrator at the police station and subsequently it was referred to court. It is unclear what has transpired since then. Unfortunately, the client did not attend the office with her identity documents or the case number (court case number or police case number) so that we could follow up her case. We asked her to present us with these as soon as possible. In the meantime we have advised that the client should be vigilant in watching her baby and never leave her unattended. We asked her to inform the police every time the perpetrator is seen loitering around her house, and also to notify close neighbours every time she is in the area. The incident is well known by the community members and thus they can assist her in ensuring the incident does not reoccur.

Missing Persons Case

Two sisters came to us regarding the disappearance of their father.

The clients' father worked and lived at a nature reserve in 2009, which spans an area of over 10,000 hectares. His wife also worked here, and was allegedly having an affair with the foreman.

Although he disappeared on the 1st November 2009, the clients were only notified on the 12th of that month.

There are a lot of suspicious circumstances surrounding the disappearance, such as the fact that he always carried four items on his person: his glasses, his cell-phone, his ID book and the keys to his vehicle. These items were all left at his house. Furthermore, it is claimed that, once the disappearance had been reported, there was not an adequate search conducted given the scale of the nature reserve. The foreman was also found wearing the shoes of our clients' father.

In addition, the disappeared was married in community of property, but had plans to commence divorce proceedings, of which his wife was aware.

We followed up with the police station where a case was opened, but the last information update regarding the case was in 2011. The police don't have confidence that anything new will arise, and so we intend to file a Presumption of Death. We are still trying to locate a will, which the clients believe is held at a bank in Worcester. The location of the wife of the disappeared is unknown, however we do know that she has been deemed medically unfit to testify.

Criminal Law and Child Justice

Continuation of February report 2014.

Case 1: Murder Charge

On 10 March 2014, Sherwin and Anoushe Haghadi attended court for the bail application. Upon arriving at court, we were informed that one of the attorneys on record for a co-accused appearing with our client the charge of murder. Therefore, we were not in a position to commence the application, which consequently, was remanded to 12 March 2014.

On 12 March 2014, all of the relevant parties were in attendance at court, and the bail application proceeded. According to the law of South Africa, in all bail proceedings, the standard of proof is on a balance of probabilities, as opposed to beyond reasonable doubt, being the standard of proof in all other

criminal matters. It is also for the accused person to show that the interest of justice permit his release, therefore, the onus of proof is also shifted from the State prosecutor, to the accused person. Sherwin commenced the bail application by adducing evidence in the form of an affidavit, referring to all relevant laws applicable in terms of the Criminal Procedure Act 51 of 1977, and placed our clients' personal information and circumstances on record. Thereafter, the State called the investigating officer to testify; giving reasons why our client should not be released from custody, and informed the court of our client's alleged involvement in the current murder charge. Once the State completed this task, Sherwin was given an opportunity to cross-examine the officer on the events which allegedly occurred according to the testimony of the officer. Hereafter, both the Public prosecutor and Sherwin gave argument to the Magistrate as to why the accused should not be granted bail. The matter was then postponed to 17 March 2014 for the Magistrate to give judgement.

On 17 March 2014, Sherwin and Anoushe attended court once again, where judgment was handed down. The Magistrate stated many reasons as to why the accused/ our client should not be released from custody, and emphasised the fact that our client has a pending matter of murder in the same court, and two months after being arrested for that case, and released, he was arrested again on a second murder charge. Bail was consequently denied. The matter was postponed to 28 March 2014 for screening of the police docket.

Anoushe Haghadi: "I enjoyed watching the submissions [by the State and Sherwin], and following an application [from the beginning] right through to judgment. Also, I was lucky because I have been taken to see the holding cells [below the court room]; it was interesting and a bit nerve wrecking. I really enjoyed the entire experience!"

Case 2: Murder Charge

On 25 February 2014, a member of the Legal Aid Board stood in for our office as Sherwin was not at office. Our matter was postponed to 4 March 2014 for Sherwin to appear on behalf of our client.

On 4 March 2014, Sherwin and Jacomajn attended court. Our client was, once again, not brought to court by the investigating officer. Sherwin then addressed the court with regard to this issue and informed the court that the conduct of the State officials is prejudicial to our client. Both the State prosecutor and Magistrate agreed and allowed a final postponement for our client to be brought to court on his court date. Matter was remanded to 19 March 2014.

On 19 March 2014, Sherwin and Kristel van Kruisbergen attended court in order to represent our client. The client was finally present at court, as well as all relevant parties. The court was now ready for trial, and was postponed for plea of the accused. Two of the co-accused of our client has requested bail, but it seems as if the court is reluctant to allow the application at this stage of the proceedings. The reason for this is that trials/ completion of a matter takes preference over bail applications in the regional court. The matter was postponed to the 25 March 2014 for plea.

25 March 2014- Sherwin and Kristel attended court. Sherwin informed the court that the client was pleading not guilty, and that he explained competent verdicts, and that he would not make any plea explanation or admissions at this stage. The matter is now postponed for trial of the accused to 16 and 17 July 2014.

Kristel van Kruisbergen: "I was very interesting. It was my first time [at court] and I enjoyed it. It was a good experience to witness how the South African court system operates."

Case 3: Murder Charge

On 17 March 2014, Sherwin and Anthony Hewitt attended Wynberg Magistrates' court. Upon arriving at court, we were informed that our client has not been brought from the detention facility. The legal representatives of PAHRO then waited for an hour and a half for our client to arrive, but had still not arrived yet. Sherwin then asked the Legal Aid Board member to stand in for him so that we could attend the Athlone Magistrates' court for the judgment of our bail application, which was scheduled for 11 am on the same day (see case 1 above). The Legal Aid member agreed and later informed us that the matter had been struck off the roll, due the State being disorganised. Our client will now be released from custody and all charges against him, in relation to this matter, dropped. Case file closed.

Anthony Hewitt: "It was interesting to see how court works. I would have liked to see our client, but we were scheduled to attend a different court in which I was able to observe judgment for one of our other clients'. It is also great to be out of office for a while and see the [South African] Judicial system in practice."

Case 4: Armed Robbery Charge

On 20 March 2014, Sherwin and intern Aziza Annabi attended court to represent the accused in this matter. On the previous court appearance, the matter had been postponed to 20 March 2014 for pre-trial report. The report was completed and the social worker who compiled same has recommended that our client be diverted. Diversion is the process whereby young offenders who have been accused of a crime are diverted out of the official criminal justice system, with or without special conditions, and into programmes aimed at developing life skills as an alternative to spending time in prison. Our client will therefore be admitted into a programme on the 22 April 2014 and will be kept in custody until then. The matter was remanded to the same date.

Aziza Annabi: "I was surprised to see that the judicial system in South Africa is very similar to that of Tunisia, [which is where I am from]. It was really interesting.