

Monthly Report June 2014

Projects Abroad Human Rights Office, Cape Town

Introduction

Oliver Tambo said, "A society that does not invest in its youth does not deserve its future". At the Projects Abroad Human Rights Office we try and invest in the youth we work with to secure the future of the greater community. On the 16th of June, South Africa celebrates the Youth Day. This day commemorates the Soweto Students uprising of 1976 whereby more than 20,000 African students from Soweto protested against the system of Bantu education and the use of Afrikaans as a language of instruction in secondary school. This month we sought to educate the incarcerated youth we work with about the significance of this day and give them encouragement to honour the sacrifices that those before them had made in order for them to have a better future where they are free to make healthy choices.

Social Justice Projects Updates

Vredelus house

Workshop one: Youth Day

It is interesting to note that many of the youth in South Africa celebrate Youth Day not aware as to the history behind the date and why it is celebrated. The girls at Vredelus Huis fall into this category of those unaware of the significance of this day.

The volunteers who also did not know about June 16 (as it is referred to) researched on the day, the events culminating into the student protest. The volunteers obtained the well known photo of Hector Peterson the first casualty of the fight between students and police on that day to show the girls to see what they know about this image.

The purpose of the workshop was to not only give a history lesson but to encourage the girls that youth can make a difference in society and that they should not let their present circumstances limit them from making a difference in their communities.

The feedback from both the girls and the volunteers was positive. The girls showed keen interest asking questions and admitting to the fact that they were unaware about what they had just learned. From the volunteers it appears they felt that their research into the topic and the reception of their presentation had been worthwhile.

Workshop two – Anger Management

Violence is perhaps the most damaging legacy of South Africa's political history. Socially sanctioned violence has filtered into the most private places - the home and the family. It is having a devastating impact on individuals, families, schools and neighbourhoods. The violence stems from anger. With this in mind, we felt that a workshop on anger management would be useful.

In this presentation we wanted the girls to know that anger is a completely normal, usually healthy, human emotion. However, when it gets out of control it is destructive. It can lead to problems—problems at work, in your personal relationships, and in the overall quality of your life and it can make you feel as though you are at the mercy of an unpredictable and powerful emotion.

We took time to teach the girls that unexpressed anger could lead to pathological expressions of anger, such as passive-aggressive behaviour, vindictiveness (getting back at people indirectly, without telling them why, rather than confronting them head-on) or a personality that seems perpetually cynical and hostile or even always bent on revenge. People who are constantly putting others down, criticizing everything, and making cynical comments haven't learned how to constructively express their anger.

We also showed the girls the different ways in which they can get rid of their anger, eg, breathing deeply from your nose, diaphragm as breathing from your chest won't relax you, slowly repeating a calm word or phrase such as "relax,"

"take it easy" or doing slow yoga-like exercises which can relax your muscles and make you feel much calmer.

We also informed the girls that if they felt their anger is really out of control, they should consider counselling to learn how to handle it better.

Workshop three - Career Choices

Workshops like these are designed to help people make informed career choices based on their interests and their work values.

From previous discussions with the girls we realised that they wanted to do something different with their lives, but they were not sure what to do, so therefore we decided that this workshop would be beneficial to them.

Before the girls could decide on a career, they had to figure out what their interests are, where they see themselves, what is important to them, what skills they are good at and how they are going to get to where they see themselves.

We wanted the girls to figure out and answer all the above, as they needed to know these things, in order to make the right choices regarding the career field they would be choosing.

We will continue doing follow up workshops on careers, as the girls get excited when thinking or talking about a positive future in which they are successful and not bounded by their negative circumstances.

Bonnytown

Workshop one: Making Life changing decisions

In May we also did a workshop on life changing decision making at Bonnytown, which was a presentation on Shuan's life, however this time we did the presentation with a different dormitory at Bonnytown.

We could tell by the boys response that they were surprised that someone with the same experiences and background as them could change his life and be successful.

With workshops/presentations like these we hope that we will continue to change the boys mind set and inspire confidence in them.

Workshop two: Youth Day

We did a workshop similar to the one presented at Vredelus.

Some of the boys know the significance of Youth Day; others recognised Hector Peterson and the violence that marked the day. However they did not seem to see what significance the day may have in present times. As a result of this they appeared disinterested at the start of the presentation but, as the volunteers discussed the topic in further detail they noted there was a change in the atmosphere and the boys were paying attention to such an extent that they were quite hyped at the conclusion. This was very encouraging as the volunteers were disappointed at the boys' initial disinterest but carried on with their presentation all the same. It was a lesson learned in patience on both sides.

Workshop three - Anger Management

We did the same workshop that was done at Vredelus.

The volunteers went into greater detail at Bonnytown emphasis how anger leads to violent behaviour if not expressed or dealt with. There was also an emphasis on the importance of open communication as opposed to seeking revenge as this creates a cycle of violence.

Ottery Youth Care

We were unable to attend Ottery Youth Care as they were closed due to exams.

Women's Shelters

St Anne's

Workshop One – CVs/Sexual harassment and discrimination in the workplace

Following the previous week's discussion during which the ladies told us that they needed help with their CVs, we began the workshop by looking at what they currently have and discussing possible changes. This including interesting talks about whether to include, for example, one's marital status or date of birth on a CV, as well as how many dependents one has. This led into a discussion on stereotypes and the disparity between men and women, which eventually eased us into the topic of sexual harassment and discrimination in the workplace, as covered at Sisters Incorporated on May 29th. It was a good workshop and, although there were only 3 present, the ladies got involved and asked relevant questions.

Workshop Two – Dispute resolution in the workplace

The topic involved the recourse that can be taken when a dispute arises in the workplace, as well as the rights and responsibilities of the employee and the employer. This covered areas such as disciplinary hearings, the CCMA and Bargaining Councils. The women were interactive and there was a lot of participation.

Workshop Three – Housing

This was the same workshop as we did at Sisters Incorporated, and the reactions and responses were very similar; the ladies were unaware of their right to access to housing, but deemed it "only good on paper". These ladies put a lot of blame on the government, and talked a lot of their personal experiences. One of the ladies told us that she is very grateful for us coming to the shelter each week, and that we bring them light and knowledge where there was none.

Workshop Four – Housing Part 2

Again, this was the same workshop as conducted at Sisters Incorporated. The ladies were very interested in the discussion, although they also expressed their intense frustration at the lack of available housing and at the state of the waiting lists – one lady has been on the list for 15 years, which is sadly not unusual. Another woman got very emotional as she told her story of being homeless and being unable to provide for her three children; she is very afraid of what might happen once she has to leave the shelter. After the volunteers had finished with their presentation, we gave the ladies facials, which really cheered them up – they all felt like they were glowing and their big smiles showed that they really enjoyed it!

Sisters Incorporated

Workshop One – Help with clothing sale

The volunteers did not run a workshop as it was the day before Sisters' regular clothing sale, and we had been asked to help out with the preparation and organisation.

The female volunteers attended the sale the next day, and Sisters Incorporated raised R9255.

Workshop Two – Dispute resolution in the workplace

This was the same workshop as the one held at St Anne's. However, the ladies were not as responsive as they usually are, so it was a bit more difficult for the volunteers. They also discussed Youth Day; why it celebrated and the legacy it leaves today.

Workshop Three – Housing

The theme of the workshop was housing, which is a wide-ranging topic but one that is very important – the ladies are always wondering where they might find themselves once their time in the shelter is over. The volunteers started off by discussing the right to housing as according to section 26 of the Constitution; the reactions to this were varied, from the down-trodden "It doesn't look like we have the right, because we don't have a house", to the excitable "Do we have a right? I didn't even know that!" This led into an interesting discussion with regards to the inequality within the housing sector, and common complaints were raised with regards to issues such as the long waiting lists and reluctance to move into social housing schemes due to the high levels of gang related violence. The volunteers spoke about areas including RDP housing and subsidies. It was a very interesting discussion for both the ladies and the volunteers, and the session

ended up with a very heated game of Taboo.

Workshop Four – Housing Part 2

We continued our topic of housing, this time focusing on areas including the rights and obligations of the tenant and landlord, issues which may arise pertaining to leases, dispute resolution, and the process of lawful eviction. The women were interested, and everybody shared stories from their own experiences. Following the informative workshop, the volunteers gave the ladies facials – they really enjoyed being pampered, and we left them all feeling fresh and rejuvenated.

Legal Services

Maria Mulindi

Refugee Case 1

Our client is a forty one year old, who came to us regarding complaints of verbal, emotional and physical violence perpetrated against her and a co-tenant by another co -tenant

An interim protection order has been issued against the respondent, who lives at a neighboring property to the complaints.

In spite of the protection order the abuses has still not stopped with his harassment.

We have also issued the abuser with a letter of demand; informing him that legal action will be taken against him should he continue this behavior.

We have drafted a Heads of Argument, which is to be used at the confirmation of the hearing scheduled for the 15th July 2014 and we are currently doing research on the applicability of s 7(g) of the Domestic Violence Act.

Refugee Case 2

The Appellant is from the Republic of Congo. The client states she left her country after she witnessed the murder of her husband by the Ninjas, (an armed rebel group), because of his political affiliation. Consequently, she went to Kinshasa where she was able to get a flight to get to South Africa relying on money that she borrowed from a friend.

The client then came to our office, because her application for refugee status was rejected as unfounded.

The Refugee Status Determination Office (RSDO) submitted that by the time she left Congo-Brazzaville, the country had reached political stability and, consequently, she would not face any risk of persecution, if forced to go back.

We are currently busy drafting a Notice of appeal for the client, so that she can take it to the RSDO.

Property matter

The client came to us for assistance regarding his deposit on a property he leased.

The client paid a deposit of R8500.00 on a property he leased. He and the landlord disagreed regarding the invoices the landlord gave him and his co-tenant. The Client requested to be furnished with the original municipal bill for this which the landlord declined to give. The Landlord chose not to renew the lease upon its expiry. When the client moved out the landlord declined to refund him his full deposit.

We have advised the client that he needs to open a case against the Landlord at the Small Claims court. This court does not allow the parties to the dispute to have attorneys however, parties in dispute may seek legal advice. We are currently assisting the client with preparation for his case.

Property matter

The case was opened in our office when the client came in to us in Manenberg in 2012.

The client was living in a shack in his sister-in-law's backyard along with his wife and two children, three of whom suffer from HIV. The shack was very unsanitary, leaked when it rained, had no running water or other basic services. As a result, the family's health was deteriorating as they regularly were sick.

In attempt to remedy the situation, the client's wife was on the waiting list of the Manenberg Housing Department since 2002, with the aim of being given housing for her family.

Since 2012, Miriam and other volunteers and interns have been consistently following up with the Manenberg Housing Department, attempting to push the client and his family further up the waiting list due to their condition. Further to this, we asked the client to supply us with regular medical reports showing that his family's vulnerable health was being negatively affected by the unsanitary conditions of their living accommodation.

In 2014, when I was given the case, we had to obtain new medical reports, continue to follow up the Manenberg Housing Department and amend the client's housing application so that he could appear on the application, as opposed to his wife's ex-husband, as we found the case to be. However, we were told that the client would still have to wait a considerable length of time to be given a house.

On 02/06/2014, we received a phone call from our client who informed us that his family would be given a house from the Manenberg Housing Department; despite his happiness; however, we were concerned that he had received no documentation providing evidence of this.

In response, we proceeded to follow up with the Manenberg Housing Department in order to receive confirmation that the client had indeed been given a house, but we were still unable to receive any proof thereof, and were concerned about let-down that his client and his family may have to face. After many phone calls, we eventually received confirmation from the City of Cape Town Housing Department that our client has, in fact, been given a house, but that they will have to wait until it has been refurbished before they can move in.

The client then came in to the office on 05/06/2014 simply to thank us for our services, and also informed us that the City of Cape Town Housing Department said that without the persistence of PAHRO, his family would not have received the house.

Sherwin Daniels - Criminal Law and Child Justice Department:

Bonnytown

Continuation of May report:

Case 1

Charge: Murder

On the 04th June 2014, we reviewed the particulars provided by the state in this matter. When we consulted with the client and obtained his version of the events again, as well as explained what evidence the prosecution had against him from the particulars file.

We explained the likelihood of success in pleading guilty versus not guilty based on the current evidence. Further, we explained the likely consequences (i.e. sentences) of each plea and discussed his options. The client indicated that despite the witness statements against him, he wishes to plead not guilty. We then explained the process involved from this point.

On the 09th June 2014, Sherwin and Layla Petherbridge attended Wynberg Regional Court on behalf of the client and unfortunately, one of the attorneys on record for two of the co-accused in this matter, was not present. We were therefore unable to enter a plea and the matter has been postponed until 25 June 2014 for plea entry.

On the 25th June 2014, Sherwin and Dorothy Khan attended court, where were informed that one of the co-accused absconded. Consequently, a warrant of arrest was issued and the matter was postponed until the 26th July 2014 for tracing of the accused.

Case 3

Charge: Murder

On 13 June 2014, Sherwin and Layla Petherbridge attended court for representation of our client. The matter has now been set down for trial on 16 and 17 July 2014. This would be the first Murder trial for Projects Abroad Human Rights office.

Case 5

Charge: Robbery

On 23 June 2014, Sherwin and Layla Petherbridge attended Athlone Magistrates' Court in order to ascertain the date of admittance of our client. The date was set for 1 September 2014.

Pollsmoor Prison

Case one

Charge: House breaking and theft and House break with intent to steal.

Our client has been charged with house breaking and theft, as well as house breaking with intent to steal. The first court date was set for the 26th of May 2014, where Sherwin and Layla Petherbridge appeared in the Wynberg Magistrates' Court in order to place PAHRO on record.

In respect of count 1: on the 1st of February 2014, the client broke into the complainants' garage and stole the following items: 2x saxophones and 1x clarinet, having a joint value of R37000,00. He then, sold them to a friend, who in turn, sold them to Cash Crusaders Wynberg. Since the client's friend used his I.D at the aforementioned pawn shop, he was traced, and consequently our client was also traced. He was then arrested by the South African Police.

In respect of count 2: on the 7th of April 2014, the client broke into the same complainants' garage again with the intention to steal for his own personal gain. As soon as he gained access to the garage, the house alarm sounded. The client tried to run away, however, he was sighted by the complainants' brother, who was raking leaves in the backyard of the said property. The latter chased the client and caught him. The complainants' mother then called the police, who arrested and detained our client.

On the 18th of June 2014, Sherwin and Joshua Jackson attended Wynberg court for representation of the client. The matter was postponed for our office to obtain further particulars, being the investigations of the State, until 24th of June 2014.

PAHRO was initially on record for count 2 explained above. However, upon appearing at court on 24th June 2014, we were informed that our client had two matters, and that the State would join these 2 matters. Therefore, having only one case with two counts. The matter was then postponed to 30th June 2014 in order for Sherwin and Gaspare Chirillo to prepare our case in respect of count 2.

Our instruction from the client was to plead guilty to the charges set out above. Gaspare Chirillo then prepared the document required for court.

On the 30th of June 2014, the client pleaded guilty to both charges. In respect of count 1, he was sentenced to 18 months imprisonment, of which 6 months was suspended. In respect of count 2, the client was sentenced to 12 months, which will run concurrently with the sentence handed down for count 1. Our client could possibly be eligible for parole after serving a third of his sentence, should he comply with certain requirements.

Case two

Charge: Possession of stolen goods

On the 19th of June 2014, Sherwin and Alexandra Waud attended client consultations at Pollsmoor Prison.

The client, who is a Zimbabwean national, was arrested on Saturday the 14th of June at approximately 21h10 and charged with possession of stolen goods. Client had been in Paarl as he was hitchhiking to obtain transport to Zimbabwe, where his family resides. Whilst in Paarl, the client saw his brother who agreed to take him back to his home in Fish Hoek, Cape Town, as he was unable to secure a lift to Zimbabwe.

When the client and his brother were travelling back home, his brother drove through a red traffic light. A traffic cop stopped them and gave the client's brother a ticket of R500 for failing to stop at a red traffic light. The traffic cop asked what was in the back of the truck and his brother replied that it was 20 litres of diesel, which he purchased from a truck

driver as a reserve supply of fuel should he travel on the long road to Zimbabwe. The traffic cops informed our client and his brother that this was illegal, and escorted both of them to the police station, where they were arrested and detained.

The client explained that his brother takes goods, on request of fellow Zimbabwean nationals living in Cape Town, in bulk back to Zimbabwe on behalf of people who are wanting to transport belonging to family members in Zimbabwe and hires a trailer for this purpose. This is how he makes a living. The client states that this is why his brother had the large amount of diesel so he would be able to make the journey to Zimbabwe.

At all material times our client was unaware of the diesel purchased by his brother, and only sought a lift back home. Our office intends to enter a plea of not guilty.

Our client had no legal representation at his first court appearance and therefore, did not understand the bail conditions. On the 25th of June 2014, Sherwin and Alexandra were present at the court hearing, where the client's bail was set at R500 and a further court date was scheduled for the 28th of July 2014 for further investigations.

Moot Court

Report on the Moot Court 27/06/14

Defence:

Abby Housego
Marie Vivier
Claire Pinquet
Gerhard Legge-Wilkinson
Ginevra Biccio

Prosecution:

Gaspare Chirillo
Constance Remy
Chloé Bloyet
Alexandra Waud

The facts of the case were as follows;

The claimant parked his motor vehicle, a maroon Opel Monza, inside the yard of his house on the evening of 26/11/13, where he left his car in good order for the night. The next morning, 27/11/13 the claimant returned to his vehicle and discovered that it had been broken into and that there were a number of items that were now missing from his vehicle. He noticed that entry had been gained through the small rear left window on the left side of the car. The missing items included:

1. The vehicle's battery worth R700,00;
2. the car radio tape with a value of R500,00, and
3. The claimants work bag containing his work documents.

The claimant estimated that the total value of his missing property and of the damage sustained to his car was a value of R3000,00. The claimant had no suspects or anyone of a suspicion and there were no eyewitnesses to the crime. At the property, fingerprints were taken from the vehicle. 8 exhibits of finger and palm prints were found on the vehicle in question.

The finger and palm prints were compared to the accused. The left middle and ring finger of the accused were matched with the prints found on exhibit 8. Exhibit 1 to 7 had no outstanding match to the accused.

The defence relied their case on the basis that there was only two matching fingers with the fingerprints that were found on the maroon grill underneath the vehicle in question, only one out of eight exhibits were a match to the accused. The defence also relied on the basis that entry into the interior of the vehicle, where the radio tape and the claimants work bag were kept, was a physical impossibility through the grill where the matching finger prints were found and therefore no evidence placed the accused inside the interior of the vehicle. The defence aim was to create doubt surrounding the circumstances of the crime and the presence of the accused.

The prosecution relied on the matching finger print evidences that placed the accused at the vehicle in question. Due to the fact there was seven points matching to the fingerprints of the accused, it is a sufficient amount for a conviction. The prosecution provided the definition of theft and the elements that must be present and went on to prove that these elements were in fact satisfied, and provided the court with case law in order to support their argument. They also relied on the location of the claimant and the accused's houses; they were in close proximity to one another, which increased the possibility of the accused being guilty of committing the crime.

The prosecution had to prove beyond reasonable doubt that the accused is guilty of theft. Upon judgment, the "court" was tied, with equal votes for the defence and the prosecution.

Conclusion

We are looking forward to the criminal trials that are set to run this month. We have revamped in the manner in which we prepare our Refugee Appeal cases and are excited about giving our clients an even better service.

The Khyayalithsa holiday programme commenced at a school in the Khayalitsha Township on the 30th June. This is a programme that will run for the next three weeks. PAHRO has partnered with Siyakhatala and through this organisation we prepare and present life orientation workshops and extra mural activities for youth in this area. The goal is to keep the young students in healthy activities during their school break. Over 60 pupils registered this year we are looking forward to working with them.