

Monthly Report – MARCH 2014

Projects Abroad Human Rights Office, Cape Town

March has continued to be a busy month for PAHRO. We have still received many new clients of which the majority is Refugee related cases. We have also had an increase of court appearances.

On the 21st March, we celebrated Human Rights Day and as we are a Human Rights office, we decided to go out onto the streets and educate people on their basic Human Rights.

Social Justice Projects Updates

Bonnytown

Workshop one

The first workshop we did was on Smoking. Interns prepared a presentation with graphic images and a five minute video on what smoking does to your body.

Many of the boys at Bonnytown smokes and therefore we decided on doing this particular presentation in order to educate them on the dangers of smoking, the reasons why people smoke and the reasons why some people choose not to smoke.

We had some true and false questions for the boys, in order to see if they have been concentrating on what was said throughout the presentation.

Workshop two

We decided to have a discussion on “Life after Bonnytown” as we wanted the boys to start thinking about their future.

We started off with an ice-breaker game so that the boys and interns would be able to interact with each other. After the ice-breaker the boys were divided into groups with two interns in each group.

The boys were open and honest about what they wanted for themselves after they leave Bonnytown. Some wanted to have a house, get married and have children, while others wanted to make amendments with their family and friends.

We also talked about the different gangs, at first many of the boys glamourised belonging to a gang, however they also wanted to be reformed so that they will not end up in prison and so that they could make their family proud.

Workshop three

This week we focused on Human Rights as we were a few days away from celebrating Human Rights Day.

We had a presentation on the Sharpeville massacre and why this day is now celebrated as Human Rights day.

We wanted the boys to learn about the past, to be educated on their rights, to know that many people have died so that today they can have freedom of expression and so that they can be free.

We took some flip chart paper and colour pens with in order for the boys to make us posters on Human Rights. Many

of the boys expressed their feelings and beliefs through their art. Some of the boys drew rainbow coloured hands, which meant that we are free as a rainbow nation.

We were impressed with the art the boys drew, however we hope that they have now been education on their Human Rights and will use the knowledge gained in order to better themselves and to use it whenever they feel their right is being violated.

Workshop four

We had some leadership games and activities in order for the boys to learn from each other and take control of certain situations.

We started off by dividing the boys in groups with two interns and then asking the boys to solve certain puzzles as a group. The boys were very competitive and would scream out answers; however the game was to establish whether the boys could work in teams and to see who of the boys would take control of their group and act as a leader.

In some groups the games and activities worked well, as some boys worked together as a team and some boys assimilated in the leadership role.

We are hoping to do more workshops on working together as a team and having positive leadership skills.

Vredelus house

Workshop one

The first workshop we did was on safe sex.

This was an awkward, but interesting presentation to do as talking about sex is somewhat embarrassing.

The interns researched various information on sex, such as the diseases that you can get when having unprotected sex, how to have safe sex, etc.

We spoke to the girls about the dangers of unprotected sex, the different types of diseases, getting pregnant and why having sex at a young age is dangerous.

Some of the girls said they would abstain from having sex until they are emotionally ready or ready to have children.

We hoped that this presentation on sex we hope that the girls would abstain or use protection when deciding to have sex.

Workshop two

We decided to do a workshop on abstract paint in order for the girls to express their emotions and ideas.

We took a long some painting boards and paint items so that they girls could be as expressive as possible.

The girls really seemed to enjoy expressing themselves; some of the girls were open to share with us what they painted, eg, the ups and downs of their lives, their hopes for a better future, etc.

Workshop three

We did the same workshop as at Bonnytown, educating the boys on Human Rights.

Workshop four

Our fourth workshop was on Refugees and Xenophobia.

Before we started our workshop we asked the girls if they knew what the two terms mean and many of them did not know so in order to explain the terms better we downloaded various videos on Refugees and Xenophobia attacks.

At first the girls did not seem interested, but when we showed them the videos they seemed to feel as if they wanted to help stop Xenophobia attacks and help the Refugees be safe.

This was truly and interesting and educational workshop for the girls and interns and we are hoping to educate more people on Refugees and Xenophobia.

Ottery Youth Care

Ottery Youth Care is a project that we are hoping to start up soon.

Shuan and two interns attended a meeting at Ottery with the principal and staff in order to establish what workshops they would like us to do as well as for us to have a look at the facility.

Below are comments given to us by the two interns who attended the meeting with Shuan:

Josefien Fraeyman – So this is a project that might start soon. I went to Ottery with Shuan and so we had a meeting with the staff and principal. We talked about what they would like us to do, the facility and the types of activities we could do outside. We went so that we could establish a connection with them.

Corinna Hofmarcher – this seems like it will be an interesting project. We had a good impression of the staff and facility. It was more open than Bonnytoun and the teachers were very friendly.

Women's Shelters

St Anne's

Workshop one

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 for 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

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

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

The volunteers carried out a workshop on job interviews. This included holding a mock interview, as well as a role-play: the volunteers 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

As with St Anne’s, the volunteers 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 other’s’ nails.

Workshop three

Sisters Incorporated was cancelled due to PAHRO’s Human Rights Day event.

Workshop four

The volunteers prepared a workshop on conflict resolution and non-violent communication. They 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 Event

Human Rights Day is celebrated in South Africa on the 21st March every year in order to commemorate the Sharpeville Massacre.

On the 21st March 1960 police opened fire, without order, on a crowd that had gathered at the Sharpeville station to protest pass laws, stipulations that required Africans to carry books and produce them for law enforcement officials on request; 69 unarmed people were killed and another 180 were injured.

Since 1994, 21 March has been commemorated as Human Rights Day in South Africa.

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

On the 20th of March 2014 we decided to find out what rights people know and also to educate them about their rights.

We decided that since we assist people at the office on a daily basis that we were going to the Grand Parade which is in the CBD area in Cape Town.

We divided the interns into four groups, with each group having a member of staff. Each group also had a board, flip chart paper, white board markers, pages with the various human rights on and contact details for our office.

Each group then had to ask people various questions, such as, “do you know your rights”, “what rights do you know”, “what rights do you have”, and “what rights do you need”. The people then either had to write down their answer/s on the white board and then take a picture of them holding the board up, if they did not want to take a picture, they could right down their answer/s on the flip chart paper.

This was interesting for interns and for the people we met and asked questions. Some of the people did not know any of their rights and was surprised by the many rights that they have.

Below is some of the feedback we received from interns:

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 South Africa.

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 the Human Rights office exist and many of the people were made aware about their rights through the Human Rights office.

Kristin 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

These are a few of the cases interns are currently working on:

Maria - Supervisor

Tristan Karsnitz: Refugee Case

The client is an asylum seeker from Somalia. His application for Refugee status had been rejected as unfounded. 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 condonation 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.

Sylvain Seghin: Refugee Case

Client is an asylum seeker from Democratic Republic of Congo. Client needed assistance with lodging her Notice of

Intention to Appeal. It was interesting to read up on the area of Congo that the client comes from. There is so much to learn about other countries and the experiences that they go through as a result of civil war. I was also 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.

Allegra Ovazza

Our client's baby had been kidnapped but the perpetrator was apprehended the baby reunited with the client. The client attended our offices with a newspaper article of the story relating to this event. It appears that the lady who had kidnapped the baby was suffering depression having had a miscarriage. The perpetrator sneaked into the client's house and took the baby when the client had gone to the shops nearby 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 occur again and that she may not be as lucky if it happens again. The perpetrator lives close to the client and has been to the client's house three times hence her distress.

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 offices with her identity documents or the case number (court case number and police case number) so that we could follow up her case. We asked her to furnish 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 notify close neighbours every time she is in the area. The incident is well known by the community members and they can assist her in ensuring the incident does not occur again if she involves them.

Miriam - Supervisor

Anthony Hewitt – Disappearance case

Two clients (sisters) came to us regarding the disappearance of their father who disappeared in 2009.

The two sisters still believe their father is alive and came to us for assistance in order to find him.

The client's father worked at a Nature Reserve in 2009 which is over 10 000 hectares. According to our clients their father's wife was also working at the Nature Reserve and was having an affair with the foreman.

The client's father disappeared on the 01st November 2009; however they were only notified on the 12th November 2009 of his disappearance.

The daughters claim there was a lot of rain during the time of their father's disappearance which meant that any traces such as footprints were washed away.

The clients also state that their father always carried four items with him: his glasses, cellphone, Identity book and the keys to his vehicle. However these items were all apparently found in the house with his wife.

The clients also informed us that their father and his wife were married in community of property; however he was planning to commence divorce proceedings before he disappeared.

A week after he disappeared his wife attempted to withdraw a large amount of money from his account; however she was unable to do so due to a certain policy in his name.

We followed up with the police station where his disappearance case was opened and the last information that was updated regarding his case was in 2011, which doesn't help much as they did not find anything and the client's wife

has now been deemed medically unfit to go to work.

Criminal Law and Child Justice Department:

Sherwin - Supervisor

Continuation of February report 2014.

Case 1:

Charge: Murder

On 10 March 2014, Sherwin and Anoushe Haghadi attended court for the bail application hearing which was scheduled. 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 a 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 and why he should respectively. 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:

Charge: Murder

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 matter is 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

Charge: Murder

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

Charge: Armed Robbery

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."