

Monthly Report – May 2014

Projects Abroad Human Rights Office, Cape Town

Social Justice Projects Updates

Vredelus house

Workshop one: Adolescence and abstinence

A lot of youth in South Africa are ill informed about the changes they experience physically, mentally emotionally as part of growing up. A lot of youth go through this phase hearing from one another; unfortunately the person they speak to is often as misinformed as they are. We have noted that, because such topics are not openly discussed, the youth make decisions based on misinformation or lack thereof and suffer terrible consequences.

The purpose of this workshop was to get the girls talking about changes they have experienced, how they feel about the changes. We also wanted to help the girls understand that they go through emotional changes and how to handle this.

The interns did research in order to collect information relevant to the workshop. They prepared a power point presentation that was lively and engaging in order to capture the attention of the young ladies.

Due to the sensitive nature of this workshop, we started with game which served as an ice-breaker. This made the girls more amiable and receptive of the topic.

During the presentation we encouraged the girls to ask questions, to speak to each other or someone they trust if they are unsure about anything and if they are unsure how to cope with their mixed emotions.

We also encouraged the girls to write down what they feel as writing down how you feel gives you more clarity about your situation and how to go about making the best decision. It was awesome to see that the volunteers both male and female were enthusiastic about the preparation and presentation of the topic.

Workshop two – Making Life changing decisions

The ladies incarcerated in this facility are here as a result of bad choices they have made. Unfortunately they come from homes where more often than not there is a cycle of bad choices and bad examples. The goal of this topic was to make them understand that they are responsible for the decision they make and that they have the power to change their circumstances if they decide to make better choices.

For this workshop, Shuan Solomons our Social Justice Coordinator prepared a power point presentation about his life. He highlighted the difficulties one faces when coming from poverty and a broken home. The power point gave this background so that the ladies understood that he related to where they come from.

Shuan took the time to explain how he had made mistakes in his life, made some decisions that negatively affected not just him but also his family, but, he took responsibility for his actions and decided he wanted a better life for himself.

As part of the presentation Shuan displayed pictures of some of the moments where he excelled in sports, received awards and happy moments with his family and people in his community. He wanted the ladies to understand that if he could change so could they and life can get better.

He made it clear to them that he had not moved out of his community in order to start living a better life. He did so while still living in that same community.

The girls were really surprised and inspired by Shuan's life story as many of them did not know Shuan went through the same experiences as them. The volunteers also attended this workshop as an audience as many did not know Shuan's past. The volunteer feedback on this was positive; most felt that Shuan's presentation had a profound effect on the girls.

Workshop three: Education after detention

There is the assumption in most offenders' facilities that once a person has been in prison they are without options to progress themselves. The truth is not many know what options are available to them. The goal of this workshop is to dispel the myth and discuss various career options and educational options with the ladies. This workshop was a direct follow up to the workshop on life changing decisions where Shuan shared about himself, so that the ladies would be more geared and open to exploring different options for careers.

The volunteers did research on various courses and colleges in Cape Town. They took time to understand application process for college and for bursaries and scholarships. They also did research into the FET colleges. The volunteers also prepared resource material to leave behind for the girls so that they could read through and think about what they want to do.

Part of the presentation involved the volunteers giving reasons why the ladies need to pay attention to their education in Vredeluis Huis as well as why it is important to obtain a further qualification or skill. A lot of emphasis was placed on the fact that education is pertinent to establishing positive changes in their lives.

Workshop four: Project Runway

This was a creativity workshop, with the goal of teaching teamwork and healthy competition.

The ladies were split into five teams and a volunteer was assigned to each team. Each group was required to design and make a fancy dress from newspaper. The ladies had to pick a team member to model the dress on a makeshift runway.

The girls were really excited about the idea, and really got involved. Some of the models were a little demanding as to what they were willing to wear!

The ladies cheered their models as they strutted on the makeshift runway. It was great to see the girls have so much fun and also learn in the process.

Bonnytown

21 MAY 2014

Workshop one: Adolescence and abstinence

This workshop is similar to what we attended to at Vredeluis Huis. It was a little difficult to get the boys as engaged in the topic, most were shy to discuss or asked questions. However, we could tell that they were interested in hearing what we had to say. Despite the giggling and snickering heard every now and again, someone brokered courage to ask questions relevant to the topic.

We also encouraged the boys to write down how they feel when they do not know how to handle their feelings especially when they find it hard to open up about things that make them angry or offended them

Workshop two: Making life changing decisions

Shuan made a similar presentation to what he did at Vredeluis Huis. However this time around he went into more detail.

According to the assessment of our volunteers who had attended Bonnytoun on previous occasions the boys were very still, quite and attentive. There was no need to keep doing activities to keep them focused on the topic at hand, in fact, when one of their members was disruptive, the boys were quick to silence him as they were keen to know how Shuan had been able to rise above his circumstances. Hearing that he had a similar background to their own, had also made the same mistakes they have made but realised he wasting his life got quite a few of them thinking about their own lives.

The emphasis was on the need to take responsibility for their own actions and make wise decisions that will benefit them in the long run. Bonnytoun on countless occasions have never seen the boys.

Workshop three: Education after detention

The boys were eager to hear about career options and places to obtain training. None had heard about the FET colleges and did not realise they could obtain scholarships and bursaries for education. Most had assumed that because they did not have any money they would not be able to study. They were glad to know they had options.

We realise that the boys were more eager to hear about education and careers following Shuan's presentation. We hope that this is the start of a brighter future for them.

Ottery Youth Care

Week 1, 05 – 07 May 2014:

We did not attend Ottery as the management had planned a different programme for the boys.

Week two, 12 – 14 May 2014: Gangsterism and Drugs

There is a prevalent gang culture in Cape Town mainly in the communities living on the Cape Flats. The gangs appear to be an attractive and prestigious option for youth in these communities. The focus of this workshop is to help the boys understand what needs they seek to fulfil by joining a gang, e.g. sense of belonging as well as the negative aspects of being a member of a gang. We also wanted to show the relationship between gangs and drugs and the detrimental effect both have on people.

The volunteers undertook research about various notable gangs in the Cape Flats. They talked to their host families to get an understanding of how Gang culture has affected the communities they live in. They talked to various people who come from gang riddled communities.

Many of the boys were already aware of the consequences of being in a gang and using/selling drugs, as quite a few were detained for this reason. However, they had not really explored the real reason behind them joining gangs. We hoped to get them thinking about the underlying factors that led them to join gang being in a detention facility.

Week three, 19 – 21 May: The Negative Aspect of Tattoos

The acquisition of tattoos is a common way of life amongst a lot of youth. Depending on which community a person comes from, the tattoos are obtained to represent different things. For instance some will denote the gang a person is affiliated to or some will be a slogan or a message related to a significant event that occurred in their life.

A lot of the tattoos obtained by the young offenders are self made tattoos. The purpose of this workshop is to teach the boys on the risks of self made tattoos as well as the negative effects certain tattoos have on a person's life.

The volunteers compiled various facts on tattoos to share with the boys. They also included pictures of tattoos placed in conspicuous places on the body and infected tattoos.

A lot of the boys did not realise that diseases such as HIV could be passed on through the instruments used for self tattoos. The boys were advised against tattoos on conspicuous places such as the face. This would affect how they are perceived and even affect their ability to get employed.

Week four, 26 – 28 May: Responsibility

In as much as we work with a set curriculum at Ottery, Shuan Solomons decided to share the presentation on his life with the youth as part of the topic of responsibility. He used his life as an example and emphasised that the boys needs to take responsibility for their actions and realise that their actions have consequences.

Women's Shelters

St Anne's

Workshop one: Financial Management

This topic was prepared focusing around four main themes: Government benefits, the Unemployment Insurance Fund, budgeting and scams. The volunteers/interns each covered a specific topic and presented it to the ladies using a PowerPoint presentation. Financial management is crucial, especially for the women who find themselves in such a vulnerable situation, and can represent a struggle that most of us face at some point in our lives. The ladies had quite a good knowledge of the benefits which they are entitled to, although were unsure of how to receive them, and had first-hand experience of a lot of scams, mainly sent out via SMS. Overall, they found it a useful workshop.

Workshop two: Government

Following the elections, the volunteers prepared a workshop on government, and how the country is run. The women had very little knowledge about this topic, and asked a lot of questions. They were unaware of the election results, and those who were present maintained that there is no point in voting. The discussion turned to a common theme; that the government don't do anything to help those who need it most. What people need are jobs and houses, and these are not being provided. The topic of foreigners entering the country and getting jobs then came up, which always sparks a pretty heated debate!

Workshop four: Employees' Rights

We held the same workshop as at Sisters, although there were only two ladies present and the atmosphere was a little more subdued. One of the ladies was keen to chat and point out errors in the contract which we showed them, while the other was more reserved, although she was paying attention. We discussed the same topics but, although they were listening and notes were being made, it was more difficult to get a two-way discussion going. I think that that was largely down to one lady being shy and to the other being new. It was, nevertheless, still a successful workshop. Even though we were such a small group, even Taboo went down well at the end.

Sisters Incorporated

Workshop one: Meeting

Miriam attended this session alone; the volunteers were attending a tour of Parliament, and so it provided a good

opportunity for a meeting with the Supervisor and the ladies at the shelter. Sisters Inc. and St Anne's always has an uneven balance, with one being the more "popular" destination than the other, usually due to the influx of women at one shelter being more chatty than at the other at different points in time.

The discussion focused around finding out what the most important aspects of Human Rights the ladies want and need to learn about. Unsurprisingly, the key issues are employment and housing, followed by topics such as government grants, exemption from school fees and Children's Rights. As we have done a fair amount of work on interview skills this year, we decided that we would begin the new programme on employees' rights.

The ladies also discussed how there is sometimes a bit of a psychological barrier between themselves and the volunteers, simply due to the high turnover rate we experience. However, they did express that fact that they enjoy our weekly visits very much.

Workshop two: Employees' Rights Part 1

The volunteers/interns took an example of a fake contract, which contained several unfair clauses, and the ladies had to try to spot when they were, hypothetically, being taken advantage of. The interactive element worked well with this, and they were keen to try to see the mistakes. We then discussed the issue of disclosure of HIV/AIDS status in the workplace, and the ladies shared some of their personal experiences with us, before we talk about minimum wages and some elements of the Basic Conditions of Employment Act. To finish up, we played Taboo, which one of the women had particularly requested the previous week – she got very competitive, and everyone enjoyed it.

Workshop three – Employees' Rights Part 2

The workshop was supposed to start with the abovementioned topic. However, one of our volunteers, Layla, had suggested that we take portrait photographs of the ladies as our "fun" session. Having emailed the social worker at Sisters to obtain approval, the ladies were so excited and some were still busy getting dressed up and doing their make-up by the time our presentation was supposed to have started! Given the overall buzz, we decided to take the photographs first. Some were shy in front of the camera at first, but soon loosened up – we also fetched the children from the crèche so that they could have a family portrait. After the modelling was over, we proceeded with the more serious part of our session, discussing sexual harassment and different forms of discrimination which can occur in the workplace. Some of the women have experienced this in different ways, and we also talked about the correct procedures to take when this happens.

Legal Services

Maria Mulindi

Leah Munk – Refugee Case

The client is originally from the Democratic Republic of the Congo (DRC). The client submits that supporters from a ruling party raided her home and killed her father, mother and two siblings. The client escaped during the raid and travelled from the DRC to South Africa and settled in Cape Town.

The client's application for refugee status was rejected as unfounded, so now Leah is preparing a Heads of Argument for the client's upcoming appeal hearing at the Refugee Appeal Board

Writing a Heads of Argument involves telling the client's story, researching the relevant law as well as researching the current situation in the DRC to provide an objective assessment of the DRC. The purpose of the 'Heads of Argument' is to make a case before the Appeal Board as to why the RSDO's decision to reject the client's application for refugee status was wrong, and why the client should be able to stay in South Africa as a refugee.

Neha Deshpande – Refugee Case

The client came in seeking assistance with his application for certification for indefinite refugee status.

The client was born in Gitega, Burundi and lived in Gitega until 1980 when he moved to Bujumbura, which he fled in 2001 due to the violence of the Burundian civil war. He came to Cape Town via Tanzania, Zambia, Zimbabwe, Johannesburg, then Cape Town; however the client did not reside or apply for asylum in any of these places.

The client states that he had been a supporter of the FNL party since 1997, but has only recently become a formal member. The FNL and CNDD (a rival Hutu political party) have a history of violence towards one another that began in 1997 due to a conflict of interest regarding negotiations with the government.

In the past decade there has been documentation of violence and human rights violations on the part of the CNDD as well as the government against members of the FNL party.

The United Nations High Commissioner for Refugees (UNHCR) now considers Burundi safe, however the client still fears for his life.

Neha is currently conducting more research into this violence in order to prove that it is unsafe for our client to return to Burundi due to his political affiliation.

Neha has also begun drafting his declaration for certification.

Ilaria Scaglione – Refugee Case

The client attended our office with his wife and two children. At first it was not clear what exactly they wanted us to assist them with. However we let them speak because they were both very emotional and crying from the outset of the consultation. As they began to calm down Maria probed them to understand the nature of their problem.

The client and his family have been forced to move around multiple times in the Strand area. On three separate occasions their home has been vandalised by locals. In 2008, the husband was assaulted by members of the community; he received medical attention for his injuries as well as denture for the loss of three front teeth. In the latest incident that occurred this year. His wife and daughter were raped in their home one afternoon. Soon thereafter their home was vandalised (this was the third time). They reported the incident to the police; however the case has now been closed as “undetected”. Unfortunately the client and his wife are not able to identify the perpetrators. The police having no lead on any of the cases the client reported, decided closed their case. The clients feel insecure and are dejected.

We hope to make an application for a Protection Assessment with the UNHCR Offices in Cape Town. There are three possible outcomes with this application. They UNHCR could recommend Relocation within South Africa, Repatriation back to Burundi or Resettlement to another country altogether. With all these options the UNHCR would give support finances.

As these applications could take a number of years to be processed and finalised. We discussed different other options with the clients. Both of them are not employed. The meagre earnings they have come from the client’s work as a car guard. Basically he earns depending on how much good Samaritans are willing to pay him/give him for watching their cars. The client and his wife do not speak English or any other local South African language; this makes their options for employment slim or next to none.

We therefore recommended that they undertake English lessons in order to increase their chances of employment. Hopefully with employment they will be able to move to a more secure location.

We are currently contacting various organisations with the hope of getting the client free English classes.

Layla Petherbridge – General

The client has engaged us in relation to two separate matters, the first in relation to a criminal matter for contravention of zoning regulations with respect to his tuck shop business and the second a labour issue in relation

to the suspension of his employment.

Criminal matter

The client and his Wife opened a tuck shop selling sweets, fruits and vegetables in 2012. The tuck shop was located in the apartment complex that he and his wife also reside in.

The client instructs that when he opened the shop he approached the owner of the building for permission to operate the shop, and was given paperwork which he believed entitled him to operate the shop.

Client provided a copy of a Power of Attorney (Registered Owner's Consent Form) signed by the registered owner of N.C.R Investments C.C. This document dated 14 September 2012 grants authority for client and his wife to apply for consent/conditional use in respect of the property (N.C.R Investments C.C) to enable it to be developed / utilized for the purpose of: *'for café / sweets / fruit veg.'*

The client believed this was all the paperwork he required in order to operate the tuck shop.

A person from the City Council attended upon the tuck shop and advised the client that he did not hold the correct permit to operate the business and that they had to close it.

He was served personally with a Notice to Cease Unlawful Activity by the Planning and Building Development Management, Department of Economic, Environmental and Spatial Planning, City of Cape Town on 2 September 2013. The Notice to Cease is addressed to both he and his wife.

The Notice specified that he must cease trading before 2 October 2013.

The client instructs having lodged the correct paperwork with the City Council, but that his application was denied. He instructs that he ceased trading on 2 October 2013, in accordance with the deadline provided in the Notice to Cease Unlawful Activity.

The client was charged with contravening Section 39(2)(a)(i) read with Sections 2,8,9(2) and 46(2) of the *Land Use Planning Ordinance No.15 of 1985* (the Ordinance).

He was summonsed to appear before City Hall Municipal Court in January 2014, and instructs having appeared on more than five occasions to date. He instructs having told the Magistrate that he closed the shop in the time he was required, and is unsure why he has been charged. He further instructs hearing testimony of the City Council Officer that upon attending the tuck shop after 2 October 2013 that it was closed. The client does not believe that he has contravened the law.

If the client is charged with committing an offence in terms of Section 46 of the Ordinance he could face *'on conviction liable to a fine not exceeding R 10 000.00 (which when adjusted in terms of the Adjustment of Fines Act, results in a fine of over R 100 000.00) or to imprisonment for a period not exceeding 5 (five) years or to both such fine and imprisonment.'*

Layla has researched the provisions of the Ordinance and believe that the evidence against our client would likely result in a guilty finding if the matter went to Court. Maria requested and we received copies of the evidence against our client from the prosecutor (including signed statements of witnesses and city council inspectors). The prosecutor has advised that the matter was, in fact, delayed by our client as he originally refused to pay a fine and did not understand that continuing to allegedly trade at night contravened the Act.

Labour / suspension matter –

The client is employed by at a Casino on a labour hire and was suspended in April 2014.

The client instructs that the day before his suspension he has misread a roster and did not arrive for work at 2:00pm as scheduled. He thought he was rostered to start at 5pm that day.

He contacted his manager at approximately 2:05pm and explained the misunderstanding; he came in to work immediately and started at 3:00pm. He was suspended the following day; he isn't sure whether he is being paid or the length of his suspension.

The client states that he was told he was only being suspended until he could be placed somewhere else.

We have spoken to and written to the employer, requesting copies of the evidence against him and confirmation of the current status of the suspension. We have confirmed with the client that he was still being paid.

Isabelle Liljestrand – Harassment Case

The client is a sixty four year old female who came to our office in April with a complaint about harassment in her retirement home.

In September 2011 a man came to her door and showed her a pornographic picture of himself on his cellphone.

The client then reported this to the police.

Our client claims that the man continues to cause problems and that she has to walk past his apartment to get to her own.

02 October 2013 our client applied for a Protection order, where the respondent was a man living in the retirement home.

03 October 2013 she made another application for a Protection order, also against a man living in the retirement home. It was unclear to which one of them was harassing her, since her applications are in Afrikaans.

In February a female also living in the retirement home applied for a Protection order against our client. The information regarding the acts of harassment is that our client stands in her door and swears loud at the other residents.

Furthermore our client is being accused of telling lies and saying that the female stabbed her husband to death.

She swears at other residents as well. Further, Eva claims that our client has accused her of stabbing her husband to death with a knife.

In April our client received a letter from the executive director of Human Settlements regarding her behavior at the retirement home. Apparently in an interview on 18th of December 2013 she was told that complaints had been received concerning her rude and abusive behavior towards the neighbours, and also to a staff member while being interviewed.

The client received a warning regarding the above.

The client is extremely unhappy at the retirement home, so we are currently looking into relocating her.

Miriam MacDonald

Corinne Hofmarcher – Family Matter

The client came to us for assistance regarding a divorce.

The client's husband was charged with murder in 2010 and the client is not sure when he is going to be released, therefore she would like to finalize her divorce as soon as possible.

According to our client he committed this murder in front of her and her children therefore she was a witness against him in court.

They have three minor children together who are currently staying with our client.

We started to fill out the divorce papers and we are now waiting for the last documents for example the protection order against her husband and the social report from her children which we would like to attach.

We were able to talk to the social worker of her children last week and he will send us the report as soon as he is finished with it.

Once we receive the documents we will be able to proceed further.

Criminal Law and Child Justice Department

Continuation of March report 2014.

Case 1

Charge: Murder

On 28 March 2014, Sherwin and Anousheh Haghdam attended court. On the previous occasion, the matter had been postponed for screening of the police docket by the senior public prosecutor. We were informed that the docket had been screened and that the police investigations were still incomplete. The evidence which was incomplete included state witnesses who had not yet been interviewed, and an identity parade which was scheduled. The matter was postponed to 11 April 2014 in order to provide the State time to complete its investigations.

On 11 April 2014, all relevant parties were in attendance. The Investigating officer had completed his investigation, and the matter was ready for transfer to Regional Court. A charge of murder cannot be tried in the District Court. The matter was therefore postponed to 26 May 2014 in the Wynberg Magistrates' Regional court.

Case 3

Charge: Murder

Due to our client being a minor, the court may not postpone his matter for than 30 days at a time. Therefore, Sherwin and Kristel van Kruisbergen attended court on 25 April 2014. Our client has instructed PAHRO to apply for bail, as he no longer wishes to remain in custody whilst awaiting his trial. We have postponed the matter to 15 May 2014 in order to make an informed decision on whether to institute bail proceedings at this stage.

Criminal Law and Child Justice Department:

Continuation of April report 2014.

Follow ups:

Case 1

Charge: Murder

On 26 May 2014, Sherwin, together with interns Frida Lindberg and Isabelle Liljestrand, attended Wynberg Regional Magistrates' court for the first appearance of our client on the above charge. The State has completed their investigations in this matter, and we are therefore, in a position to request these investigations in preparation for trial. The matter was postponed to 9 June 2014 for the defence to obtain further particulars.

Case 3:

Charge: Murder

On 15 May 2014, Sherwin attended Wynberg Magistrates' Court in order to represent our client on a charge of murder. After our bail consultation held on 23 April 2014, PAHRO has decided not to institute bail proceedings, due to the chance of success as well as the time period involved in doing these applications, especially when the trial date is so soon. The client agreed that a bail application would be a futile exercise at this point in time and therefore, abandoned bail. The matter was then postponed to 13 June 2014 for our client to appear.

Case 5:

Charge: Armed Robbery

On 20 May 2014, Sherwin and Corrina Hofmarcher attended court in order to ascertain whether the client would be admitted into a rehabilitation centre. The treatment centre has provided us with an admittance date of 1 September 2014. The matter was postponed to 23 June 2014 in order to ascertain whether there are any possible changes to the date of availability, specifically, an earlier date.

Pollsmoor Prison

On 22 May 2014, PAHRO commenced its Pollsmoor Prison Project. This project serves to assist the prison in alleviating the overcrowding situation currently at hand. This is done through legal representation of remand detainees who have been charged with less serious offences, thereby, relieving these unrepresented detainees from the criminal justice system. Detainee's human rights are usually infringed as a consequence of overcrowding in prison. The most common rights violated include the right to privacy, bodily integrity and dignity.

On 22 May 2014, Sherwin and pro volunteer Layla Petherbridge attended Pollsmoor prison to consult with our new clients. They were remanded for the following cases:

- Trespassing,
- Assault with intent to cause grievous bodily harm (GBH),
- Housebreaking and theft, Malicious Injury to property.

Sherwin and Layla attended court for these matters and **ALL** of these clients are now released from custody, having their right to freedom re-implemented.

On 29 May 2014, Sherwin and intern Joshua Jackson attended Pollsmoor for our weekly consult. We received three clients who had been charged with

- Assault GBH,
- theft out of motor vehicle and possession of a firearm
- attempted murder,

We will attend court in the first week of June.

Moot court:

On Friday 23 May 2014, PAHRO held a moot court in preparation for a murder trial which is less than two months away. The Prosecution consisted of five interns/ volunteers, namely; Jens- Christian Friedmann, Corrina Hofmarcher, Neha, Leah Monk and Fiameta Scarnecchia. These interns have worked extremely hard in an attempt to prove their case beyond a reasonable doubt.

The Defence consisted of Isabelle Liljestrang, Joshua Jackson, Natalie, Ina Rasmussen and Rosella Visintin. They did not waste any opportunity to take a piercing jab at the case presented by the prosecution.

After closing argument by the prosecution and defence, PAHRO staff led by Sherwin, assisted by Maria Miriam as well as pro volunteer Layla Petherbridge and volunteer Ilaria Scaglione, gave judgment.

In a vote of 6:0, the defence has won the moot.