

Monthly Report – June 2015

Projects Abroad Human Rights Office, Cape Town

Social Justice Project Updates

Vredelus Huis / Bonnytoun / Lindelani

Workshop one – Domestic Violence

In 1997 The Department of Justice estimated that 1 out of every 4 South African women are survivors of domestic violence. The exact statistic regarding domestic violence in present years has become harder to determine, police do not keep separate statistics on assault cases perpetrated by husbands or boyfriends. The recent case of the State vs Oscar Pistorious is a stark reminder that domestic violence is still rife and is a phenomenon that affects all walks of life and not just poor people as some would believe.

The purpose of the workshop was for the boys and the girls to learn how to identify different forms of domestic violence, about the consequences of violating someone's human rights through such acts, and what recourse they should take if they were to find themselves or one of their peers in the victim's position

We began the workshop by asking the inmates to define or explain their understanding of domestic violence. We then took the opportunity to explain the different forms of domestic violence and most importantly we educated them on what they should do if they ever became victims of domestic violence or if they knew a victim how best they could assist them. We discussed safe houses as havens that can offer temporary accommodation and protection for victims of domestic violence.

We then watched a video entitled "Slap her"; this is an Italian production in which young boys are told to say and to do certain things to a young girl, and documents the reactions of the boys. For example, when instructed to "Give her a compliment", the boys comply. However, when they were told to slap the girl, they refused, believing that real men don't hit women. The video highlights how the perceptions and thoughts of young people can change during the course of puberty.

We then discussed hypothetical scenarios asking the inmates what they would do in various situations for example, such as "What would you do if you or your friend were a victim of domestic violence?", and "How would you react if your partner violated your rights?" From the responses we could tell they now knew understood their legal rights based on what we had taught them. The responses were positive, and indicated that everyone had listened attentively and were able to give an informed answer on how they should react if they were to find themselves in such a situation.

“Some of the girls and boys had been victims of domestic violence and, prior to this workshop, did not know that it was a violation of their rights. I felt it was important for them to receive this particular workshop as they have now learned to stand up for their rights, as well as not violate someone else’s rights. This was definitely a great learning experience.” - Ashleigh Antoine.

Bonnytoun / Lindelani

Workshop two – Xenophobia and Refugees

South Africa is Africa’s most industrialised country, and it attracts thousands of foreign nationals every year, seeking refuge from poverty, economic crises, war and government persecution in their home countries. South Africa has therefore been a host to foreigners from as far back as the 1980s. South Africa has one of the worst records of Xenophobia in the world. The famous image of the burning Mozambican refugee set alight by protesting locals attests to this.

We began the workshop by defining xenophobia and explaining that it is a type of prejudice akin to racism.

We did a slide show presentation highlighting the plight of refugees and why they leave their countries of origin. We also showed the different ways in which foreigners make contributions to the South African economy and the communities they live in. In conclusion to our presentation we made the boys aware that “everyone is a foreigner somewhere”.

We then broke into groups and discussed different aspects of the presentation. A number of the youth admitted that they grew up with the belief that foreigners were taking their jobs not because they have actually seen it happen but because this is what those they grew up around said. So they so it as their right to be disrespectful or did not care if the foreigner was a victim of violent crime.

We hope that this workshop has made a lasting impact and will change their attitudes towards the foreigners.

“The workshop was well received and both the boys and girls needed this workshop as they are now more educated than previously. Instead of being violent against foreigners they now want to live in harmony with them and be able to assist them. This workshop should definitely be done in the future with the next group of girls and boys” - Rosalie Forget Lacoursiere

Vredelus

Workshop three – Life after detention

This workshop is a repetitive workshop and has been done at both Vredelus and Bonnytoun, however with a different dormitory of boys and girls.

There is always an assumption that once you have been in a juvenile detention facility or prison that they are without options to progress themselves, this is in fact a myth.

We prepared a slide show presentation and explained the concepts of life after detention, for example, completing your education and obtainable qualifications, having freedom, having positive role models and in turn also being a positive role model.

A lot of emphasis was placed on the fact that the ladies had to make positive changes, which would lead to a reformed life style and that they would reap the benefits of life after detention should they remain positive, focused and hard working..

We also split into groups and discussed: "What they wanted to do when they got out?", "What skills and interests they had?", and "What they will do to pursue their goals and dreams?". The girls were extremely engaging, shared their personal thoughts and indicated their willingness to pursue careers and a better life for themselves once they were released from the detention facility.

The purpose of the workshop was to get their girls to think about their future and to motivate and encourage them to start making positive small changes.

"This was a successful workshop. The girls were engaging throughout the workshop and responded positively. "- Kate Miller

Khayelitsha Home Visits

Olivia Simpson

We visited the residence of a fifteen year old boy, who has difficulties learning. He is very practical and hands-on and would like to be in a school where he would not be bullied for the lack of not being able to learn "normally", but instead be able to use his mental impairment to unearth his physical traits.

We are currently contacting different schools in order to find out if they would be able to assist the boy as he would really like to complete his education and be successful regardless of his current circumstance.

I am hopeful that the boy will find a good school, which will suit his needs as he is very willing and eager to learn.

Camila Montiel McCann

We visited the home of a woman whose blind and looking after her two grandchildren. The children are aged fifteen and years old. The eight year old is currently in school and the fifteen year old is almost never at home. The grandmother stated that she did not want to go into an old age home, as she does not want to lose her independence.

The telephone cables were also stolen in the area where they live, so we are unable to get a hold of them telephonically.

We have also been trying to get a social worker involved in the situation, however the designated social worker keeps on changing and they have not been making an home visits.

We were also thinking about moving the children. Their aunt might be willing to take in the eight year old and the fifteen year old might be able to be placed in Lindelani, however we are still awaiting feedback with regards to the social worker.

Christina Charas

We visited a school in the area with regards to another Khayelitsha case, which has now been closed. One of the teacher's then referred us to speak to another family, regarding a pupil who has not been at school lately and the fact that she has not seen the pupil's mother as well.

The mother apparently suffers from mental issues and has already stabbed her own son.

We have been trying to contact the mother and her brother, but unfortunately we have not been able to get a hold of either one of them.

We also need to obtain the young boy's full name and surname, in order to visit him at school and to get further information regarding his living situation.

"I felt so sad that we were not able to get hold of the young boy as the sooner we get hold of him, the sooner we could assist him. On our next visit to Khayelitsha we will be speaking to the teacher again, so we are hopeful that we will be able to get in contact with him or his mother or uncle".

St Anne's (Women's Shelter)

Workshop one – Business Management

We have had several informal discussions with the women at the shelter and one of the recurring themes in conversation is the struggles they face with finding employment. With this in mind we decided to research on simple business ideas and share this information with the ladies and empower them to think of ways of starting their own business.

The themes of our presentation included; "how to be an entrepreneur", "creating a business plan", "target market", "skills to develop", "start-up funding", "money management", "marketing strategies" and "risk management".

Following our presentation the ladies were split into three groups and given two group activities to complete:

- "Business Entrepreneurship Challenge", which is creating your own business, taking into consideration, what service/product you are selling, is there a demand for it, who your target market is, possible problems you could face and how your business will be different from your competitors.
- "Business Pitch"- once the business entrepreneurship challenge was completed, it was now time to work on a pitch, which you would be presenting to future investors. This particular activity was also done in order for the women to be able to work on their public speaking skills.

Some of the ideas put forward include; running a hair salon, dry cleaning service, baby sitting, dog walking, and running a cleaning services company.

It was a rewarding session for us to see the ladies enthusiastic about the topic and have them fully engaged in the group activity. The ladies also asked that we keep refreshing this topic which we will gladly oblige.

Workshop two – Sexual Harassment and Discrimination

The Women's shelter seeks to empower women who have been victims of abuse a platform to rebuild their lives. One of the ways they do this is by enabling them to obtain employment in order for them to become self reliant. In the past we have done several workshops on preparation and self presentation during interviews. Taking into account the vulnerability of the ladies due to their past experiences we thought it would be good to educate them on sexual harassment in the event they become victims at work or anywhere else for that matter.

We researched and prepared a presentation that explained sexual harassment and conduct amounting to sexual harassment. We also looked at the legal measures a victim of sexual harassment has against the perpetrator.

To ensure that the ladies understood the workshop we had a question and answer session as well as a structured group discussion where the ladies had to analyse various scenarios to determine whether the people in the scenarios were victims or perpetrators of sexual harassment and the legal remedies available to the victims of the abuse.

The discussion gave the ladies an opportunity to discuss their past experiences for those who had been victims unbeknown to them some admitted that they did not know how to deal with this problem in the past.

Most importantly the ladies learned that if they were or were to become a victim of sexual harassment they should not feel ashamed or embarrassed as they have done nothing wrong, the perpetrator is the one who should be feeling ashamed.

“The ladies participated well and did very well in identifying what sexual harassment is and the difference between sexual harassment and flirting. They learned a lot and are now able to use what they have learned to teach their children, friends and family”. – Rosalie Forget Lacoursiere

Workshop three – Talents/Skills

This was a follow up on the Business Management workshop. We wanted to encourage the ladies to use their talents/skills or unique traits as a source of income, as well as a form of expressing themselves.

- Using your talents/skills as a source of income

Many of the ladies at the shelter are good at cooking/baking, singing, braiding hair, knitting and creating arts and crafts. With a little help they would be able to use these skills to generate a small income; thereafter they may be able to open a small business.

- Using your talents/skills to enrich your self-esteem

Not only can doing what they love be used as a source of income, but they will also feel more empowered and confident, as it boosts their self-esteem. Continuously using their talents will

enable them to unlock their potential and discover more possibilities because it stimulates their minds.

At the end of the presentation we discussed our talents/skills and what we had learned today. An intern from St. Anne's share with us her talent to sing Opera, which was phenomenal, another lady at the shelter showed us her beautiful baking creations, which left us in awe. Many of the ladies at St. Anne's are extremely talented and before today did not know that they can use their talent/skills to enrich their lives.

"Engaging in activities and topics that are applicable to the ladies are very stimulating for them and leaves us feel like we have made a difference. Any kind of talent is worthwhile to be explored and shared and today the ladies realised that. The workshop was successful and the women now have gained more knowledge and are left motivated to make use of their talent to better their self-esteem and lives." – Alessia Perricone.

Workshop Four – Self Expression

We prepared a workshop explaining the meaning of self-expression and ways in which you can express yourself, i.e.; communication, body language, artwork, clothes and hairstyles.

Part of the workshops included three activities:

- A quick and easy meditation session. This was done in order for the ladies to be able to relieve their mind and body from any stress or negativity and to make them feel more relaxed. If meditation is done on a daily basis it could lead to improved health, emotional stability & positive thinking.
- Verbal expression. With this particular activity we gave each woman a list of words describing emotions, for example, jubilant, admiration, tenacious, inquisitive. We then scattered pictures on the table for the women to look at and they then had to state which emotion was evoked using the list of words given to them. The women then also had to give reasons for their answer. This was not only a great way for the women to express themselves verbally, but it also gave the women the opportunity to learn new words which are not used in their everyday vocabulary.
- Expression through art. We asked the women to draw what they are feeling and then explain to the rest of the group what they drew and why they drew it. This was also a good way for the women to visually make sense of their emotions and to bring their feelings to life.

After the activities we discussed what we all had learned and how we will use our unique qualities to express our true selves.

"The purpose of the workshop was to encourage the women to communicate and understand their feelings better, as well to feel comfortable expression themselves according to their persona" - Lucia Rodzinakova

Legal Services

Sherwin Daniels - Legal Services Coordinator

Kevin Winkler – Criminal case

Our client was charged with possession of forty nine packets of drugs, which was found on him.

Upon attending Pollsmoor, we discovered that our client got bail, so we were unable to have a full consultation with him.

From the information we have gathered we are now researching duress and acquittals with regards to drugs. We also feel that the client should please not-guilty as this would be the best decision for him as he would then avoid a long prison sentence.

In order for us to further progress with this client's case we need to consult with him as we are lacking a lot of vital information.

Currently we are still doing research and are awaiting feedback from the client as to when he would be available to consult with us.

Alasdair MacDonald – Labour Matter

The client came to us regarding a labour issue, which has left him confused as to whether or not he has been retrenched or simply fired.

He was working for a cleaning company (*Company A) until November 2014, at which time he got retrenched. On 01 December of the same year, the client was informed that he had been sub-contracted to another company (*Company B) and that he had not been retrenched. The client then worked for Company B until mid May of 2015, still receiving his salary from Company A. Company B then wanted to change the client's working hours, which our client rejected. Following this rejection, our client received a phone call from Company A telling him that he was not longer needed by Company B.

Regardless of this, he client still showed up to work, however he had found that he had already been replaced. The client has thus not attended work since mid may.

Currently we are trying to establish whether the client has in fact been dismissed by Company B or whether he simply just stopped showing up for work or if it is possible that they had a different position for him.

We have been trying to get in contact with Company B, however we need further information regarding this case in order to properly assess the merit of our client's case.

Rosalie Forget Lacoursiere – Labour Matter

Our client came to us for assistance regarding being dismissed from his place of employment without notice. The client states that he had been off work sick for a week and did not provide a medical note as he was informed that it was not need and that it would count as unpaid leave.

After the client was dismissed, he attended the CCMA for conciliation and is currently awaiting a date for arbitration. The client was also waiting to be paid one month's salary, but now instead wants three month's salary.

Furthermore, the client was also due to receive a bonus this month, which he wants to claim. The client also alleges that his previous place of employment is racially discriminating him and wants to get rid of all the foreigners. To complicate matters further, the client's work permit is also for this particular company.

We are currently doing research regarding this particular matter, as well as liaising with the client and his previous employer as we need further information to progress with his case.

Miriam MacDonald - Intern Supervisor / Paralegal

Robyn Clark and Olivia Simpson – Family Law

We attended Simon's town Magistrate's Court in a purely supportive role for our client.

Our client pressed charges of assault against her ex-boyfriend, who had been emotionally and physically abusive. On one occasion he had broken her jaw. When she initially sought medical help, she told the doctor that she had hurt herself in a train accident, but she eventually recanted that story and told the truth.

Our client was very nervous to face her ex-boyfriend again, which is why we went attended court with her. During court, the prosecutor called them both up, which I found interesting as, in the US, they would be kept apart, however here they were sitting next to each other. The client's ex-boyfriend admitted his guilt, following which the prosecutor called the client and her ex-partner into another room where they had a mediation session.

The assault charge was dropped, on the condition that he is financially liable for our client's medical bills, and must bring proof of payment to court. Another hearing has been set for 03rd August 2015 for with regards to the Protection Order the client has taken out.

The client is happy with the outcome and was very grateful for the support.

Maria Mulindi – Project Manager

Emily Wright – Unfair Dismissal

Our client was repeatedly harassed by her supervisors and colleagues at her place of employment firstly because they thought her daughter had put up pictures of herself on what would be a pornographic site and secondly it became worse when they realised the picture was actually of her son who had undergone gender reassignment surgery in the UK, and so looked like our client's daughter.

The clients' work conditions became intolerable and therefore she resigned. Our client was unaware that in such a situation she could institute a case for unfair dismissal on the basis that her employer had made/allowed conditions to become unbearable for her to continue working there that she was left with no alternative but to resign.

We are currently researching a condonation application for a late filing of an unfair dismissal claim at the CCMA on behalf of the client. The client's claim is prescribed however due to the unique nature of the case it is possible she may have grounds for condonation.

Sherwin Daniels - Legal Services Coordinator

Moot Report

On Friday 5th June 2015, our office conducted a moot court on a murder case which is set for trial. The reason for the moot was that our client has altered his version of events, and Sherwin, therefore, had to re-think his strategy/ defence for trial. The following report summarises the moot:

Facts:

On 13 November 2013 at around 22h00, the deceased together with his friend, was walking in Lusaka. They were both members of the Vato gang. At least 9 members of a rival gang, called the Vura's, saw them walking in isolation of their fellow gang members, and started chasing them. The two Vato members split up, and the deceased's friend managed to get away. One of the members of the Vura gang tripped the deceased, and he fell to the ground and cut open his chin. At least 4 members of the Vura then attacked the deceased with knives, axes and panga's until an unidentified man fired a shot into the air. The Vura members then ran back to their territory, and the deceased died before the police reached the crime scene. He had 6 stab wounds on his back, a slice on his finger, and 4 hack wounds on his head. The cause of death was chopped wounds to the head.

Prosecution:

Participants: Samantha Lush

Rebecca Porter

Maud Bonbayl

The prosecution argued that the accused was one of the attackers and, therefore, guilty of aggravated murder. Since it was unclear from the witness statements who inflicted which wounds, the prosecution argued for a conviction based on common purpose, either from a prior agreement to attack the deceased and his friend, or from the accused's active participation in the attack.

Further, the prosecution argued for convictions on the following alternative charges:

- 1. Attempted murder,**
- 2. Accomplice to murder, or**
- 3. Assault with the intention to cause grievous bodily harm.**

In respect of the charge of attempted murder, the prosecution argued that the accused did everything that he could to kill the deceased by stabbing him, and that an intent to kill could be inferred from these actions. For the charge of accomplice to murder, the prosecution argued that the accused wilfully associated himself with the commission of the crime and assisted in the

commission of it. In terms of the charge of assault with intent to cause grievous bodily harm, the prosecution argued that the accused intentionally assaulted the deceased by stabbing him.

Defence:

Participants: Lena Lail

Steve Hodgson

Joey Parkin

The defence conceded that the accused had the intention to fight rival gang members, but argued that there was no intention to murder. Further, they raised doubt as to the validity of various witness statements, as follows:

- (1) **Witness 1:** who originally stated that the accused stabbed the deceased; but after the photo line-up, he said that the accused hacked the deceased with a panga.
- (2) **Witness 2:** who originally stated that the accused stabbed the deceased, but later changed his version, saying that he was home the entire time.
- (3) **Witness 3:** may have confused the events in the heat of the moment.

They also argued that common purpose does not apply because the accused was originally not present, and merely watched his friends attack the deceased. This is not enough to prove common purpose.

Outcome:

The accused was found guilty on the charge of assault with the intention to cause grievous bodily harm, as well as being an accomplice to murder.

Volunteer Experience:

“The preparation process was a little discouraging because I had no idea what I was doing, and felt sure that we had to be missing arguments.

Overall, though, the moot was a good learning experience. I learned a bit about [the] criminal law in South Africa, and I (hopefully) did some research that will help during trial preparation. I also really don't like public speaking, so it was good practice to get up in front of a room full of people and argue the case. I think we all felt a little more confident on moot day, and we did well in our presentations.”- Samantha Lush

Conclusion

The busy season is now upon us, and we currently have 37 volunteers and will be receiving 41 new volunteers in July 2015.

We welcome the high number of volunteers, as this will assist us with finalising more cases at a faster rate.

We are also looking forward to partnering with Siyakathala for a 3 week holiday programme. During these three weeks the Khayelitsha home visits will be put on hold in order for us to run daily life orientation skills workshops at the holiday programme.

We are also taking on the two week specials and they will now be doing a moot court on their last Friday with us. We are looking forward to how the moot court will be received.

We are looking forward to the new projects this busy period.