

Monthly Report for April 2014

Projects Abroad Human Rights Office, Cape Town

Summary

We have had many public holidays this April, however that has still not slowed down clients coming to our office. We have opened over 36 new cases, many of which are refugee related issues.

The public holidays have affected our ability to attend all our projects; however this has not stopped us from giving our best where we have attended.

This month we have been glad to have 27 volunteers assist in the growth and development in the work we do.

This coming winter we are looking forward to an even greater number of volunteers.

Social Justice Project Updates

Bonnytown

Workshop one: Crystal Meth/Tik

We prepared a presentation on Crystal Meth, known as “Tik” in South Africa.

Tik is a cheap street drug with a variety of forms and street names. It was introduced by gangs in majority of the townships in the Cape Flats.

Prolonged use of this drug is usually characterized by severe weight loss, mood swings, violent behaviour and body organ disorders.

At this facility many of the boys have used Tik as a feel good drug or to fit in with friends. Most are not made aware how negatively it affects their brain or body.

Interns were assigned tasks of conducting in depth research and compiling a comprehensive presentation showing the effects of this drug.

The boys were visibly shaken when they saw images of what prolonged usage of Tik do to their brain and bodies, as well as how drug usage lead to violent crime.

The purpose of this workshop was to not only educate the boys, but also to empower them to educate others on the negative effects of this drug.

Workshop two: Results of Fighting/Violence

Fighting/violence in the Western Cape has become a norm to most people as people choose violence as a source of communication, instead of finding a non-violent way to communicate.

The past few weeks have seen an increase in fights amongst the boys at the facility.

Having been made aware of this by officials at the facility we decided to educate the boys on non-violent communication.

The interns researched various facts and outcomes of violence in South Africa, as well as different ways in which issues can be resolved.

As part of the workshop we showed the boys a short video clip of boys fighting in a facility similar to Bonnytoun, where the boys faced punishment for fighting. After the clip we discussed the video and how the boys could have handled the situations better without having to fight.

Our aim for this video was for the boys to see that fighting makes you look tough, but that it takes a stronger person to handle the situation better or even walk away.

After the workshop we went outside to play two games. The purpose of the games was to facilitate cooperation to communicate in a non-violent manner as well as for the boys to see that they can have a good time and work together as a team.

Vredelus Huis

Workshop one: Puberty

Many of the girls come from a background where they were not encouraged to discuss changes in their body openly.

Left to their own devices they have had to learn via experimentation. This therefore made presenting the topic a little awkward.

We decided to do this topic as we wanted the girls to get a better understanding of what changes their bodies undergo during puberty.

The intern's role was to research various facts and myths on puberty and thereafter compile a detailed presentation. After the presentation the girls of the facility were divided into five groups with each group having two interns. Each group then had to write out the different changes they have learnt during the presentation.

A lot of the girls had quite a few questions and it was great to see them opening up and asking questions.

The girls appeared keen and took time to make notes.

Workshop two - Crystal Meth/Tik

We did the same workshop as done at Bonnytoun, due to both facilities being similar.

Most of the girls already knew a lot about Tik as some have been addicted to it and some have experimented with it.

After the presentation many of the girls said that they have seen some people's physical appearance deteriorate from using various drugs and that they would rather not do drugs and be labelled "boring" by their friends and peers.

Ottery Education and Youth Centre

Workshop one – Time management

We ran a workshop based on time management and making the best possible use of available time.

Managing time well enables an individual to do the right thing at the right time and time management plays a pivotal role in one's personal as well as professional life.

The interns prepared the workshop by researching time management methods, the benefits of time management as well as how to manage one's time.

After the presentation we showed the boys ways in which they could prioritise what is important and what is not, so that they can learn to be punctual and disciplined and for them to realise that individuals who stick to a time plan are the ones who realise their goals and objectives within the shortest possible time span.

Workshop two - Sexuality and Puberty

This workshop was similar to the workshop done at Vredelus; however we focused more on puberty in males.

We did various research on puberty, myths, facts, stories, images and videos on the topic and then compiled a detailed presentation for the boys.

We know that sexuality and puberty are not discussed greatly amongst the youth of today as the topic is of an awkward nature and therefore the youth choose to experiment instead of talking about it.

We started the presentation by asking the boys if they understood what “sexuality” and “puberty” meant, which we saw by the reaction most of them did not know.

During the presentation we displayed images and diagrams of the facts and myths of sexuality and puberty, so that the presentation would not seem like a lecture, but more of an interesting fun learning workshop.

The boys were really interested in learning about the different changes in a boy and girl's body, as how puberty can affect how you feel and your relationship with yourself and others.

Workshop three – Drug Abuse

This workshop was similar to the workshop done at Bonnytown on Tik.

Drug abuse is rife in Cape Town and extremely popular amongst the youth. 70% of Crime committed is done under the influence of drugs or in order to support the addiction.

Due to drug abuse being so common, we decided to do research, obtain drug addiction stories from youth who are addicted, have overcome their addiction, as well as get the myths and facts on drug abuse.

We started off the presentation with a slide show on the effects and risks of using drugs, namely, Tik, Crack/Coke, Marijuana, Inhalants, Ecstasy and Alcohol. In the presentation we had various images of what people looked like before and after prolonged use of drugs. By the look of the boys faces many of them were disgusted by the images and many of the boys even stated that they will not use drugs, because they do not want their body to undergo such tedious changes.

St Anne's

Workshop one - Nutrition

The volunteers/interns prepared a workshop on nutrition and general well-being, both physical and mental. This was not only aimed at the ladies at the shelter but women in general, children, as well as emphasis on nutrition during pregnancy.

A workshop like this was done a few weeks back at St. Anne's, but because the shelter had new women we decided to do this workshop again.

Interns prepared a presentation with nutrition myths and facts, as well as healthy foods and drinks that are healthy and the different ways to have a healthy lifestyle.

Workshop two – Scandinavia

The ladies expressed interest in learning about other countries, so volunteers/interns decided to do something relating to their home countries and, seeing as we had representatives from Denmark, Sweden and Norway, decided to run a workshop based upon Scandinavia.

Each prepared a short presentation about their native land, including photographs, customs and traditions, and Isabelle performed the Swedish mid-summer dance, which had all the ladies laughing and earned her much applause.

Being the week before Easter, we talked a lot about how we celebrate the occasion overseas, and asked the ladies to tell us what they do here in Cape Town. Continuing with this theme, we had pre-boiled some eggs and everyone got involved in painting them. We had hoped that they might show their children the finished product and share the eggs with them, but as soon as the paint dried one lady disappeared, then came back with some salt, and the ladies ate all of the eggs! We had also taken some chocolate eggs for them, but these had also been devoured by the time we left. All in all, they enjoyed it, even if the children didn't get to partake in the treats.

Sisters Incorporated

Workshop one – Nutrition

We prepared a similar workshop on Nutrition as at St. Anne's.

The women had quite a lot of knowledge about this, and enjoyed discussing the topic. The volunteers and ladies then spent some time pampering each other by doing facials, using toner, face masks and moisturiser. They had fun with this, and were taking photos of them all together caked in charcoal facemask!

Workshop four – Scandinavia

The workshop was the same as the one presented at St. Anne's.

The ladies also discussed stereotypes, how people from their home countries are perceived.

As Easter had passed, rather than paint eggs, the girls took ingredients to make traditional chocolate and coconut treats. The ladies really enjoyed both making and eating these, and the girls left the recipe with them.

Legal Services

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

Supervisor: Maria Mulindi

Refugee Case 1

The client came to PAHRO a few weeks ago initially to discuss the rejection of her refugee status by the RSDO and enquire about an appeal.

She is a refugee from the Democratic Republic of the Congo (DRC) where she originally lived with her husband in Kinshasa for over 10 years. After moving to Kivu the client worked as a teacher in a primary school for two and a half years, before she was kidnapped at the school and forced to stay in a camp for two months as a forced labourer. She eventually fled the country and after traveling through Tanzania, Zambia and Zimbabwe she reached South Africa in 2010. She renewed her Refugee permit every time, but it was rejected on 31 January 2014 as unfounded. The client wished to appeal against the decision.

I was able to quickly prepare an appeal affidavit for the client as she needed to file the notice of appeal within a few days of coming to the office. On the 27/02/2014 I met with the client again and accompanied her to the Rondebosch police station where her notice of appeal was signed.

In the next few days, the client required a heads of argument to be prepared for when she was given an appeal hearing date. I spent my time researching relevant case law relating to Congolese refugees admitted to Canada, South Africa and America as well as consulting the work of human rights groups like the UNHCR and Amnesty International to find out the political and civil situation in the DRC. Once this was completed I drafted a heads of argument for the client and went through it with Maria.

Maria was happy with the work and advised me to close the case until the client received a date for their hearing.

Refugee Case 2

The client came to the office after receiving rejection of his asylum application.

The client states that he fled from his country of origin, Zimbabwe after he had received numerous threats because of his political opinions. He is a support of the party MDC-T and the ruling party ZANU-PF had made threats to him and he subsequently fled Zimbabwe out of fear of persecution.

His application was rejected as unfounded by the RSDO who stated, that the claimant *had "no political profile and therefore could not have attracted an ongoing adverse interest from the ruling party"*. The next stage was to draft a Heads of Argument (HOA) which details the reasons why he should be granted Asylum in South Africa. I researched the current conditions in Zimbabwe as well as the two main political parties, the MDC and the ZANU-PF and also the law that could apply to the client. In the HOA I reported on the current problems with violence in Zimbabwe, focusing specifically on political violence both objectively and subjectively. I also outlined stories and case law similar to the client's to support his argument further. The HOA is complete with all the relevant arguments for the client and we are awaiting a hearing date for his appeal.

Discrimination case

The client's right to privacy was violated by her employer Parastatal when she was forced to disclose her HIV status to her supervisor. Furthermore, she was subsequently discriminated against and denied extended paid sick leave.

The client is HIV positive and due to this exhausted her sick leave and was often showing up late to work. Her immediate supervisor continuously questioned her about the legitimacy of her illness. Eventually the

client, feeling backed into a corner, disclosed her HIV status to her immediate supervisor. She was not ready to do this but felt she had no option.

Following this, the client lodged a complaint against her immediate supervisor to an official in the Human Resources Department. The client did not authorize the disclosure of her status to anyone else apart from the two Parastatal mentioned. She later discovered that other employees knew of her status. Her immediate supervisor and the Human Resource official argued that they needed to disclose her status to seek advice. Even if that is the case it is unnecessary for so many people to know and they could have maintained the client's anonymity while seeking advice.

We are currently in the process of getting a law firm to take this case on pro bono. On Friday 4th April 2014, the client had a meeting with Norton Rose and Fulbright. She stated that the meeting went very well and they are interested in representing her however they need further documents before they can proceed. These documents have been compiled and are ready to be handed over to the attorney at Norton Rose.

Our client worked for Parastatal as a chef between 2011 – 2013. In 2013 a Human Resources representative told her that she should explain why she was taking so many medical leave.

Discrimination Case Follow Up

Our client was told that if she did not explain then she would have to attend a hearing. The client then disclosed to the representative that she was HIV positive. Our client then spoke to her manager in the kitchen about what happened with the representative and the manager informed her that she should not have divulged her status as the representative had not been entitled to ask our client regarding her medical leave.

In December 2013 the client had a series of medical appointments related to bleeding during pregnancy. While she was on sick leave she received a call from the Parastatal saying that she should not come back to work. The client was told that she would receive a letter setting it out formally but she did not receive a letter (perhaps because she does not have an address?).

The client's salary was R3,000 a month gross from which she paid R30 a month in tax (UIF). Before she was fired she had a good employment record and worked hard for the company. She explained that her manager would be able to confirm that she had worked hard and had done everything that she was asked to do. In December she received her final salary and recalls that it was for approximately R900.

The client's cousin also works at the company from which the client was fired. After the client had left, her cousin overheard another manager telling a member in the kitchen about the client's HIV status. The manager then asked the client's cousin why she hadn't told him about the client being HIV positive. The cousin reported this incident to the client and notified her that the staff was talking about the client's status.

The client subsequently attended the office to confront the manager and ask why he was telling people about her status. The manager was shocked and called the senior manager, into the meeting. The senior manager informed our client that if she had a problem she should go to the police.

When asked about what she would like to do from here the client replied that she would like the company to stop discussing her. She also wants to make sure that they don't do the same thing to anybody else. She wants to face them and will feel better if she stands up for herself and takes action.

The client does not feel that she could return to work at the company as they have all been made aware of her status. She also fears that if she applies for another job then she will be unable to get a reference from the company as they may disclose her status in that reference. The client is heavily pregnant and is constantly worried that she may not be able to get a job and support her family.

The client does not have any documents about her employment other than a few letters kept by her cousin. She will ask to get these letters, which may include her contract of employment and one or two pay slips. The client was unaware of any company policy at all and does not have a copy of anything. However, the client is confident that her cousin will provide an affidavit if required and has provided her number to contact.

Refugee case 3

I inherited a file from a previous volunteer in relation to a client whose application for asylum had been rejected as “unfounded” by the Refugee Status Determination Officer (“RSDO”) of the Department of Home Affairs.

It is possible to appeal “unfounded” decisions and it had been determined that this would be the right thing to do in this case. The client originated from the Democratic Republic of Congo (“DRC”) where she and her family had been subjected to horrific abuse due to their support for a political party in opposition to the government. The perpetrators of the violence were police officials, representatives of the State to which it was proposed that she should return.

A Notice of Appeal had already been prepared and served, as well as an Affidavit sworn by the client that summarized her situation. Having served these documents the temporary status of the client was extended pending the hearing of her appeal. In anticipation of that hearing, I drafted a Heads of Argument setting out the client’s appeal case.

I researched contemporary reports of the situation in DRC and of violence against political opponents of the government. These factors constitute the “objective” part of the client’s case as they relate to the credibility of her story and are independently verifiable. I then set out the client’s own reasons for fearing persecution if she were to return to DRC and researched international case law for precedent of the Courts in similar situations – the “subjective” part of the client’s case. I applied the researched law to the facts and asked for the rejection of the client’s appeal to be set aside and the client to be given refugee status in South Africa.

The hearing has yet to be scheduled.

Assault case

A few weeks ago a client from the Democratic Republic of Congo came into the office to ask for our help. She had been working as a parking attendant when she made a mistake on a driver’s ticket. She had put a lower amount but spotted her mistake and put the correct amount which was higher. The driver, a paediatrician, became infuriated and proceeded to attack the victim both verbally and physically. She received medical attention for the dislocated shoulder and other minor injuries that she suffered. We acted in an advisory capacity for her first court date with the prosecutor (he was sick previously) and just supported the client. She had been advised to pursue a criminal charge against the defendant and then sue civilly after the criminal case was complete.

The court date was attended by myself, another volunteer, the victim, the defendant and the defendant’s attorney. The prosecutor told the victim that she had two options, to pursue a criminal charge or drop the criminal charge in favour of a civil settlement. The victim declined the civil settlement option and opted to pursue the charge criminally.

The prosecutor postponed the court date pending trial and will issue a date for trial shortly.

Anousheh Haghdadi - Property matter

Our client attended the Lavender Hill legal clinic on 18th March 2014.

The client has been residing at a property at Lavender Hill (the 'Property') for more than seven years. In 2011, the client's landlord died and the property was inherited by her daughter.

In November 2011, our client and his wife entered into a contract to buy the property from the deceased's landlord's daughter for R 60 000. Although the contract provided that the purchase price was due on 30 November 2011, the purchase price was never paid, as our client believed that a transfer of the property to landlord's daughter's name needed to take place before this could happen.

In the meantime, our client continued to pay rent of R600 per month, and also made R 30 000 worth of improvements to the property with the consent of the landlord's daughter.

The landlord's daughter subsequently alleged that the sale contract had expired and demanded that our client pay R 90 000 for the property. Our client refused and in April 2014, the landlord's daughter's lawyers sent a letter requiring our client and his wife to vacate the Property by 30 April 2014.

Our client is now seeking assistance regarding this issue as he has already spent a lot of money on this property and does not want to vacate it.

Property case

In the late 1960s, our client was living in Grabouw and got evicted from her land.

According to our client some people go money for their land, but our client was at hospital at the time and did not get a cent.

Our client previously contacted an official from the Land Claim Committee, but have not been able to get any help from her. We also previously contacted the official and after months of contact we finally got an appointment with her on 26th March 2014 at the Theewaterskloof Municipality Office in Grabouw.

The Land Claim Committee informed us that there were about three hundred and ninety residents in Grabouw who did not get paid for their land and that the Committee had been working on these cases since 2005, but have been unsuccessful.

The residents in Grabouw started to write affidavits of their personal stories, hoping this might help, but unfortunately the Committee currently does not have access to their files.

The residents did not own the land and therefore no title deeds exist.

The committee has been in contact with some attorneys from the Land Reform Department in Cape Town, but according to the official we met they had no interests in helping the committee.

We agreed to stay in contact with the official and the Land Claim Committee, but in the mean time we are doing research on the procedure of lodging a claim.

Custody Case

Our client came to the office for an initial consultation on 22nd April 2014.

He has a daughter who is 2 years old and when she was born our client and his daughter's mother separated. Unfortunately, the mother did not look after the child properly and was often drunk.

The mother signed an affidavit stating that our client could take the baby to Zimbabwe to live with him. Our client then left the child with his aunt while he came back to South Africa to work.

Upon his return, the mother began threatening to tell the police that he has stolen the baby. She even broke into his house and tore up the affidavit so he has no proof that she allowed him to take the child to Zimbabwe.

The client now wants to give his aunt formal guardianship of the child however, once he is in a more stable position, he ultimately wants to bring his child back to South Africa and raise her himself.

Upon researching how a non-South African citizen could become a legal guardian of a South African child I discovered that the application would be regarded as an inter-country adoption. This means we would need the mother's permission and our client may not be able to bring the child back to South Africa to live with him.

The next step for this case is to continue researching the options for the aunt becoming the child's legal guardian – the fact the child is half Zimbabwean could change things. Following this I need to develop a legal opinion as to why the child is better off in Zimbabwe and not here in South Africa.