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SOCIAL JUSTICE PROJECT UPDATES

Two of our former volunteers started a fund raiser in order to provide school uniforms and stationary for impoverished young boys and girls in Khayelitsha many of whom were unable to attend school for lack of uniforms. As a result of their efforts, we have purchased and delivered approximately forty eight school uniforms and stationary kits to various schools and children in the Khayelitsha Township.

As discussed in January's report, we are assisting a mother whose son has been diagnosed as a slow learner to have her child registered at a school that adequately caters to his needs. Volunteers have managed to speak to the relevant authorities at the Department of Social Development as well as even secure an appointment with an occupational therapist, whose report is mandatory for the son getting admitted to such a school.

We followed up with the occupational therapist to ensure that the appointment is still on record. During the course of the consultation it was brought to our attention that the child can only be assisted while already registered in a school. This is a problem as the child's mother, opted not to register her son for school this year due to his learning disability. The occupational therapist indicated she would have to discuss the son's latest performance in school as part of her report and the child's teachers would have to give their latest assessment. It is only students who are already in the school system who can be assisted.

We are currently assisting the mother with having her son, re registered before the appointment date so that we can ensure he does not miss out on an opportunity to study at an appropriate school.

In March month we have not received any new cases through Siyakhathala and thus have followed up on our current cases. We attended the homes of some of our clients, whom have informed us that they no longer require assistance as their issues have been resolved through our assistance.

In the last two months we have assisted numerous clients with issues such as applying for identity documentation or grant applications, which the clients have been successful in applying for. The clients are now waiting on feedback from the Department of Home Affairs regarding their applications, which we are hopeful will be received in the next few weeks.

We have therefore closed a number of Siyakhathala cases, as well as assisted the Siyakhathala office with their administration, such as sorting out their files and drafting file notes.

■ Vredelus / Bonnytown / Lindelani

Self-control

The purpose of this workshop is to get the youth thinking how about their actions and the consequences of their action. We hoped to help them realise that some of our actions are a reactions, made in a split second decision and often having negative results that affect us for the rest of our lives.

As self-control is learning about controlling ones emotions, it was important for the youth to be able to find new ways in which to express themselves positively. In this workshop we introduced them to slam poetry, which is a unique way of expressing feelings through telling their stories orally. They seemed to enjoy this a lot and were eager to share their poems with us. This also seemed more of a fun and "lighter" way for them to express their emotions, without feeling self conscious.

We also enlisted role playing, where we described scenarios and asked the youth to practice how they ought to respond in the different scenarios. This was to teach hem that they would have to practice self control and with time they would get better and better at it, but they have to be committed to trying. They may not be perfect at it, but it will help them realise a better version of themselves.

We then discussed the positive result of practising self control by showing the correlation between self control and success in life be it financial success, happiness, a sense of peace and calm or achieving goals.

Goal Setting

In this session we explained what goals are, the difference between goals, wants and needs, as well as the importance of ensuring that motivation, habit and determination were their key elements in achieving their goals. We also gave examples of short term and long term goals and then gave examples of steps to take in order to achieve the goals.

The activities we had included sheets where the boys and girls had to fill in their needs, wants and goals, as well as identify their strengths and weaknesses. Thereafter they had to list down the steps they would take to achieve their goals, as well as include what changes in their attitude and lives they would have to make in order to achieve it.

Most of the boys and girls had similar goals, such as “complete my education”, “stay drug free”, “find a good job and take care of my family”, “be role models for my children and peers” and “travel abroad”.

Teenage Pregnancy

This week we decided to educate both the males and females on teenage pregnancy as teenage pregnancy is an epidemic which is rife amongst the youth.

The purpose of this specific workshop was to raise awareness of the consequences of sex, being young parents and the options available to the youth when they become pregnant.

Prior to starting our slide show presentation we did a quiz, asking the boys and girls questions about teenage pregnancy and STD's. This was done in order to test their knowledge on the topic.

In the slide show presentation we explained the emotions involved in sex, the consequences of unprotected sex, the different STD's, contraceptives available and where to get them, as well as the different options available when pregnant, such as adoption or parenting classes, as well as the different government support systems available to assist.

We thereafter broke into smaller groups and discussed different scenarios, which led to the boys and girls sharing their personal experiences on being young parents and advising us that they have learned a lot of information which they wished they would have known prior to sexually experimenting.

Children's Rights

It is highly relevant for children to know their basic human rights, especially the rights institutionalized specifically for children.

More often than not, children's rights are being violated, especially at the hands of their loved ones. In order for children to live out their full potential and feel safe, they need to learn about their rights and how to ensure these rights are enforced in their lives.

For this specific workshop we knew that this would be an interesting and educational learning experience for the youth, however it would be most difficult to ensure it captivates their attention. We therefore decided to keep the slide show presentation short and simple and to use flash cards, worksheets and to have interactive discussions.

We discussed the rights children has in South Africa, as well as how ninety percent of these rights are the same all over the world and examples of how these rights are violated and can be enforced. We thereafter asked various discussion based questions such as “Which five rights do you think are most important to you?” and “If you knew these rights before being incarcerated, what would you have done differently?” and “how will you use these rights to benefit your future?”.

Creative Writing

With creative writing, we focus more on the individual and their story/stories.

We started off this session by explaining to the boys and girls what creative writing is and the benefits thereof, the most important aspect of this session was, that there are no set rules for writing and that they can write whatever they want, as long as they are being honest towards themselves.

We also asked them to write down their own life poem, song or story and thereafter they had the opportunity to share it with the group or keep it to reflect upon in the future.

This session forced the boys and girls to use their imagination and dig deep into their emotions in order to self-reflect and assess their lives. They were also able to relate their experience to their peers, which helps them understand each other better.

■ St Anne's

Human Rights

In South Africa, the month of March is recognised as Human Rights month. The 21st of March is the day on which the Sharpeville massacre of 1960 occurred, where about 7000 unarmed Africans who were protesting against pass laws and had presented themselves for arrest for refusing to carry passes were brutally murdered by Apartheid police.

The theme for our workshop was human rights. The interns did research on the UN Declaration of Human Rights as well as the South African Bill of Rights. We started off the workshop by asking the women "what rights do you know?" the most common answers were "the right to education", "the right to housing", "the right to be free" and "the right to equality".

We then proceeded to go through all twenty seven of the rights enshrined in the South African Bill of Rights in detail, as well as highlighting the basic human rights which are imperative for all individuals to know.

Thereafter two short educational videos followed; the first video was about the similarities the South African Bill of Rights and the UN Declaration of Human Rights has.

LEGAL SERVICES

Brigette Rheinberger - Property Matter

Maria and I met with our client at the Mitchells Plain legal clinic, who came to us for assistance with a property matter.

The client states he bought his mother's house approximately nineteen years ago and the deeds title was transferred on to his name. The client now believes that the title to the property was transferred onto his sister's name by an attorney his sister used, by making use of a fraudulent will. He states the will is fraudulent, because the signature on the will do not belong to his mother. The client now believes his sister wants to sell the property and that she has started advertising it.

The client wants assistance from us in disputing the will, as well as obtaining an interdict from the court to prevent his sister from selling the property and for us to check if the property is still on his name or not.

Briana Collins – Criminal Matter

The case I am working on is about a client who was arrested for house breaking. The client is part of a gang and robbed a house. The charge against him is aggravated robbery. The victim was also assaulted with a gun, however it has now been claimed it was a toy gun. Our client's version is that they did not have a gun present.

A plea bargain of seven years was given to the client, but if he is charged and found guilty he will be given a sentence of fifteen years. The client requested for the plea bargain to be accepted.

The client's version of events keep changing and therefore the decision was made to withdraw as the client's attorney.

Rani – Labour Matter

The client came to us for assistance with two issues, however for the same company he used to work for:

- 1) The client sustained injuries to his hip and upper legs, due to an injury on duty. The client has asked his previous employer for compensation; however they have refused to compensate him. A week before Christmas the client was fired, apparently because the client kept asking for compensation.
- 2) Assistance in obtaining unemployment benefits (UIF). As the client was fired, he is entitled to UIF and therefore the client would like assistance in starting the claim proceedings.

We have contacted the client's previous place of employment, which have stated the reason for dismissal was due to the client not showing up for a disciplinary action hearing and therefore in his absence his employment was terminated. Furthermore, the employer stated that the client only reported his injury three weeks after it happened and therefore a workmen's compensation claim was never filed.

As the client's version and the employer's version of the dismissal vary, we have advised the client that the best thing to do was to rather apply for a disability grant or continue with proceedings for UIF.

In order to proceed further with the client's cases, we have advised the client that we need certain documentation, such as medical records, incident report, contract of employment and pay slips.

Up to date we are still awaiting feedback from the client.

Brian Collins – Property Matter

The client came to us for assistance with her property matter relating to her being in debt with her water bills. According to the client her debt arrears amounted to R50 000.00, inclusive of interest and that she was making an effort to pay off the arrears; however the amount was rising exponentially. As a result of the arrears, the client's water supply has been cut off. The client wants us to assist her in finding out why this amount was so high as well as for her water to be switched back on as she has young children whom are suffering due to this situation.

On the 17th of March I attended the Cape Town Water and Sanitation Department with the client in order to try and arrange a payment plan that would benefit both parties. We were advised in order for a payment plan to be arranged the client would need to pay a large upfront payment, which includes legal fees and a large percentage of her arrears. We thus explained that the client's salary does not cover her monthly expenses and as a result she is over indebted. Fortunately for the client we had documentation to prove she was over indebted and therefore we were then able to make an arrangement for her to pay an affordable monthly fee.

The agreement also stated that should the client stick to the arrangement the interest would stop rising. In addition, the client's normal water supply has been switched on with immediate effect.

Stephanie Goudriaan – Divorce Matter

Our client came to us for assistance regarding obtaining a divorce from her husband. The client and her husband have been married for eleven years; however they have been separated for ten years. The client now wants a divorce; however the client is worried that her husband will claim for half of her property which she had owned since before they got married.

We are currently waiting on the client to provide us with all the documentation, such as the marriage certificate, deeds of property, as well as for further information on how she would like to proceed with the divorce.

Sam – Debt Collection Matter

We had a client attend the Vrygrond legal clinic for a debt collection matter. The client purchased a laptop, DSTV and TV from a furniture store by the name of Joshua Door. The client unfortunately no longer works regularly, and therefore has been unable to make regular payments. The goods the client bought is worth R4500.00, which the client states he will continue to pay off, however he is not able to pay the initial monthly fee. The client has now also been harassed by debt collectors, who have threatened to visit his house and confiscate the goods without him being present. We are now trying to contact Joshua Door, in order to re-negotiate a payment plan."

MOOT REPORT

Every now and again volunteers moot on a case that is currently on going at PAHRO and has been set down for trial. The purpose of this is for us to play devil's advocate to our own case by building a case for the prosecution in the light of the case we have for the defence. This enables us to be suitably prepared for trial. Our first moot of the year was scheduled for Friday 12th of February 2016. The teams for the prosecution and defence constituted four human rights interns on each side.

Our client is 17 year old male who was charged with murder along with four other accused. The accused and his cohort are allegedly members of a gang and they have been charged with the murder of a young male who is a member of a rival gang.

According to our client he and his friends were returning from a soccer match with friends they spotted two buys from the Vato gang, a(an opposing gang) and they began to chase these boys. According to our client, his friends gave chase while he stayed a few steps behind them not wanting to get involved in anything that may ensue once they caught-up with the Vato gang members they were chasing. One of the two boys managed to escaped while the other tripped and fell thus the client and his friends caught up with him. According to witness statements the client and his friends stabbed the Vato gang member with knives and machetes and one of them took an axe to the deceased, hitting him three times on the head. The deceased succumbed to his injuries. Our client denies having been at the actual scene of the incident as he stayed way behind his friends when they gave chase and denies any involvement in the stabbing and killing of the deceased. Several witness accounts put into dispute, which weapons were used and who was actually involved in the murder of the deceased.

Our client pleaded not guilty to the charge of murder. To be found guilty he has to be found to have intentionally and unlawfully killed another human being the standard of proof being beyond reasonable doubt.

The prosecution argued that due to circumstantial evidence it could be inferred that the client was in possession of a weapon and used that weapon to stab the deceased. This was because of several witness statements that outline their version of events to include the client and his participation in the murder. The second argument raised was that the common purpose law principle should be applied to the client because the elements of mens rea and active association were satisfied. Furthermore, arguments raised dismissed the defence of disassociation and consequently the client would not be excused by his actions.

The defence argued that due to the inconsistencies of the witness statements it could not be found that the client is guilty beyond reasonable doubt. These inconsistencies included the weapon our client was alleged to be in possession of (which was not kept consistent), who saw the client in possession of said weapon and how the client used said weapon. The second argument raised was in rebuttal to the prosecutions use of the common purpose principle. It was argued that many cases raise the legitimacy of the common purpose principle and are highly critical of it. It was also raised that mens rea and active association must be satisfied and due to our clients statement he satisfied neither of those elements. Also the case study raised was of S v Mgedezi, where on appeal it was concluded that the court can apply the common purpose principle, however, the court must analyse the individual facts of each accused and then conclude their judgement. Thus, to apply this approach to the client and his witness statement would not construct the verdict of guilty. Lastly, the constitutional validity of the common purpose principle was questioned.

Despite inconsistent witness testimonies the accused (our client) was found guilty for the charge of murder by three quarters of the judging audience. Reasons for the verdict differed, however there appeared to be a general consensus that they did not believe the client was not associated with the crime and did not participate while his friends who are is co-accused attacked the deceased. The issue of intent was a major cog in the decision made as the accused should have foreseen that giving chase with weapons in hand would have eventually led to the outcome of a murder according to the principle of dolus eventualis.

The Defence failed to provide enough reasonable doubt for an acquittal.