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DECEMBER 2019

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## Farewell Phumi

It is with sadness that we announce that our office manager, Phumi Ngenelwa, has moved on to further her career after 11 years with ProBono.Org. Phumi has made an invaluable contribution to the organisation during this time, always performing her many tasks and assisting staff with patience, willingness and care. She will be sorely missed by the Cape Town and Durban offices as well as the staff in Joburg where she was based. We wish Phumi every success in her new adventure. ●



## Welcome Given

We are very pleased to introduce Given Mazibuko, who takes on the role of office manager as from 1 December. Given was born and raised in Johannesburg. After school she studied management at the Southern Business College. Her previous work experience includes the telecoms industry where she worked as a technical desk manager, managing a team of three help desk consultants and five technicians. Given has settled into her role well as she loves working with people. She has a 12 year old daughter and enjoys travelling in her spare time. We welcome her to the ProBono.Org team. ●

## Write for us



We would like to invite legal practitioners to contribute to our bi-monthly newsletters by writing an article of up to 400 words (one page) on a topical issue of law. For the February issue we would like to focus on the issue of corporal punishment of children.

Please indicate your interest to the editor at:

**[margaret@probono.org.za](mailto:margaret@probono.org.za)**  
by 15 January 2020.

The deadline for articles will be  
**1 February 2020.**

# We thank the legal profession for their pro bono contribution

On 21 November 2019 we held an award ceremony at Constitution Hill to pay tribute to the many legal practitioners and others who made an exceptional contribution to pro bono work in 2018.

Our guest speaker was Judge Jody Kollapen, who pointed out that access to justice is far from the experience of far too many people in the country. *"How can the scales of justice be balanced if the judge only hears one side of the story? Legal representation is essential",* he said. *"Pro bono services make rights real for those living in poverty."*



## These were the award winners:

**Family Law** – Joseph Sithole, Ceri Von Ludwig Attorneys

**Labour Law** – Manager Gumbo, K M Legal Consultants

**Wills** – Liesl Williams, Norton Rose Fulbright SA

**Community Advice Office** – Sibongile Advice Office (Zola)

Represented by Thandekile Mkhize

**Large Law Firm** – Bowmans (Fatima Laher)

**Medium Law Firm** – Clarks Attorneys (Sithembiso Mabaso)

**Small Law Firm** – Sumadhi Naidoo Attorneys (Sue Naidoo)

**Refugees** – Dakalo Singo, Werksmans

**Children** – Suné Bosch and Jonathan Small, Ramsden Small Attorneys

Vera Kruger, Abrahams & Gross

**Housing** – Naledi Motsiri and Dakalo Singo, Werksmans

**Estates** – Corncelia Chauke, Sonkosi & Ngalonkulu Inc.

**Conveyancing** – Chrysi Kripos, Chrissi Kripos Attorneys (for Johannesburg) Illse Nieuwoudt (for Pretoria)

**Outstanding student at a university law clinic** – Jarrod van der Heever, University of Pretoria Law Clinic

**Advocate Award** – Basil Joseph, Thulamela Group

## There were also a number of Special Mentions:

Susan Harris, Harris-Morgan Attorneys and Nikola Daniels were mentioned for working as a team on a long Germiston Children's Court case going back to 2017

Dawn Grabe, Grabe Attorneys for attending at the Johannesburg Deeds Office every Tuesday and drafting wills

Charl Albasini, Albasini Attorneys received a special mention for two children's cases he has been running over a period of two years MVC Inc. represented by Marinus Labuschagne for taking on family law cases and staffing the Domestic Violence Help Desk

Rita Ozoemena, Grayston Chambers was mentioned for volunteering many hours to staffing the Refugee and Labour Law clinics as well as the Master's Help Desk

Congratulations to all the winners and a special thanks to our sponsors, Lexis Nexis, AJS Business Management Systems, The Millennium Trust and Spier Wine Estate.

Thanks also to Freshly Minced for technical services, MC Michael Motsoeneng-Bill and Limeblue Design.

# Service Delivery Protests

By Thulisile M. Buthelezi, Durban intern

The Regulation of Gatherings Act 205 of 1993 is an important piece of legislation used to regulate the holding of public gatherings and demonstrations. South Africa's right to take to the streets to march, demonstrate or present petitions is protected by the Constitution. This right is linked to other political rights including freedom of expression and freedom of association, which means the right to associate with a cause, idea or organisation. Of course, there are certain channels and procedures that must be followed in order to organise a legal protest in South Africa. Simply put, it must be in accordance with the Regulation of Gatherings Act.

South Africa has experienced a wave of service delivery protests amounting to a rebellion of the poor and marginalised. It is unfortunate that many service delivery protests take place under conditions characterised by malicious damage to public and private property and the looting of shops. Municipalities are the most basic units of government in the country and are tasked with providing basic services and fostering development in the regions they govern. Local government in South Africa is largely understood in terms of service delivery and the South African Constitution assigns municipalities the responsibility to mobilise economic resources towards the improvement of the lives of all citizens. Basic services are the fundamental building blocks of improved quality of life and adequate supplies of water and adequate sanitation are necessary for life, well-being and human dignity.

In May/June 2019, the Durban Municipality came to a halt as violent protests ripped through the city after municipal workers went on strike, demanding salary increases. This came after municipal workers discovered that the City was giving MK veterans preferential treatment in terms of promotions and salary increases. The said damage to infrastructure as a result of the strike amounted to over R4 million,



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ultimately affecting service delivery and the economy as a whole.

In order to embark on a service delivery protest within the legal parameters it is important to identify a person (convener) who will be responsible for contacting the relevant local authority. The elected convener must notify the local authority at least seven days before an action by completing a notice form (which contains the details of the gathering/protest, details of the convener and activists who will guide the protest and prevent it from becoming violent) that must be submitted to the local authority to inform them of the gathering. The Act does not require notice if there are less than 15 participants unless the protest is to take place at Parliament, the Union Buildings or any South African court.

Protests are meant to be disruptive and make statements, but within

reason. While singing, chanting and marching are all allowed and encouraged, protesters cannot physically harm a person or vandalise property. Lawful protests must dissolve at the time that the organisers agreed on and if the police services (SAPS) give an order. It is illegal to continue to disobey the SAPS order and it can lead to arrest. According to the law the SAPS are meant to protect the protesters and facilitate a safe space for the protest to take place. Police officers are meant to engage with protesters to resolve any issues that may occur during the protest and intervene if things get out of hand, and some form of violence or destruction of property occurs. The SAPS are permitted to arrest protesters who break the law.

If the protest is illegal people can be charged with convening a gathering without giving notice, attending a prohibited gathering or even with public violence, malicious injury to property and assault. It is worrying that the country has been plagued by violent service delivery protests characterised by increasing damage to public and private property. This has resulted in the economy bearing the brunt of this undesirable situation. ●

# Sex Work Sensitisation Training Seminars

By Uzair Adams



The sex work sensitisation training seminars took place in collaboration between ProBono.Org and the Sex Workers Education and Advocacy Taskforce (SWEAT), South Africa's leading sex worker human rights organisation, providing services to sex workers since 1996. The organisation exclusively works with adult sex workers on issues of health and human rights. Its services include providing safer sex education, crisis counselling, legal advice and skills development for sex workers. SWEAT advocates for the protection, promotion and fulfilment of sex workers' human rights through human rights defence and advocating for law reform for the decriminalisation of sex work in South Africa. In June 2017, SWEAT decided to register and open a law clinic in response to the outcry from sex workers for legal assistance in issues specific to them as a direct result of their profession.

These training seminars were therefore part of a series of workshops that were rolled out in Johannesburg, Durban and Cape Town, with the aim of sensitising legal practitioners about sex work and the experiences of sex workers in order to broaden their perspectives and to encourage them to avail themselves when their

skills and expertise are needed by this vulnerable group; as well as to assist people to understand why SWEAT is calling for the full decriminalisation of sex work in South Africa.

The Johannesburg training seminars took place at Bowman Gilfillan's offices on the 9th and 10th of September; the Durban training seminar took place at Norton Rose Fulbright SA's offices on the 18th September, and the Cape Town training seminar took place at Norton Rose Fulbright SA's offices on the 8th October 2019.

The training workshops covered the following subjects:

- Language of sex, gender, sexual orientation and sexual practice
- The effects of stigma, prejudice and discrimination
- Transactional sex
- The legal framework and the four legal models for sex work: criminalisation, partial criminalisation, legalisation and decriminalisation
- How to support sex workers' rights
- Values and attitudes to sex work
- Profile of a sex worker
- Reasons people enter sex work
- Places where sex workers find clients
- Other people that impact a sex worker's life

- Risks faced by sex workers and appropriate responses

Currently, criminalisation of sex work has been in place since 1957, with clients being specifically criminalised since 2007. This has resulted in high levels of violence, a lack of access to basic services including healthcare services and abuse of sex workers, including by police officers.

The decriminalisation of sex work would allow sex workers to function within a human rights framework, as it would entail the following:

- the removal of criminal charges against sex workers;
- the operation of brothels and individual sex workers as ordinary businesses;
- the ability to implement laws protecting sex workers from special risks;
- minimising discrimination and stigma around sex work, which will in turn enable sex workers to access basic services more easily; and
- the potential reduction of abuse, together with increased reporting to the police.

The training seminars therefore provided a platform for interesting and robust dialogue around these issues. Participants raised many important questions, including the issue of consent and how consent is not always easy to define when a person's circumstances limit their choices. Most of the participants seemed to fully understand the need for decriminalisation and were in support of it. They understood how it can create an environment where it is easier to protect the rights of sex workers as well as to ensure their safety. ●



**JOHANNESBURG:** 1st Floor West Wing, Women's Gaol, 1 Kotze Street, Braamfontein 2017  
**telephone:** 011 339 6080 **fax:** 086 512 2222

**DURBAN:** 303 Anton Lembede Street (Entrance on Durban Club Place), Suite 701, 7th Floor, Durban Club Chambers, (Formerly Nedbank Building), Durban 4001  
**telephone:** 031 301 6178 **fax:** 031 301 6941

**CAPE TOWN:** Suite 200, 57 on Strand, Strand Street Cape Town, 8001  
**telephone:** 087 806 6070

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