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Our interns for 2021



Johannesburg

Karabo Mokgathe

Karabo was born in Zeerust in the North West province and completed his LLB degree at the University of South Africa in 2019.

He participated in the street law programme which exposed him to community work. He also served on student governance structures. Karabo applied for an internship with ProBono.Org to gain exposure to various areas of law and to have an opportunity to serve the less privileged.

He believes that everyone deserves justice and we all ought to strive to see that becoming a reality. He is greatly looking forward to learning more about different areas of law and appreciates the opportunity that he has been afforded.

Bontle Singo

Bontle holds an LLB degree from the University of South Africa. While she was in her third year of study she volunteered to work at the Pretoria North Magistrates Court as an assistant to the Prosecutor for a period of two years. She did this for her passion for helping vulnerable people. While working at the court she found her home in human rights law. Working at ProBono.Org is not so much of a job to her but more a fulfilment for her heart. She is due to register for a Master's degree specialising in human rights law. She is a bundle of joy, and always happy. Her mission every day when she wakes up is to make at least one person happy.

Khanyisa Molaoa

Khanyisa was born and raised in a small town in the Eastern Cape and completed her LLB degree at the Walter Sisulu University in 2018.

After completing high school she already knew that she wanted to study law in order to be able to help people.

Growing up she witnessed the impact on society of not having access to legal advice and services due to lack of finances and legal knowledge. Having attended a historically black university surrounded by marginalised communities she saw the effect of corruption and lack of accountability on people's lives and this fuelled her passion to study law and become an advocate for

the recognition and protection of human rights and dignity. During her university career she was involved in organisations such as Students for Law and Social Justice as the branch deputy president and was a facilitator for CLASI. She also participated in the Street Law Programme and studied Local Government as an elective as she recognised the importance of involving members of the community in order to drive change.

Khanyisa has a broad interest in human rights, particularly socio-economic rights and how they can be made accessible and practical to people by contextualising them and integrating them in policy making. She believes that this will lead to the actualisation of the Constitution by the people and make it more than just a document.



Cape Town

Nwabisa Sobekwa

Nwabisa obtained her LLB degree from the University of Fort Hare in 2019 and a Post Graduate Certificate in Practical Legal Training from the University of Cape Town in 2020. During her varsity years she was a recipient of the Canon Collins Scholarship, a trust that exists to build a community of leaders, thinkers, activists and social justice

organisations and support their efforts to bring about social change and equality. This helped to groom Nwabisa to become an ever-growing social rights activist. Nwabisa aspires to become a human rights lawyer - to be the voice of the voiceless, assisting people to easily access the justice system. She is also a member of the steering committee of a foundation, Faith Engapheli, established in 2019 in an effort to help provide people from rural areas with information about health, personal care, hygiene, education, mental health issues, legal information and access to their basic human rights.

We welcome our new interns to the team and wish them all the best in their journey with us. ●

New babies for our staff



Two members of staff in the Johannesburg office welcomed new additions to their families recently.

Staff attorney Mpho Mogodi and his partner Mbali Mazibuko had a baby girl on 7 September 2020 and named her Khotso.

Data Capturer Fina Diba give birth, also to a baby girl, Dintle Dipuo Mabala, on 5 January 2021.

Congratulations to all the new parents. ●

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. Please indicate your interest to the editor at margaret@probono.org.za

The deadline for articles for the next issue will be:

1 April 2021

Partnerships in reducing HIV/AIDS & TB rights abuses

By Alice L. Brown, Programme Manager

In South Africa over the last decade the number of new HIV/AIDS infections each year have been steadily declining. Still, as of 2019, approximately 13% of people in the country were living with HIV/AIDS. This amounted to about 7.6 million – of whom 4.8 mil were women, 2.5 mil men and 300,000 children. In that same year, 58,000 people died of tuberculosis (TB) and approximately 36,000 of this group were HIV positive. According to the World Health Organisation, even as its overall numbers decrease, South Africa continues to have one of the highest rates of new TB infections globally. Moreover, despite its decline, TB was the leading cause of death in South Africa in 2020.

In the context of these two diseases, major strides have been made in the fight against stigma and discrimination, but human rights abuses persist. Indeed, there are still too many instances of persons infected and affected by HIV/AIDS and TB being denied services, evicted from their residences, targeted with unfair labour practices and subjected to other rights abuses.

Against this backdrop, ProBono.Org received a grant in 2019 from the AIDS Foundation of South Africa (AFSA) as part of a larger three-year programme funded by The Global Fund to Fight AIDS, Tuberculosis and Malaria. Within this human rights-focused initiative, ProBono.Org has been tasked with providing legal support to members of key and vulnerable populations including women and girls, adolescents and young people, LGBTI+, sex workers, people who use drugs, and other marginalised identities who face barriers in accessing HIV and TB services.

To deliver this support, ProBono.Org has worked with several service providers to offer, amongst other things, paralegal training; legal practitioner training and recruitment; human rights training for community-based activists, law

enforcement officials, traditional leaders and community policing forum members; and the facilitation of potential strategic litigation.

To speak specifically about the paralegal training: during the first quarter of 2020, ENZA, one of our partners in this effort, developed this training as in-person sessions that would take place weekly over a two-and-a-half-month period. The training was offered to paralegals located in districts throughout all nine provinces and the participants were affiliated with advice offices supported by the Foundation for Human Rights, Legal Aid South Africa and other partners.

The onset of the COVID-19 virus and the lockdown restrictions put in place to curb the impact of this disease necessitated that we quickly change course. With input from ProBono.Org and other partners, ENZA worked on converting the in-person curriculum to an online educational format that covered not only topics relevant to combatting stigma and discrimination against key and vulnerable persons, but also modules focused on the rights-related impact of COVID-19 including a focus on gender-based violence.

Within weeks, the training was modified and ready to roll out.



Over a ten-week period from mid-July to mid-September, over 260 paralegals successfully completed the online training and received certificates. The feedback received was overwhelmingly positive. Indeed, the post-course evaluations revealed that the participants found the training to be relevant, valuable and empowering. They reported that not only was their knowledge increased, but also, their confidence and commitment were bolstered.

Now, the expectation is that these community-based frontline workers are better prepared to deal with more complex issues when providing assistance and advice to persons who find themselves facing violations stemming from their HIV/AIDS or TB status.

As required and when necessary, ProBono.Org wants to have a roster of legal practitioners who would be willing to take on matters that fall beyond the scope of paralegal assistance and need the attention and expertise of an attorney.

If you are interested in offering pro bono services to this important effort, please fill in the form on the home page of our website at www.probono.org.za and indicate your interest in assisting with HIV/AIDS or TB rights violations. ●

Cape Town Inaugural Legal Practitioner Awards Ceremony

By Uzair Adams, Regional Director, Cape Town

Despite navigating a global pandemic, ProBono.Org Cape Town reached a milestone on 11 December 2020 when we hosted our inaugural Legal Practitioner Awards Ceremony, held virtually. This was the day following the end of 16 Days of Activism for No Violence against Women and Children, a United Nations campaign held annually from 25 November, coinciding with the International Day of No Violence against Women to 10 December, which also coincides with International Human Rights Day.

We therefore felt it fitting to pay homage to those pro bono legal practitioners who have gone above and beyond the call of duty, especially in light of the added pressures caused by the COVID-19 pandemic. We acknowledge that this milestone would not have materialised if it were not for the time, effort and commitment of these practitioners who support our work in making access to justice more realisable for those who we know need it most.

We were honoured to have Judge Chantel Fortuin of the Western Cape High Court deliver the keynote address. "Like other professionals, lawyers do not function in a vacuum. We practise our skills within the communities we serve," she said.

"If we don't make justice accessible to all, it will put our democracy at risk, a democracy which each one of us is entitled to. As the COVID saying goes: If one of us is not protected then none of us is protected. In our case: If one of us does not have access to justice then none of us has access to justice".

With this being our first ever awards ceremony, it is worth briefly reflecting on the path that has brought us to this occasion. The Cape Town office opened in 2017 and was birthed in a small and bare concrete box office in the heart of Khayelitsha, the largest township in South Africa. It did not have any carpets, blinds, furniture, equipment or staff!



Judge Fortuin

I recall having borrowed a little table and chair from the Café in the building, and several of the legal practitioners present at our inaugural awards ceremony have walked this journey with us from the very start.

In the same breath it is important to note that the Cape Town office would not be where it is today if not for our dedicated staff members who have each played a crucial role in our continuous growth. The journey for the Cape Town office has in no way been a smooth ride. But it is only through trial and error that we continue to learn, adapt and grow.

Paying tribute to the selfless efforts of our pro bono legal practitioners, Judge Fortuin added:

"To those practitioners who agreed to provide their services to vulnerable members of our society, I want to say that you are actually contributing to the transformation of our society into a true constitutional democracy. You are achieving this, not by doing something extra-ordinary but by only doing your daily job unselfishly and contributing to something extra-ordinary".

In closing she said,

"It is true that before our Constitution came into being, law was considered by the majority of South Africans as a tool of oppression. It was seen as a way to entrench the inequalities in our society. You are fortunate to be practising at a time when our Constitution is in place. You are fortunate to practise at a time when equality is considered to be one of the most important rights in our bill of rights. Let the constitutional principle of equality guide you when you work with ProBono.Org in future".

We take this opportunity once again to thank all pro bono legal practitioners to whom we paid tribute by way of awards and to all those who continue to support our work. May we unite in forging new pathways to making access to justice a reality for all.●

The oath and affirmation

By Elsabe Steenhuisen

We have all had to deal with clients who need their affidavits commissioned. But do we have the correct wording on our affidavits? And if we commission documents ex officio for people who are not our clients, do we follow the correct procedure when we administer the oath? Read on.

Most affidavits will end with the following wording:

WHEREFORE I respectfully request that the court grant me the relief sought in the notice of motion to which this application is attached.

G Zondo

GEORGE ZONDO
DEPONENT

Next will be the paragraph of the commissioner.

Example 1

I hereby certify that on Tuesday, 4th August 2020, in my presence at Johannesburg the deponent signed this affidavit and swore and acknowledged that he:

- knew and understood the contents thereof;
- had no objection to taking the oath;
- considered the oath to be binding on his conscience, and uttered the words *"I swear that the contents of this declaration are true, so help me God"*.

OR

Example 2

I HEREBY CERTIFY that the Deponent has acknowledged that the Deponent has no objection to taking the prescribed oath, that the Deponent considers the prescribed oath to be binding on the Deponent's conscience and that the Deponent knows and understands the contents of this affidavit which was signed and sworn to before me at _____ on this _____ day of _____ 20__ after the provisions of the regulation contained in Government Notice No. 1258 published in the Government Gazette No 3619 dated 21st July 1972, as amended, have been complied with.

OR

Example 3

I certify that the deponent has acknowledged that she/he has no objection to taking the prescribed affirmation, that she/he considers the prescribed affirmation to be binding on her/his conscience and that she/he knows and understands the contents of this affidavit which was signed and affirmed before me at _____ on _____. I certify further that the provisions of regulation R1258 of the 21st of July 1972 (as amended) have been complied with.

J Soap

COMMISSIONER OF OATHS

Name: Joe Soap
Place: Johannesburg
Date: 4 August 2020
Position: Sheriff, Jhb West

NOTES

- An oath is administered by causing the deponent to utter the following words:
"I swear that the contents of this declaration are true, so help me God".
- An affirmation is administered by causing the deponent to utter the following words: "I truly affirm that the contents of this declaration are true".
- The Justices of the Peace and Commissioners of Oaths Act 16 of 1963 is applicable. The regulations regarding the Designation of Commissioners of Oaths in terms of s6 of the Act (GN 903 in GG19033 of 10 July 1998 as amended, and GN 109 in GG22030 of 2 February 2001) provide a list of various offices which are designated by the Minister to be commissioners of oaths.



4. The Regulations contained in the Government Gazettes Notice R1258 of 21 July 1972 were amended by Notice R1648 of 1 September 1977; Notice R1428 of 11 July 1980; and Notice R774 of 23 April 1982.
5. Example 3 also contains an affirmation. Remember that not everybody is prepared to swear before God. Ask your client each time before you start drafting your affidavits. Some drafters have a standard paragraph, including both the oath and the affirmation. During the administering of the oath/affirmation, they will delete the words not applicable. It looks like this:

I certify that the deponent has acknowledged that she/he has no objection to taking the prescribed oath or affirmation, that she/he considers the prescribed oath or affirmation to be binding on her/his conscience and that she/he knows and understands the contents of this affidavit which was signed and sworn to or affirmed before me at _____ on _____. I certify further that the provisions of regulation R1258 of the 21st of July 1972 (as amended) have been complied with.

6. When you do the administering of the oath or affirmation,
- a) Let the person read the affidavit and then ask the 3 questions (see the first example).
 - b) Then ask the deponent to raise the right hand and say either: "I swear that the contents of this declaration are true, so help me God".

Or

"I truly affirm that the contents of this declaration are true".

- c) Only then let the deponent sign in your presence and you in the deponent's presence.
- d) Don't forget to initial each page at the bottom right – both you and the deponent, except the last page where you both sign in full.
- e) See De Rebus (June 2020) DR 22 for information about remote commissioning of affidavits - who can commission them and how it is done.

See www.cliffedekkerhofmeyr.com under news and employment alert, 6 November 2017 for more information on the topic of who is authorised to be a commissioner of oaths.●