

This Women's Month We Are Celebrating the Women of



Women's Month Issue

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Celebrating Women's Month

By Xoliswa Maaroganye, Communications Intern

JOHANNESBURG

In celebration of Women's Month, our Johannesburg office hosted its annual Women's Day Event on 17 August 2022 at Constitution Hill. This event catered specifically for the legal needs of women from the communities served by the Community Advice Offices we work with.

As this year's Women's Month theme is "Women's Socio-Economic Rights and Empowerment", we promoted that theme of empowerment by educating women about their Constitutional right to have access to healthcare facilities and services as it also speaks to their right to life and to have their dignity respected

and protected. We particularly focused on the topic of medical negligence and the fundamental right of access to healthcare services. This was achieved by equipping them with the knowledge of what these rights mean as well as practical actions that can be taken when they are violated.

The event created a platform where women could freely express some of the challenges they often experience, learn from the interesting engagements, and enjoy the company of other women who have taken a stand in solidarity to protect their communities and empower other women by offering support



and imparting skills towards economic independence. The women expressed their gratitude for the support which they receive from ProBono.Org and for the support networks which were established through the interactions at the event. ProBono.Org is dedicated to contributing towards global efforts of achieving gender equality for a sustainable future. The event carried much impact as a sense of pride was restored as we seek to rebuild our connections within society and while working with other organisations in “addressing the [seemingly] broken moral compass” of our society as expressed by Ms Margo Bansda of Timia Africa. A special thank you to our guest speaker, Ms Zanele Makula for

her insightful presentation on medical negligence. Ms Makula is a practising attorney and Director of Makula Attorneys. She has been a member of the Ad Hoc Committee, serving as a legal assessor of the Health Professions Council of South Africa. This council regulates the medical profession and the public, therefore Ms Makula sits in disciplinary inquiries and assesses the proceedings as well as advises on legal issues. The information shared was invaluable. We would also like to thank our Community Advice Office paralegals for their commitment to serving communities and we also thank the NGOs that were present; the Teddy Bear Clinic, Legal Aid South Africa, iThemba Rape and Trauma Support Centre and Timia Africa. ●



Celebrating Women's Month

DURBAN

By Nicole Dayanand, Acting Regional Director



Every August our country marks National Women's Day where we pay tribute to the women who marched to the Union Buildings on 9 August 1956. This forms part of Women's Month which gives us an opportunity to pay tribute to the trailblazers who laid the foundation to empower women. Women's Month draws attention to important issues that women face such as domestic violence, unequal pay, discrimination and more.

This year ProBono.Org Durban planned a series of events to commemorate Women's Month. On 12 August 2022 we hosted a Women's Month breakfast for the women lawyers on our panel who dedicate their time to do pro bono work. Our guest speaker Sanelisiwe Nyasulu of Garlick and Bousfield gave an inspirational talk to our guests on the challenges she faced as an up-and-coming attorney and how she overcame them.

On 23 and 26 August 2022 ProBono.Org Durban presented talks on Protection Orders to the communities in Umlazi and Isipingo. This initiative encouraged and uplift women to report domestic violence and educate them on their rights. We will be highlighted the mechanisms and laws put in place to protect victims of domestic violence.

On 25 August 2022 ProBono.Org Durban hosted a free advice help desk for women who require legal advice.

On 27 August 2022 ProBono.Org Durban provided a presentation on Gender Based Violence to the community of Phoenix. South Africa has seen a rise in violence targeting women and children and we are focused on raising awareness on women's and children's rights.

South African women have made significant progress but there is still much work to be done. ProBono.Org encourages all women to not only reflect on the courage of the women in the past but to celebrate their bravery and be bold in helping one another today. ProBono.Org wishes a very happy Women's Month to all. ●

Hickory Dickory Dock, the Children's Amendment Bill is on the Clock

By Masi Ncube, Staff Attorney, Cape Town



According to the Department of Social Development (DSD), more than 1,000 children in South Africa have been abandoned by their parents over the past two years. The foremost reason for abandonment of children is poverty which highlights the socio-economic inequalities ever present in South Africa. Furthermore, the devastating effects of the COVID-19 pandemic have seen an increased number of orphaned children to an estimated 134,500 orphans in South Africa as at October 2021.

Many altruistic individuals (women in particular) address these challenges head on by providing protection and care to vulnerable children through the foster care system. However, in 2011 the Centre for Child Law recognised that the DSD was experiencing a high backlog in the processing of foster care court orders. It was established that there was a backlog of 299,076 unprocessed foster care court orders in and during 2011.

Therefore, in *Centre for Child Law v the Minister of Social Development, the South African Social Security Agency and Others* the North Gauteng High Court (the Court) ordered that the Minister should introduce comprehensive legislation that will improve the foster care system and provide holistic protection to vulnerable children.

Despite the Court's initial deadline of 12 December 2012, the finalisation of such legislation was extended to 2017, 2019 and 2020 without any draft bill being formally tabled. The major reason for the delay could be attributed to the intricacies of each proposed amendment. Be this as it may, the enactment of a comprehensive bill clearly lacked a sense of urgency from the Parliamentary Portfolio Committee on Social Development (the Committee) which has negatively impacted the lives of thousands of vulnerable children navigating what could be deemed to be an illusory foster care system.

Following an almost ten year delay, the Committee eventually introduced the Children's Amendment Bill (the Bill) on 31 August 2020. However, to this day the Bill is yet to be finalised. The Court has once again extended the deadline for the finalisation of the Bill to November 2022. The notable aspects of the Bill are outlined below.



Foster Care

As indicated, the sluggish foster care system was the impetus for the creation of the Bill. According to the Children's Amendment Act 41 of 2007, foster care means care of a child that has been placed in the care of a person who is not the parent or guardian of the child in terms of a court order. Alternatively, foster care is a result of the transfer of a child to a



child and youth care centre.

Clause 86 of the Bill seeks to amend Section 159 of the Children's Act 38 of 2005 (the Act) by allowing courts to hand down interim foster care orders for a period of not more than six months. This can be seen as a step to improve the efficiency of the foster care system as Section 159 of the Act initially only allowed for the renewal of foster care court orders every two years.

Additionally, Clause 93 of the Bill intends to amend section 185 of the Act by not allowing the placement of more than six children in foster care with a single person or two persons sharing a common household. This clause emphasises the need for quality care of foster children and attempts to reduce the abuse of the system by foster parents who may foster several vulnerable children solely for the payment of the Foster Care Grant which is currently prescribed to be R1 070.00 per month per child.

Rights of the Unmarried Father

Clause 10 of the Bill seeks to amend Section 21(1) of the Act in order to protect the rights of unmarried biological fathers. Section 21(1)(a) of the Act states that the unmarried father acquires full parental responsibilities and rights in respect of the child if at the time of the child's birth he was living with the mother in a permanent life partnership.

Clause 10 of the Bill aims to amend section 21(1) (a) to protect the unmarried father if he was living with the biological mother in a permanent life partnership at the time of the child's conception, or any time between the child's conception and birth (emphasis added). The amendment therefore extends the protection of unmarried biological fathers.

It is further noted that currently, regardless of whether the unmarried father has lived or is living

with the mother, he is protected in terms of Section 21(1)(b) of the Act if:

- he consents to be identified or successfully applies in terms of section 26 of the Act to be identified as the child's father or pays damages in terms of customary law,
- he contributes or has attempted in good faith to contribute to the child's upbringing for a reasonable time, and
- he contributes or has attempted in good faith to contribute towards expenses in connection with the maintenance of the child for a reasonable period.

The Bill attempts to reinforce the rights of the unmarried father, in addition to the above circumstances, by inserting Section 21(1A) to the Act which will require a Family Advocate to issue a certificate confirming that the unmarried father has acquired full parental responsibilities and rights in one of the following circumstances:

- upon joint application with the mother
- after reaching an agreement after mediation with the mother
- if the mother unreasonably refuses to attend mediation
- if the unmarried father shows to the satisfaction of the Family Advocate that he has automatically acquired full parental rights and responsibilities on the basis of living with the biological mother in a permanent life partnership at the time of the child's conception, or any time between the child's conception and birth.

Inserting Section 21(1A) to the Act provides a clear legal framework for unmarried fathers who would like clarity in paternity disputes. It is suggested that the Offices of the Family Advocate (OFA) increase the number of their offices in order to ensure accessibility and to prevent an unmanageable influx of paternity disputes. This suggestion is formed on the basis that South Africa only has approximately 27 OFA nationwide.

Although debate regarding the proposed amendments of the Bill is still robust amongst the national legislature, the Committee has indicated that it is confident that the Bill will be finalised by the deadline set in November 2022. Once the Bill has been enacted, it is hoped that a marked improvement will be observed in the lives of vulnerable children, their caregivers and their parents. ●

Safety of refugees the focus of World Refugee Day

By Xoliswa Maaroganye, Communications Intern



Every year, many people are forced to flee their home countries as a result of political unrest, conflicts and wars. They flee in the hope of survival and a better future. However, being in a foreign country with little to nothing as a basis to rebuild their lives is a huge challenge with many obstacles along the way.

It is for this reason that the United Nations High Commission for Refugees (UNHCR) commemorates 20 June as World Refugee Day. Every year on this day people around the world are presented with an opportunity to honour the strength and courage of asylum seekers, refugees and migrants (ASRMs) for their resilience and commitment to improving their lives amid challenging circumstances.

This year, ProBono.Org in partnership with the UNHCR, the City of Johannesburg's Migration Advisory Panel (JMAP), the Consortium for Refugees and Migrants in South Africa (CoRMSA), Lawyers for Human Rights (LHR), the Centre for The Study of Violence and Reconciliation (CSVr), the South African Refugee Led Network (SARLN) and Galore Sports hosted a joint event. The collective aim was to create awareness and bring together the host community with ASRMs to highlight the rights of ASRMs, particularly the right to seek safety. In light of the recent xenophobic attacks and vigilante

movements which have arisen we undertook a theme of "Whoever. Wherever. Whenever. Everyone has the right to seek safety".

It was imperative for us to take a firm stand against threats and xenophobia and have our voices heard while also directing ASRMs to relevant organisations through which they may obtain assistance. This act of solidarity was a definite success as we were able to connect with many individuals who were experiencing various challenges in navigating the legal system. We are pleased to affirm that ProBono.Org was able to form relationships with people and offer lifelines to many disheartened and frustrated refugees and migrants who were struggling to apply for proper documentation as the first step to rebuilding their lives and being integrated into society.

As a build-up to the main event, on 19 June 2022 Galore Sports organised a sports tournament in Sunnyside Pretoria to promote social cohesion between the host community and the refugee and migrant communities. We would like to thank all the civil rights organisations for their commitment to protecting the rights of all individuals, and for ensuring that the local community understands that everyone has a right to seek safety and that it is a human right, not a qualifying right with exceptions. ●

ProBono.Org affords IIE Varsity College and Monash South Africa Students a Practical Experience in the Field of Law

By Xoliswa Maaroganye, Communications Intern and Margaret Fish, Communications Manager

As part of ProBono.Org's arrangement with IIE Varsity College (VC), we are providing their final year law students with a week of practical experience in our Johannesburg, Durban and Cape Town offices.

From 26 to 29 July the Johannesburg office hosted ten students from the IIE MSA and the Pretoria campus of Varsity College. Here is some of

the feedback they provided us with following their experience:

"ProBono.Org not only offered us a practical experience in the field of law, but also a rich and stimulating insight into the history of our country as the offices are situated in close proximity to the Constitutional Court, which itself is built on a history that carries great symbolism.

We were exposed to ProBono.Org's work in Family Law, Labour Law, Refugee and Property Law and deceased estates law. We learnt that ProBono.Org offers a vital service in ensuring that all persons have the right to access legal assistance as per section 34 of the Constitution and experienced the significant role played by private legal practitioners who provide assistance through the various legal clinics.

During our time at ProBono.Org we were tasked with completing client intake forms, we sat in on consultations for the clinics while taking notes of each case and had engaging discussions with the legal practitioners who were staffing the clinics to understand the process for each case.

We would like to thank ProBono.Org for the opportunity to understand the legal field from a different perspective to that of the corporate legal environment. Your passion for helping those who do not have a voice to speak in law is beyond inspiring. Matthew Coppin, IIE MSA student.



"The staff and colleagues I encountered while working at ProBono.Org was by far the best part of the whole experience as it was great to meet all the people that dedicate their lives to helping others and other aspiring legal practitioners". Daniel Booysen, Varsity College Pretoria Campus

"Those four days at ProBono.Org were great. Helping real people was incredibly fulfilling. Despite the harsh reality we had to face when hearing all the different stories of desperate people's lives, knowing an organisation like ProBono.Org is there trying to bring justice to those in most need was uplifting." Kyle Garrett, Varsity College Pretoria Campus

"The ProBono.Org staff were polite and always willing to help. This experience taught me how to work with clients and how to deal with emotional cases, what to say and what not to say in those circumstances. I thank you all for the experience." Darren Viljoen, Varsity College Pretoria Campus

"Visiting the Constitutional Court was certainly my highlight! Experiencing the more practical side of law by personally sitting in consultations between attorneys and clients and consulting with clients ourselves was both intriguing and educational. All the employees at ProBono.Org received us with open arms and treated us with the utmost respect and kindness. The process of helping people who need legal services and cannot afford them was eye-opening as to how much more we can do as future legal practitioners to contribute towards making

the law accessible to all.” Hennie Jonker, Varsity College Pretoria Campus

“During my time at ProBono.Org, I was exposed to the often raw realities facing many of my fellow South Africans. I realised that without the work done by ProBono.Org, all these desperate individuals would have nowhere to turn. The staff at ProBono.Org are concerned with change. After my short experience, I plan to return to ProBono.Org as often as possible once a qualified legal practitioner.” Sian Towlson, IIE MSA

“The experience I gained at ProBono.Org is one I will never forget. I remember going in there not knowing what to expect and leaving with such an appreciation for the work being accomplished. I wish every law student could experience what I did

there. Thank you for exposing us to a different side of law.” Micaela Nunes, IIE MSA

“I did not fully understand from a practical aspect what practising in this field of law actually meant. After my week spent at ProBono.Org, I now feel as though I have more clarity regarding the lives you will touch, and the good you can contribute in a society that is in need of so much help.” Lebohang Maboja, IIE MSA

“ProBono.Org was a life changing experience; it challenged my moral compass and tilted me in a direction where I never thought I would be going. I have been motivated to push myself in my studies in the hopes that one day I may work in a firm that has a pro bono department.” Calvin Dos Ramos. ●

Staff News

We welcome a new staff member to our Johannesburg office



Lesego Vakalisa joins our team as the co-ordinator of the Varsity College programme.

She is an admitted attorney who began her career as a volunteer at ProBono.Org. She later completed her law studies and returned to the organisation in 2017 as an intern in the family law and labour law department.

Lesego has a passion for working with disadvantaged and marginalised groups with the goal of achieving access to legal assistance and the realisation of justice. Her areas of professional interest are medical negligence along with child-related and mental healthcare matters.

Lesego loves nature, learning new skills and is an adventurous traveller. Welcome to the team, Lesego! ●

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 October 2022

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