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Thanking the Legal Profession

2024 Johannesburg Pro Bono Awards



2024 Johannesburg Pro Bono Awards

On 20 February the Joburg office of ProBono.Org celebrated its annual Pro Bono Awards. The ceremony was held to acknowledge the outstanding pro bono contributions of the legal profession in 2024.

The awards were hosted by Norton Rose Fulbright SA Inc. and we are extremely grateful for their generous support for this important event in our calendar.

The legal profession and honoured guests turned out in their numbers to celebrate the efforts of those who serve the poor and vulnerable through our various legal clinics and help desks, and also take on cases, conduct workshops and generally show their commitment to realising the value of helping others.

We were honoured to have Jason Brickhill deliver a profound keynote address where he mapped out the access to justice ecosystem and stressed the importance of the South African Constitution in ensuring that our people are given an opportunity to live in dignity through having access to justice. Along with criminal law, he noted the need for civil law to be recognised as an essential human right through adequate state funding.



“Access to justice serves as a vital bridge between the promises of the Constitution and people’s everyday lives. The work that you all do, and that we celebrate tonight, is nothing short of life-sustaining for our constitutional democracy. It connects people to the Constitution, and turns paper promises into real-world rights.

Pro bono services are so vital...they are the lifeblood of constitutional democracy. It is the quiet, unglorious task of providing legal assistance to an individual who could not otherwise afford it that creates the possibility for the Constitution to be made real in that one person’s life. It means the difference between an experience of the law that respects a person’s dignity and agency, even if they do not succeed in court, and an experience that instrumentalises, brutalises and sometimes criminalises people.”

The winners in the various categories of law at ProBono.Org were as follows:

Child Law	Keneth Mabale of Malatji Nduma & Mojapelo Inc. Theresa Luyt and Karen Malan of Alternative Conflict Resolution (ACR)
Labour Law	Maponya Attorneys
Family Law	Madiba & Co. Attorneys
Wills	Susan Harris
Domestic Violence	Dobsonville Human Rights Advice Office
Community Advice Office	Messina Legal Advice Office
Community Impact/ Empowerment	Norton Rose Fulbright SA Inc.
Housing	Themba Khumalo, Eversheds Sutherland
Deceased Estates/Mastes	Amina Yuda, Norton Rose Fulbright SA Inc.
Deeds & Conveyancing	Norton Rose Fulbright SA Inc.
Refugees	Virginia Sekgothe Attorneys
Small Firm	Nthabiseng Maleka Attorneys
Medium Firm	HBG Schindlers
Large Firm	Bowmans
Best All Rounder	Fasken
Varsity College Student (Individual)	Rumaana Marks
Varsity College Group	MSA Group 15
Student at a University Law Clinic	Brandon Taylor, Stellenbosch University Law Clinic
Advocate	Adv. Khayaletu Madlwabinga
Special Mentions	Busisiwe Mahlangu, Adv. Ntombifuthi Mpofu, Neumann van Rooyen Attorneys and Puleng Tladi, Matthew Ilsley (Webber Wentzel), Elgene Roos & Jacquie Cassette of Cliffe Dekker Hofmeyr, Lesley Morphet of Fasken, Adv. Birgit Brammer, Maponya Attorneys and MVC Incorporated.

Congratulations to all the worthy nominees and winners. We also extend special thanks to Norton Rose Fulbright for hosting a memorable event, and to our sponsors Spier and AJS.

Practical Exposure at ProBono.Org - A Varsity College Student Reflects

By Kopano Ledwaba

For the past few years ProBono.Org has had an arrangement with Varsity College to provide a week-long practical work experience for their final year LLB students. Kopano Ledwaba, a student at the IIE Varsity College Sandton Campus, has sent us his thoughtful remarks on the experience:

Reimagining Advocacy: The Human Element of Legal Work

While my ambitions had always inclined toward human rights litigation, the intimate nature of my interactions at ProBono.Org added a more human dimension to this vision. I found myself reflecting on the dual role that lawyers play, both as advocates of the law and stewards of the people they serve. The clients we dealt with were not merely cases—they were individuals grappling with complex legal issues that intertwined with deeply personal circumstances. Whether assisting a refugee or providing advice on housing disputes, it became clear that the emotional weight of these cases could not be separated from their legal complexities. This intersection of human vulnerability and legal process is, I believe, where the heart of legal practice truly resides. My legal education had thus far trained me to see the law as a system of rules and precedents; my time at ProBono.Org, however, expanded this view by teaching me the importance of empathy, patience, and active listening. These are qualities not often emphasised in traditional legal training, yet they proved indispensable when dealing with clients for whom the stakes were high and the consequences of inaction could be life altering. Here, the law becomes not just a tool for resolving disputes but a means of restoring dignity and hope to those who feel powerless.

Practical Legal Training: Lessons in Precision, Patience and Persuasion

Beyond the philosophical and emotional insights, my time at ProBono.Org was an invaluable training ground for honing practical legal skills. The rigorous process



of assisting in case preparation, particularly in refugee and housing law, demanded meticulous attention to detail. From correctly drafting legal documents to managing sensitive consultations, every step required precision. As I learned quickly, even a seemingly minor error—such as the misplacement of a date or omission of a fact—could have significant implications for a client’s case. What was particularly enlightening was the realisation that legal strategy often requires navigating imperfect systems. In one instance, a client’s refugee status was complicated by discrepancies in their permit history, a situation exacerbated by bureaucratic inefficiencies. As we worked to resolve the issue, I saw first hand the

importance of understanding not just the letter of the law but also the procedural nuances and institutional roadblocks that could hinder a straightforward legal solution. In such moments, the lawyer’s role is part tactician, part mediator, and part educator— ensuring that clients are informed, empowered, and equipped to navigate the legal maze. Moreover, this experience highlighted the subtle art of persuasion—both in written and oral forms.

I was tasked with drafting correspondence and legal documents where clarity, accuracy and persuasive argument were paramount. Crafting these documents required not only a sound grasp of legal principles but also the ability to present complex issues in a manner accessible to both legal professionals and lay clients. This balance between technical precision and effective communication is a skill I will carry forward into my legal career.

Reflections on Constitutional Law and Social Justice

Engaging with ProBono.Org has deepened my understanding of the symbiotic relationship between law and society. South Africa’s Constitution, often lauded for its progressive stance on rights and freedoms, sets a high bar for justice. Yet, the lived realities of those I encountered during my time at the organisation reveal

the tensions that arise when constitutional promises fail to materialise in practice. For individuals from refugee communities or those facing housing insecurity, the law often seems distant—an abstract system that fails to address their immediate needs. Pro bono legal services thus serve as a critical bridge, translating lofty constitutional ideals into actionable remedies for everyday injustices. This experience has prompted me to think more critically about the role that law plays in creating not just equality before the law but substantive equality in society. It has also reinforced my belief that the law is only as transformative as its ability to reach and uplift the marginalised. In this regard, pro bono services stand as a testament to the law’s potential to serve as an instrument of social justice, especially in a country like South Africa, where the legacies of inequality and exclusion remain deeply entrenched.

Conclusion: Charting a Path Forward

As I reflect on my time at ProBono.Org, I am filled with a renewed sense of purpose and a deeper understanding of the multifaceted role that law plays in society. This experience has sharpened my legal skills, broadened my perspective on advocacy and, most importantly, reinforced my commitment to using the law as a force for social good. While my academic interests remain firmly rooted in constitutional law and human rights, I now appreciate the diverse forms that legal practice can take—whether in the courtroom, the consulting room, or the community centre. Ultimately, the lessons I learned during my community engagement at ProBono.Org will serve as a guiding compass as I continue to navigate my legal career. I leave this experience not only more knowledgeable but also more attuned to the ethical imperatives of practising law in a way that is compassionate, just, and committed to the greater good.

The Future of Chapter 9 Institutions - Navigating Uncertainty

By Yonela Yame, Intern - Johannesburg

ProBono.Org has joined the legal discourse at the Constitutional Court by applying to be *amicus curiae* (friend of the court) in a matter of constitutional significance. In August 2024, judgment was handed down by the Supreme Court of Appeal (SCA) in the matter of *South African Human Rights Commission v Agro Data CC & Another (Afriforum, Centre for Applied Legal Studies and Commission for Gender Equality intervening as Amicus Curiae)* (39/2023) [2024] ZASCA 121 (15 August 2024).

The case stems from a dispute relating to access to water. The South African Human Rights Commission (SAHRC) investigated a complaint made by occupiers of a farm in Mpumalanga that the farm’s owners (the respondents in the Constitutional Court) had restricted the occupiers’ access to a borehole on the farm, which was their only source of water, and infringed on their constitutional right of access to water. The SAHRC investigated the complaint and, in its final investigative report, directed the respondents to restore water access and engage with the affected community. The respondents failed to comply, prompting the SAHRC to approach the Mpumalanga Division of the High Court for a declaratory order that the directives of the SAHRC are binding.

The High Court declined to declare the SAHRC’s directives as binding. Dissatisfied with this outcome, the SAHRC appealed the matter to the Supreme Court of Appeal. While the SCA acknowledged the SAHRC’s

pivotal role in our democracy and emphasised that its recommendations should be given serious consideration, it ultimately ruled that SAHRC directives are not binding unless confirmed by a court.

This case has far-reaching implications for the effectiveness of the SAHRC, and particularly its ability to provide access to justice for marginalised communities. It may also have wider implications for other Chapter 9 institutions.

The matter is now before the Constitutional Court, where the SAHRC seeks to overturn the SCA’s decision and establish the binding nature of its directives. By joining this legal battle, as *amicus curiae*, ProBono.Org aims to provide additional legal arguments that underscore the necessity of clarifying the legal effect of the SAHRC’s directives. We firmly believe that recognising the legal effect of SAHRC directives will facilitate the expeditious resolution of disputes and accelerate access to justice, reducing reliance on costly and time-consuming court procedures that often disadvantage poor and marginalised communities. ProBono.Org’s participation in this case aligns with its broader mission to advance constitutional justice and protect the rights of vulnerable communities.

The Constitutional Court’s judgment will be pivotal in defining the nature of the powers of the SAHRC, thereby shaping the landscape of human rights protection and enforcement in South Africa.

The Constitutional Court addresses the legacy of spatial apartheid in Cape Town

By Siviwe Dube, Cape Town Intern, Cape

As an agent of change entrusted with ensuring access to justice for the most vulnerable, ProBono.Org remains watchful of the development of eviction processes in South Africa. Due to the unequal balance of social power in evictions generally, our primary obligation is to ensure that those who face destitution and homelessness are protected within the framework of the Prevention of Illegal Evictions from and Unlawful Occupation of Land Act 19 of 1998 (the PIE Act). With the abovementioned in mind, ProBono.Org welcomes Justice Mathopo's judgement in *Charnell Commando and Others v City of Cape Town and Another* [2024] ZACC 27 handed down on 20 December 2024.

The matter pertains to the indigent residents of Woodstock and Salt River residing in the immovable properties located in Bromwell Street. The five adjoining cottage units that the Bromwell Street residents call home are situated on a single erf. The residents occupy the immovable properties either by virtue of lease agreements with the previous owners or due to inter-generational leases going back to the era of their grandparents. It is notable that Woodstock and Salt River are of the few predominately Coloured communities located within close proximity to the Cape Town city centre that managed to resist forced removals during the apartheid regime.

The Bromwell Street residents paid rent for each housing unit ranging from R300.00 to R2,000.00



Bromwell Street, Woodstock, Cape Town.

Picture: Phando Jikelo/Independent Newspapers (Archives)

per month. However, the erf was purchased for proposed high-end development by the Woodstock Hub on 30 October 2013 for R3.15 million. This purchase and proposed development are part of a broader wave of gentrification in the Cape Town inner city area. This agenda was made evident when, in and during June 2014, the Bromwell residents received letters of cancellation of their lease agreements from the Woodstock Hub. The Bromwell residents continued to occupy the erf despite the letters of cancellation in an effort to protest against the gentrification of Woodstock and Salt River.

On 17 March 2016, an eviction order was granted by agreement pursuant to legal advice given to them by their former attorney, that the residents had no legal defence to the eviction application. The Bromwell residents were directed

to vacate the erf by 31 July 2016. At the time, they were not advised of the City of Cape Town's obligation to provide them with temporary emergency accommodation. The Bromwell residents brought an urgent application seeking to vary the deadline for them to vacate the erf to 30 November 2016 in order to seek alternative accommodation prior to the eviction date.

The variation application was dismissed on 5 August 2016 as the City denied that it had an obligation to provide temporary emergency accommodation due to its view that the eviction was a "private eviction" which was "just and equitable". Additionally, the City argued that they did not have temporary emergency accommodation available but were willing to place the residents on the waiting list for such emergency housing.

On 8 September 2016, City officials agreed not to proceed with the

execution of the eviction order until 26 September 2016. The City offered to assist the Bromwell residents to apply for social housing and promised them that they would have “first option” to apply for units in the upcoming social housing developments in the Woodstock and Salt River areas once these had been developed “in approximately 18 months”. It subsequently transpired that the Bromwell residents did not qualify for the social housing.

Correctly dissatisfied by the arguments, inadequate response from the City and considering the imminent eviction date, the Bromwell residents launched an application on 20 September 2016 in the Western Cape High Court. Temporary emergency accommodation in Wolwerivier (which is about 30 km away from the inner city) and Philippi (which is about 15kms from the inner city) was offered by the City to the Bromwell residents during the course of the litigation. The offer was accordingly rejected by the residents. This matter proceeded to the Supreme Court of Appeal and to the Constitutional Court with the judgment handed down on 20 December 2024.

To this end, the Constitutional Court had to decide whether the City acted reasonably in not delivering emergency housing in the inner city, in circumstances where residents in these areas face eviction as a result of gentrification arising from a development policy implemented by the municipality.

The Court contended that inasmuch as the Constitution does not guarantee a person the right to housing within the locality of his or her choice at government’s expense, the judgment establishes that ‘section 9(2) of the Constitution must be factored in when taking into account the need to ensure that corrective measures are put

in place to address the legacy of spatial apartheid.’ The section observes that ‘equality includes the full and equal enjoyment of all rights and freedoms; to promote the achievement of equality, and to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination.’

In paragraph 69 of the judgment, Justice Mathopo observed that the Emergency Housing Programme is instituted in terms of the Housing Act to provide temporary relief for people who find themselves in emergency situations, such as a court mandated eviction where the evictee has no alternative accommodation. On the other hand, Justice Mathopo clarified that The Spatial Planning and Land Use Management Act intends to address past spatial and regulatory imbalances and to provide for inclusive, developmental, equitable and efficient spatial planning at different spheres of government.

‘... addressing spatial apartheid requires that considerations include the accessibility of cities and locality being paramount in the provision of temporary emergency housing.’

Justice Mathopo, at paragraph 72 of the judgment, confirmed that the law does not provide evictees with a right to emergency housing in a specific location although it has become a legitimate issue of judicial concern. Justice Mathopo concluded that ‘addressing spatial apartheid requires that considerations include the accessibility of cities and locality being paramount in the provision of temporary emergency housing.’ He acknowledged that the Constitutional Court was tasked

with the opportunity to develop the law such that a court can go beyond requiring merely that temporary emergency accommodation must be provided as “near as possible” to the property from which persons are evicted. He pointed out that ‘the Bromwell residents were in lawful occupation of their premises and their loss of lawful accommodation is directly linked to a policy of gentrification driven largely by private property developers.’

He held that adequate housing, which is inclusive of temporary or emergency housing, is a constitutional imperative that places obligations on the state to realise this right. In addition, the realisation of the right is closely interlinked with other socio-economic rights, crucial in the Constitution’s attempt to address the longstanding issues of socio-economic inequality deeply embedded in our society. Moreover, it demands an appreciation of the intricate balance between legislative imperatives and economic realities such as the high costs associated with inner city development and the lack of available land.

Justice Mathopo warned that this balance cannot and should not be viewed as a free pass for the state to arbitrarily adopt specific or selective measures in the realisation of the right to access to housing (including the right to temporary emergency housing) through the prioritisation of one constitutional obligation at the expense of another. The Justice supported his view by noting that emergency housing serves as a crucial intervention to prevent homelessness and mitigate immediate crises, particularly for those facing eviction. The failure by the City to allocate adequate resources to emergency housing essentially undermines and infringes upon the right of access to adequate housing for these vulnerable communities.

It perpetuates inequality and violates the City's duty to protect the most vulnerable members of society. The needs of society's most vulnerable are of utmost urgency and their ability to enjoy all their constitutionally enshrined rights must not be ignored.

The mere existence of suitable housing alternatives does not automatically extinguish the City's obligation imposed by section 26 of the Constitution (i.e. the right of access to housing), especially when such alternatives fail to address the City's obligations as local government in the context of spatial apartheid. Therefore, the location of the temporary emergency housing must have an accessibility to the residents' communal networks, social networks and basic amenities like economic opportunities, healthcare, education and social amenities. To this end, Justice Mathopo concluded that this 'is in line with spatial justice and the right to the city, and therefore also in line with the remedial

and transformative purposes of socio-economic rights and the Constitution more broadly.'

Therefore, the Constitutional Court held that relocation of persons such as the Bromwell residents to outlying areas of the city has the effect of destroying their communal and social networks, which has the potential to deprive them of accessibility to economic opportunities, healthcare, education and basic amenities. In doing so, the City unreasonably compounds the legacy of spatial apartheid by failing to provide reasonably located temporary emergency housing in the inner city to evicted persons. The City's mischief was described as a 'retrogressive measure particularly in the light of South African history.' Noting that '[w]hile social housing is undoubtedly important, it should not come at the expense of the human rights of others and their basic dignity.' The Justice termed the City's inconsistency in providing temporary emergency

accommodation for people in informal settlements in the inner city and the Bromwell residents as palpable.

The Constitutional Court directed the City of Cape Town to develop a reasonable Temporary Emergency Accommodation Policy to be implemented together with the National Emergency Housing Programme, in a reasonable manner, consistent with this judgment. It was further directed to provide the residents with temporary emergency accommodation or transitional housing in Woodstock or Salt River or the inner city, and as near as possible to Bromwell, within six months of the date of the order. Caveat being that the residents are still resident at the property and have not voluntarily vacated it. Pending the implementation of the order, the Constitutional Court barred eviction of the residents from their property.



The residents of Bromwell Street in Woodstock contesting their eviction.

Photo: Ashleigh Furlong

Welcome to our interns for 2025

DURBAN

Nhlanhla Mdladla

Nhlanhla Mdladla is a young, vibrant and determined individual. He graduated in 2023 with an LLB degree from the University of Johannesburg. He believes that a society built on social justice and equality has to ensure that the most vulnerable in that society are protected.

“The opportunity to be a part of the ProBono.Org team means that I get to participate collaboratively, and be in the front lines in ensuring that social justice and access to legal protection for the most vulnerable in society is met.”

JOHANNESBURG

Lufuno Siala

“I am a PR and Communications enthusiast with a passion for crafting impactful narratives. I hold a BA in Communication Science from the University of South Africa and I am currently pursuing a BA Honours in Integrated Organisational Communication. I am also further expanding my knowledge by completing short courses in Public Relations and Digital Marketing. I am excited to be a part of ProBono.Org and contribute to the incredible work in advancing social justice. I look forward to playing a role in helping to strengthen both the internal and external communications of such an inspiring organisation.”

Lungelo Nkosi

“I’m a proud Soweto native with a deep passion for human rights, shaped by growing up in a community where access to justice was often limited. I hold a Bachelor of Laws (LLB) from Nelson Mandela University and a Bachelor of Arts (BA) from Rhodes University. I also had the opportunity to work as a trainee investigator at the Johannesburg Office of the Ombudsman, where I investigated cases of maladministration impacting human rights.

Growing up in Soweto, surrounded by diverse cultures, made me fluent in multiple African languages, including IsiZulu, IsiXhosa and Sesotho. This multilingualism and cultural understanding fuel my drive to advocate for justice and fairness. I am currently enrolled as an LLM candidate in Transnational Criminal Justice at the University of the Western Cape, which demonstrates my ongoing commitment to advancing human rights. I am excited and eager to engage with justice, the law, and human rights in my role as a Legal Intern at ProBono.org, where I’m looking forward to learning, growing, and making a meaningful impact.”



Jonathan Malatji

“I am an LLB graduate and LLM candidate in Labour Law at the University of Johannesburg. Growing up in a marginalised and impoverished community in Phalaborwa, Limpopo, I witnessed first hand the socio-economic challenges faced by disadvantaged groups. This experience fuelled my passion to pursue a career in law, advocating for the rights of marginalised communities.

As a former student assistant at the University of Johannesburg’s law clinic in Soweto, I gained valuable experience in public interest law. My aspiration is to become a leading public interest law practitioner in Africa and globally, ensuring the marginalised communities have a voice and access to justice. I seek to establish a strong network of relationships with law firms, legal practitioners, paralegals and other stakeholders who share my commitment for social justice. I am excited about the prospect of contributing to ProBono.Org’s mission for promoting access to justice and advancing human rights.”



Mnothowandile Cele

“My time at ProBono.Org was a very eye-opening experience. I highly recommend that someone who wants to be involved with human rights issues should be able to be given an opportunity to dedicate some of their time at ProBono.Org. As an intern for the Office of the National Director and the Children’s Project, I learnt that making a difference in people’s lives is such a privilege and a huge responsibility for any upcoming legal representative. My advice for the incoming interns would be to never forget your ‘why’, let that reminder be your guide because it will help you remember why you’re here. I am excited for my new journey with another organisation in a management role and I’m looking forward to the journey that my selection in the G20’s technical committee for women and children’s issues relating to GBV has in store for me.”



VISIT OUR WEBSITE AND FACEBOOK PAGE
WHERE YOU CAN READ MORE ABOUT OUR
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