ANNUAL

PRO BONO & HUMAN RIGHTS NEWSLETTER

December 2019

CDH
CLIFFE DEKKER HOFMEYR

ANNUAL

PRO BONO & HUMAN RIGHTS NEWSLETTER

INDEX

THE PRO BONO & HUMAN RIGHTS PRACTICE: A GLIMPSE INTO 2019

The Pro Bono & Human Rights Practice (the Pro Bono Practice) takes great pride and pleasure in reporting that, collectively Cliffe Dekker Hofmeyr Inc (CDH) donated over 9,342 hours (in excess of R21 million) in pro bono legal services to deserving individuals, organisations and causes during 2019.

This significant contribution speaks to CDH's ongoing commitment to promoting social justice and the rendering of top quality, pro bono legal services to people in need. In what follows, we share a glimpse into some of the groundbreaking and noteworthy pro bono work undertaken by the Pro Bono Practice and others in the firm during the course of the year.

Pro Bono Litigation

MARGINALISED FOREIGN NATIONAL MEDICAL GRADUATES: **SO CLOSE, YET SO FAR**

The Johannesburg Pro Bono Practice is assisting an asylum seeker from the Democratic Republic of Congo (DRC) who, against all the odds, managed to graduate with a medical degree from the University of Witwatersrand in 2018. He completed it in record time with an A average, but the National Department of Health (NDoH) is refusing to place him in a medical internship post because of his foreign status.

Despite having met all the requirements he needed to be placed in an internship post, our client's three successive applications for an internship placement during the 2018/19 and 2020 cycles have been unsuccessful. Because the completion of a medical internship at an accredited state medical facility is a compulsory requirement in order to practice as a doctor in South Africa (SA), our client is unable to practice as a doctor either in service of the state or in a private practice.

Despite numerous and tireless attempts on the part of both our client and the Pro Bono Practice to follow up on his applications, the NDoH has furthermore failed to provide formal reasons as to why his three successive applications have been unsuccessful.

Eventually, our client was informally advised that the decisions were based on a new policy introduced by the NDoH, which precludes all foreign graduates from being placed as interns at SA-accredited institutions unless their home governments paid for their position. This in deviation from its own published 2019 guidelines and previous established practice, which provide that once all SA citizens have been placed, any further available posts are to be allocated to permanent residents, refugees and asylum seekers.

It is of course, generally impossible for asylum seekers and refugees, like our client, to obtain the support of their "home governments" to pay for their internships. But even this option was not offered to our client.

The NDoH's stance has not only significantly prejudiced our client who has been unable to find employment but is irrational and unreasonable given the critical shortage of doctors in SA and given that scarce resources were spent on educating our client at the University of Witwatersrand Medical School.

We were accordingly forced to bring an urgent court application to review the NDoH's decision not to place our client and the lawfulness of the NDoH's policy which is both unconstitutional (amongst others, because it unfairly discriminates against refugees and asylum seekers) and incompatible with national legislation.

On the day of the hearing, the State (which not only failed to furnish the requisite record to the court, but also failed to file an answering affidavit) sought a postponement at the request of the Minister in order to enable the NDoH to provide the applicant with a progressive integrated plan as to how the remaining unplaced asylum seekers, permanent residents and refugees who have studied and qualified at SA universities will be allocated internship positions in 2020 and going forward.

MARGINALISED FOREIGN NATIONAL MEDICAL GRADUATES: **SO CLOSE, YET SO FAR**...*continued*

Should the State fail to furnish the requisite plan by 10 December 2019, alternatively should our client not be satisfied with the plan, our client will be entitled to re-enrol his application for urgent consideration on 13 December 2019. We are however hopeful that because of the Minister's last minute intervention, a solution will be found to the crisis in which our client and other similarly placed SA-trained medical graduates find themselves.

THE PRO BONO PRACTICE CONTINUES TO WORK EXTENSIVELY IN OTHER RESPECTS TO FURTHER THE RIGHTS OF ASYLUM SEEKERS/REFUGEES:

Other work undertaken in the asylum seeker/refugee space and the fight against statelessness:

- Assisting asylum seekers and refugees who were unlawfully denied their rights to lodge UIF benefit applications.
- Assisting with obtaining/renewing asylum seeker/refugee documentation and exploring options where available to better legitimise and protect the rights of asylum seekers/refugees in the country.
- Exploring avenues for a refugee who has spent many years qualifying to become a lawyer while living in SA to overcome barriers to gaining entry into the profession.
- Assisting stateless individuals and adult children of refugees who were born in SA and who have lived all their lives here to enforce their rights to citizenship (as is more fully discussed below).
- Assisting an Angolan minor with a severe disability (and his mother) to apply for permanent residency in order to enable him to continue to receive the crucial medical care his condition necessitates.

Pro Bono Litigation

VICTORY FOR BROTHERS IN A LONG BATTLE FOR **CITIZENSHIP**

A matter in which the Johannesburg Pro Bono Practice, has long been fighting for justice for two young brothers, saw the handing down of a precedent setting judgment on 15 March 2019 by the Pretoria High Court in the matter of *Joseph Emmanuel Jose & Another v The Minister of Home Affairs & Others* (Jose matter).

Photo by Madelene Cronje

VICTORY FOR BROTHERS IN A LONG BATTLE FOR **CITIZENSHIP**...*continued*

Despite their best efforts, the brothers were denied the opportunity to apply for the citizenship to which they are entitled under section 4(3) of the South African Citizenship Act (Citizenship Act) by the Department of Home Affairs (DHA) and accordingly were forced to seek legal assistance to assert their rights. Section 4(3) is a provision which was introduced into the Citizenship Act on 1 January 2013 by way of the South African Citizenship Amendment Act (Amendment Act). It makes provision for individuals born in SA to foreign parents who have not been admitted to the Republic for permanent residence, and who have lived in the Republic from the time of birth until obtaining the age of majority, to apply for citizenship. Despite the passage of a number of years since the coming into force of section 4(3), the DHA has failed to put in place the necessary administrative arrangements for people who qualify for citizenship under this provision, to make the necessary applications - including promulgating the necessary application forms – thereby rendering it all but impossible for those eligible to do so, to apply.

In the absence of the necessary application forms, we assisted the brothers to make application by way of affidavit. These applications were, however, all but ignored by the DHA and accordingly we were forced to bring an application to court to enforce their rights. The primary relief sought by the brothers was that the DHA's failure to make a decision in their applications be reviewed and that the Minister be directed to grant each of them citizenship in terms of section 4(3) of the Citizenship Act. Relying on the decision of the Supreme Court of Appeal (SCA) in *Minister of Home Affairs v Ali* (1289/17) [2018] ZASCA, in which the SCA was faced with a similar set of facts, Judge Yacoob dismissed all the DHA's defences and handed down a far-reaching decision in which she ordered the Minister to grant the brothers citizenship within 10 days of the order of the court.

In her judgment, Judge Yacoob rejected the argument put up by the DHA that section 4(3) only confers a right to apply for citizenship and does not confer a right to citizenship itself, and that accordingly the court should remit the applications back to the Minister for his consideration. In rejecting this argument, the court found that where an application in terms of section 4(3) meets all the requirements of the subsection, there is no room for the exercise of a discretion and no basis upon which such application could be refused. In the instant case the brothers' applications did meet all the requirements, and accordingly this was an instance in which there were exceptional circumstances which rendered it appropriate that the court order that the applications be granted.

This decision is a triumph for an entire category of individuals who have been facing immense challenges in enforcing their right to citizenship (a profoundly important right which would prove to be life-changing for these individuals) that Parliament elected to afford them as far back as 2010 with the promulgation of the Citizenship Amendment Act. The DHA has since applied for leave to appeal the judgment and leave was granted to the SCA.

Pro Bono Litigation

LAND RESTITUTION – JUSTICE FOR VICTIMS OF APARTHEID LAND GRABS

The Cape Town Pro Bono Practice acts for a group of land claimants who were all residents of the former Sakkieskamp community near Wellington. The roughly 250 claimants were forcibly removed in the 1970s and were relocated primarily to the Mbekweni area in Paarl. In 1996, under the Restitution of Land Rights Act, the claimants lodged a claim with the Commission for the Restitution of Land Rights. In 2002, Farm 736 in Klapmuts was identified as vacant state land available for the claimants. It was agreed that the Drakenstein Municipality, as owner, would make the Farm available to the claimants for restitution purposes. However, before transfer of title to the claimants was effected, and following external discussions with investors, the Municipality became reluctant to transfer the land to the claimants.

The Municipality advised the Commission that it had resolved that Farm 736 was earmarked as a possible special development node and as a result, the land was no longer available as possible alternative land for restitution purposes. The Municipality still intends to erect a waste incinerator plant on the land, an intention opposed by the claimants and environmentalists alike.

After more than 20 years, the Sakkieskamp land claim has thus still not been finalised. Several of the originally dispossessed persons have either passed away or have opted to take the financial compensation offered to them by the Commission due to despondency and need. Our aim is to take all steps to enforce the rights of the claimants by firstly, ensuring that those who have not yet received restitution are assisted urgently and, secondly, interrogating the circumstances under which the paltry amount of R25,000 in restitution was offered to some claimants in settlement of their claim. We are assisted in this matter by Adv. Tanya Golden SC, Adv. Ria Matsala and Adv. Jared Naidoo.

Pro Bono Litigation

THE RIGHT TO EQUALITY: MILITARY DEPLOYMENT POLICY FOR HIV-POSITIVE INDIVIDUALS

The Cape Town Pro Bono Practice recently acted for the Applicants in the matter *Mr. X & South African Human Rights Commission v South African National Defence Force & Minister of Defence and Military Veterans*, in the Western Cape Division's Equality Court. Mr. X, a reservist in the Naval branch of the SANDF, sought redress under the Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA) in that he was unfairly and unlawfully discriminated against on the basis of his HIV-positive status.

As a reservist in the Navy, Mr. X had worked himself into a position as a Leading Seaman onboard the *SAS Spioenkop*. In 2008, his lifelong ambition of serving at sea was seemingly realised when he received call-up instructions to serve on a three-month long, international seagoing mission aboard the *SAS Spioenkop* on the basis that he had formed a vital part of the ship's company. However, just two days before departure, he was summarily informed that he would be excluded from the mission for medical reasons. Since then, he has not been deployed aboard a sea going vessel, and has been relegated to onshore clerical and guard duties, notwithstanding the fact that he remained operationally skilled, physically fit, healthy and asymptomatic of the only reason for his exclusion, his HIV-positive status.

This barring of Mr. X from both the mission and any further seagoing deployments, was due to a medical categorisation of "*Red*" status, which holds that he is "*not externally deployable*" with his duty restrictions described as "*no duty outside the Republic of South Africa*". In terms of the Department of Defence and SANDF policies, the "*Red*" status entails a "*serious health concern or an unstable health condition with a restriction on operational utilisation*". Based on the facts, it was clear that Mr. X was given this status for no other reason than his HIV status, without any regard to his physical fitness, ability to perform his job or the fact that he suffers from no known illnesses or diseases which would render him medically unfit for deployment.

This must also be seen in light of the SANDF's historical approach to HIV-positive individuals. Following the *South African Security Forces Union v Surgeon General* (SASFU) judgment, the SANDF was forced to re-evaluate its employment and governance policies (Policies) in respect of the right to equal treatment of HIV-positive individuals. Five years after SASFU, the Pretoria High Court again found against the SANDF in *Dwenga and Others v Surgeon-General of the South African Military Health Services and Others* (Dwenga). The court held that the SANDF was implementing these Policies in a manner that made it impossible for any HIV-positive service member to be recruited, regardless of health or fitness. It was, in effect, another blanket ban. The court found that the SANDF had been discriminating unfairly and again ordered the SANDF to assess and implement its policies in a manner that considers each person who is HIV-positive on an individualised basis to determine whether or not they are healthy and fit enough to be recruited. Subsequent to the Dwenga matter and pursuant to a complaint it received from Mr X and a prima facie finding by it that the SANDF had violated his rights to equal treatment and to dignity the SA Human Rights Commission (SAHRC), the second Applicant in the matter, sought certain information from the Respondents in order to ascertain how the SANDF's policy in respect of HIV-positive individuals has changed since Dwenga, how it is implemented and how many HIV-positive service members are actually deployed with a view to determining whether the SANDF continues to engage in discriminatory practices toward HIV-positive service members.

THE RIGHT TO EQUALITY: MILITARY DEPLOYMENT POLICY FOR HIV-POSITIVE INDIVIDUALS...*continued*

On 27 November 2019, judgment in favour of the Applicants was delivered by Ndita J, who found that the Navy's practices and policies imposed an inflexible and absolute rule, which in effect meant that anyone with an HIV-positive status was automatically categorised as "not externally operationally deployable". The court found that the SANDF's implementation of its policies relating to HIV-positive members is inadequate in that decisions are made based solely on a medical categorisation and without regard to any other factors impacting on the health, functions and physical abilities of the member concerned. Accordingly, the court found that SANDF had unfairly, unlawfully and unjustifiably discriminated against Mr. X.

The court confirmed that there may well be legitimate reasons why, in some cases, people could not be placed in certain positions based on their HIV status, but this does not justify a blanket approach. Ndita J held that the indignity and humiliation suffered by Mr. X is regrettable, more so because it was at the instance of the State. As such, the court directed the Respondents to provide the SAHRC with the information it sought within two months from the judgment.

In granting relief, Ndita J agreed that the opposition of the matter by the Respondents was unjustified and that the defences raised by the Respondents were "spurious and disingenuous" and "downright difficult to fathom". For all these reasons, notwithstanding the fact that ordinarily an order for costs is not made in cases of this nature, the court showed its displeasure with the manner in which the Respondents conducted their defence, by granting a costs order against them.

This case, the judgment given and relief granted are significant in that they represent not only a vindication of Mr. X, but a step towards realising a society where HIV is not a barrier to the enjoyment of a meaningful life, where the goals and dreams of those affected by the virus are not restricted by a lack of opportunity or exclusionary policy, but are achievable on an equal footing with the rest of society.

We at CDH are proud to have played our part in obtaining justice for Mr. X, in assisting the SAHRC to play their Constitutionally-protected role of holding our government institutions accountable to the Constitutional rights and responsibilities to which we are all bound, and in protecting the human dignity and right to equality of all current and aspirant deployees of the SANDF who are or may be affected by HIV.

Pro Bono Litigation

VIOLENCE AGAINST WOMEN AND CHILDREN – OLDEST SEXUAL ASSAULT CLAIM IN SOUTH AFRICA

In a potentially precedent setting matter our Cape Town Pro Bono Practice is assisting two sisters (who recently instituted criminal charges for sexual assault perpetrated against them while they were children) to bring a claim for damages suffered as a result of the sexual assault. Their matter is the oldest case of sexual assault being prosecuted in SA.

The criminal charges were brought by the sisters against their stepmother's two brothers, who we are instructed, sexually assaulted them over a period of three years in the early 1970s, following the 2018 judgment of the Constitutional Court in the matter of *Levenstein and Others v Estate of the Late Sidney Lewis Frankel and Others* (Frankel).

In the Frankel judgment the Constitutional Court declared section 18 of the Criminal Procedure Act irrational, arbitrary and unconstitutional insofar as it did not afford the survivors of sexual assault, other than rape or compelled rape, the right to pursue a charge after a lapse of 20 years from the time the offence was committed. This was because the effect of section 18 was to penalise a complainant whose delay was due to his or her inability to act, by preventing him or her from pursuing a charge, even if he or she may have a reasonable explanation for the delay.

Further to instituting criminal charges the sisters approached us to assist them to institute a civil damages claim.

Currently the law governing prescription in the context of damages claims rooted in sexual assault provides that prescription only begins to run from the date on which the plaintiff acquires a meaningful appreciation that the defendant, and not the plaintiff, was to blame for the sexual assault. The usual three-year prescription period applies from there onwards.

On the facts we believe that our clients' claims have not prescribed because expert opinion shows that they only recently came to appreciate they were not to blame for the sexual assault they suffered.

However, in the event that it may be argued that our clients' claims have prescribed in terms of the law as it currently reads, we believe that the civil law - much as the criminal law was in Frankel – should also be developed to recognise the unique psychological factors at play in a sexual assault case. In such event we will seek to have a court amend the civil law of prescription in so far as claims for damages pursuant to sexual abuse are concerned, on the basis that several fundamental rights, particularly the right to dignity, are infringed.

Pro Bono Litigation

OVERREACHING – DEFENDING THE HELPLESS

Our client, the mother of a minor, duly appointed an attorney's firm as her child's legal representative against the Road Accident Fund in 2014. On 17 September 2014 a judgment was granted in favour of the child (who was a minor at the time) for an amount of R5,793,000.00 plus interest and legal costs to be paid into a trust for the benefit of the child. A trust was formed which is currently being administered by one of the major banks (together with other trustees) and the moneys were duly paid into the trust account.

For a prolonged period of time the client had difficulties in accessing trust monies needed for the day to day care and well-being of her child. After numerous failed attempts to reach out to the trustees to work out an arrangement so that her child has access to the funds for his day to day and schooling needs, the client approached CDH with the hope of obtaining pro bono legal assistance to ensure that she can access the necessary funds for the beneficiary. The client also required assistance with lodging a complaint against her previous attorney with the Legal Practice Council to recover monies that went missing from the trust account. One of the teams in our Dispute Resolution Practice took on the instruction and assisted client on a pro bono basis.

Since then an arrangement has been made with the trustees for the client to be provided a reasonable monthly pay out for her child's needs and schooling. Furthermore, on 9 October 2019, a disciplinary committee hearing was held at the Legal Practice Council's office in relation to the complaint lodged. An attorney from our offices represented the client in this hearing. The outcome of the hearing was positive for our client in that the legal practitioner was found guilty of not appropriately accounting to the client as well as overreaching and overcharging the client. The legal practitioner was fined for these transgressions and was duly ordered to provide our client with a full and proper statement of account within 30 days from the date of the hearing's outcome.

Pro Bono Litigation

SUCCESS IN FINALISING PROTRACTED FAMILY LAND CLAIM

Mr F (our client who also represented his uncle who was 89 years old at the time) approached us in 2015 to assist them to try and resolve a long outstanding claim in terms of the Restitution of Land Rights Act 22 of 1994 lodged as far back as 1997. The claim was in respect of a property in Durban of which the family was dispossessed pursuant to the Group Areas Act. The claim was submitted on behalf of the family in 1997.

The KZN Regional Land Claims Commissioner (RLCC) had purported to settle the matter and clients were made to sign a number of documents over the years but for reasons unexplained, the compensation due to them in terms of the settlement was not forthcoming. We took on the instruction on a pro bono basis in 2015. We had little to no knowledge of what had transpired between 1997–2015 when client approached us. All we knew was that the family had pursued almost every avenue to try have the claim resolved, even resorting to the Public Protectors office but still compensation was not forthcoming. Unfortunately, client's father and two uncles died in the interviewing years without ever receiving the compensation due to them.

We took over the instruction and, after much correspondence between us and the then Department of Rural Development and Land Reform (Department) and a threat to resort to litigation, the Department ended up settling (under terms that were favourable to our clients) and after almost 22 years of waiting in frustration and in vain the family's land claim was finally paid. Client is overjoyed.

> *"I don't know how to thank the (CDH) team for the outstanding effort they put in to win the land claim case [in] which all others were defeated. I myself almost surrendered but my last hope was rejuvenated by CDH considering our case... and [resolving] an almost impossible case.*
>
> *To that I salute the team." (client)*

Pro Bono Litigation

THE RIGHT TO EDUCATION: THE PLIGHT OF THE UNDOCUMENTED CHILD

Our Johannesburg Pro Bono Practice represented the SAHRC (which was admitted as an *amicus curiae*) in an important case concerning the right to basic education of undocumented children heard by a full bench of the Grahamstown High Court on 17 September 2019.

The two main issues before the court were the lawfulness of a decision by Eastern Cape Department of Education (communicated by way of a circular on 17 March 2016) to withdraw funding for undocumented learners enrolled in public schools, and the lawfulness of the Department of Basic Education's (DBE) Admission Policy for Public Schools (Admission Policy) as well as certain provisions of the Immigration Act, which the DBE/schools have been relying upon to deny access to schools to undocumented children, many of whom are SA citizens.

The Admission Policy makes it mandatory for a parent to provide a birth certificate for the child concerned when applying for admission of their child to a public school. If the parent is unable to produce a birth certificate the child may be admitted conditionally until a copy of the certificate is obtained from the DHA. However, after three months, if the relevant documentation has not been produced the child faces potential exclusion from school. Meanwhile section 39 of the Immigration Act prohibits "learning institutions" from providing training or instruction to an illegal foreigner and section 42 of the Immigration Act goes on to render it an offence to "aid and abet" or assist an illegal foreigner to obtain instruction or training contrary to section 39.

Evidence placed before the court showed that cumulatively both the Admissions Policy and the provisions of the Immigration Act, have resulted in many children who despite the best efforts of their parents/guardians have been unable to obtain birth certificates, either being forced out of schools or denied entry into schools because of their undocumented status.

The applicants accordingly challenged the constitutionality of both on the basis that they infringe, amongst others, the right to basic education of undocumented children.

The SAHRC made submissions on the proper interpretation of sections 39(1) and 42 of the Immigration Act and demonstrated to the court that if interpreted correctly, the Immigration Act does not in fact prohibit the provision of basic education to foreign undocumented children and invited the court to provide clarity on the proper interpretation of these sections so as to ensure that the deprivation of a basic education to any undocumented learners is no longer permitted as such deprivation has far-reaching social and other implications.

Although the DBE tried to argue at the hearing that the whole matter had become moot because of the fact that the decision to stop funding undocumented children had never been carried out, and because it was planning to revise its Admission Policy, the court heard argument in the matter and reserved judgment.

The case draws attention to the stark reality that hundreds of thousands of deeply vulnerable children in SA (the majority of whom are born to SA parents) face impossible barriers as a result of poverty and an array of systemic administrative hurdles in obtaining birth certificates or other forms of identification, and that many of these children are being denied access to school as a result. Ultimately, the outcome of this hearing will have a profound impact on the lives of many of the most vulnerable children in our country and we hope that the court will take heed of the plight of undocumented children across SA.

THE RIGHT TO EDUCATION: THE PLIGHT OF THE UNDOCUMENTED CHILD...*continued*

The Pro Bono Practice has undertaken other work in the education sector and to promote the right to education:

OTHER WORK UNDERTAKEN IN THE EDUCATION SPACE:

- Assisting a family to claim damages pursuant to the death of their daughter/sister who died tragically by electrocution as a result of an illegal electrical connection in a mobile classroom in a township school. The Gauteng Department of Education was aware of the illegal connection but failed to act.
- Assisting undocumented children living in an informal settlement in a farming community to access their right to education - the children have been excluded from the formal schooling system due to their lack of documentation and are now attending Field of Dreams Childrens Centre. The Centre is a registered NPO, which seeks to provide a safe haven for these children which keeps them mentally stimulated and ready to eventually re-enter the formal schooling sytem should they obtain documentation.

JUST Grace

The Cape Town Practice, conducted workshops in partnership with Just Grace, a non-profit organisation located in Langa focused on the meaningful development and holistic support of the Langa community, for school students enrolled in Just Grace's youth development program. These included a Basic Introducion to Human Rights Workshop.

YOUTH MONTH: A TIME TO ENGAGE AND REFLECT

In June 2019 CDH Young Minds (YM) in conjunction with the Pro Bono Practice planned and implemented a Youth Month initiative aimed not only at empowering some deserving young girls living at a Salvation Army Home, but at inspiring our own young professionals to make a difference.

As part of the initiative on 20 June members of YM and the Johannesburg Pro Bono Practice held an informal get together with approximately 30 young girls resident at the Strathyre Girls Home (Strathyre), a Salvation Army Home situated in Kensington. Strathyre is home to 60 girls between the ages of 3 and 21. The vision of Strathyre is to ensure that the girls, all of whom suffered significant trauma before being placed at the Home, are provided a secure, caring and loving home environment and given an opportunity to heal and develop.

The purpose of the get together was to get to know the girls and provide them with informal mentorship in a nurturing and supportive environment. An inspirational talk was presented to the girls on the importance of self- love, self-affirmation and understanding the meaning of one's name as a crucial tool in establishing one's identity.

As the second component of the initiative YM and the Pro Bono Practice had the great pleasure of hosting Ms. Johanna Mukoki - an entrepreneur, brands ambassador, influencer, motivational speaker and philanthropist who also become a supporter and spokesperson for the Home. Johanna presented a well-attended talk on the importance of having a social conscience as part of modern day living as well as the importance of acts of kindness, living a fulfilling life and striking a balance between climbing the corporate ladder while maintaining a strong sense of self. CDH also ran a donation drive and raised much needed funds for Strathyre in the amount of R13,820.00 along with other goods that were donated to the Home.

In Cape Town, the Pro Bono Practice arranged for 10 young CDHers to visit the Just Grace NGO's headquarters in Langa township, to run a workshop themed "Youth Empowering Youth". The CDHers shared some of the challenges they faced in their journeys to becoming successful young lawyers and the tools they used in overcoming these challenges. The student attendees were invited to share their own challenges, and together with our young lawyers created empowerment posters that shared messages of hope, positivity and encouragement. The posters remain on display at Just Grace as a motivational reminder to the students.

In the same week and in collaboration with the CSR team and the Cape Town first year candidate attorneys (CAs), the Pro Bono Practice also arranged a Friday afternoon cooking session with the Just Grace students. The first year CAs and the CSR team ran a very successful Winter Drive in which the Cape Town office donated a substantial amount of food and drink to Just Grace. The Pro Bono Practice and some of the first year CAs delivered the food collected under the Drive to Just Grace and helped the Just Grace team prepare and serve some of the food to the students. The session ended with the students sharing with us the valuable lessons they'd learned from the two youth month events and how inspired and excited they were to be working with and to be supported by a group of young lawyers.


JUST GRACE
Cliffe Dekker Hofmeyr
promoting access to justice for all
Just Grace
HUBEKA!
www.justgrace.co.za


JUST GRACE


ALWAYS
t gives you value – is your
compromise on them..
ake, make you who you
ife, make it count!!
ack on the life you ha
ry well the 1st time..
YOUNG MINDS


YOUNG MINDS
Respect
Care
Transformation
Team Building
Implementation Plan
Giving
Initiative
Conference
Career
Feedback
Professionalism
Encourage
Good Opportunities
Skills
Integration
Leadership Skills
Objectives
Personal Grow
Communication
Function
Advance
Networking
Determining
Growth
Support Staff
Respect
Engage
Leadership Skills
CONNECTED


YOUNG MINDS

SECTION 27 ADVICE OFFICE **PILOT PROJECT**

Section 27 is a public interest law Centre that seeks to achieve substantive equality and social justice in SA with a particular focus on effecting structural change and accountability to ensure the dignity and equality of everyone. Section 27's priority areas include the right to education and the right to healthcare.

In September 2019, CDH launched a pilot project with section 27 in terms of which CAs from our Dispute Resolution, Corporate & Commercial and Pro Bono Practice areas help staff the section 27 advice office on a weekly basis. During their time at the advice office our CAs assist the paralegals who staff the clinic in various ways, including by attending to clients, drafting letters and memoranda and capturing data.

The twin objectives of this project are to assist section 27 to render valuable legal services to the public and to provide a unique opportunity for our CA's to gain exposure to meaningful public interest work early on in their careers, thereby fostering a sense of community spirit in our young lawyers.

ZOLA ADVICE OFFICE: **MONEY MATTERS**

In August 2019, the Johannesburg Pro Bono Practice in partnership with our Corporate & Commercial and Finance & Banking Practices and the Zola Advice Office hosted a Women's Day finance workshop in Zola, Soweto. A number of eager entrepreneurs and small business owners attended the workshop which focused on themes such as setting up a company/a non-profit organisation (NPO) and various aspects of corporate governance and compliance.

Those who attended the workshop were taken through the processes required for setting up a sole proprietorship, partnership or company. The advantages and disadvantages of each legal vehicle were pointed out and the steps involved and costs of registering a company were also explained to the attendees, along with the advantages of good corporate governance (including increasing the likelihood of obtaining access to capital and the creation of a culture of discipline while building trust amongst stakeholders).

The objective of the workshop was to arm attendees with knowledge on how to regularise their entities and decide on the appropriate structure for their business while promoting proper corporate governance.

The workshop - the aim of which was to empower women in the area who are owners of small businesses and NPO's - was well-attended and very engaging. We are hopeful that this workshop (and other future workshops which we plan to hold) will promote female empowerment and an increase in entrepreneurship in the Zola community.

IKAMVA LABANTU – HOUSING WORKSHOP

Ikamva Labantu is a charitable trust focused on furthering meaningful community development and holistic support in a wide range of areas and in various communities throughout the Western Cape.

The Cape Town Pro Bono Practice, in collaboration with Ikamva Labantu, Daniel Fÿfer and Keanan Wheeler of our Real Estate Practice, created and presented a housing workshop to members of the Khayelitsha community on 3 October 2019. The workshop aimed to educate the attendees on their basic rights in the context of housing related matters and to answer questions concerning proof of ownership, leasing, funding and other general housing related matters.

The first part of the presentation addressed these topics generally by focusing on the nature of ownership and how it can be validly acquired, proven and transferred. The second part of the presentation started by examining the use of property under a lease agreement, the essential terms therein as well as the rights of the lessee and landlord. The third and final part of the presentation focused on the ways in which a home may be funded, including via cash purchase, mortgage bond and/or Finance Linked Individual Subsidy Program funding.

The entire presentation was translated into Xhosa, and was specifically designed to be interactive, with a series of question and answer interludes occurring between slides. These measures ensured that the knowledge was conveyed in a simple, understandable and relatable manner, leaving the attendees empowered.

IKAMVA LABANTU – SENIORS LEGAL CLINIC

As part of a growing relationship between our Cape Town Practice, Ikamva Labantu and ProBono.Org, we have set up legal referral clinics based in Ikamva Labantu's Khayelitsha office. The clinics are staffed by CDH fee-earners who consult with the attendees individually, assess the legal issues at play, and prepare the appropriate letter of referral to an organisation best suited to dealing with those issues (if the issue cannot be resolved at the clinic). This ensures that the attendees obtain access to the legal assistance they require from specialised individuals and organisations, on a pro bono basis.

A total number of four trial clinics were run in March and April of 2019. Following the feedback received from CDHers who staffed the clinics, the Ikamva Labantu seniors who were assisted at the clinics and the organising team, we have reworked the clinic structure to create not only an opportunity for members of the Cape Town office to get involved in community based work, but, most importantly, to effectively and meaningfully provide legal services to those in desperate need. The first revised clinic ran on 2 October and the last clinic for the year ran on 21 November 2019. We are continuing to learn, grow and develop the clinics into a space that meaningfully promotes access to justice for the community members served by Ikamva Labantu.

As part of its mandate to be a driver of social justice, the Pro Bono Practice continues to build and nurture relationships with various public interest organisations with the aim of enhancing the impact and reach which the Practice has on individuals and communities as a whole, in particular the Practice has participated in the following initiatives in 2019:

OTHER PARTNERSHIPS AND INITIATITIVES:

- Ethafeni Multiskills Centre – CDH hosted a Wills and Estates Workshop on 22 November 2019 at the Centre in Tembisa which focused on general aspects relating to the importance of having a will, the requirements for a valid will, differences between testate and intestate succession as well as tips on drafting a will.
- National Schools Moot Court Competition (NSMCC) – we continue to assist with implementation of the NSMCC. This year, three associates assisted with the adjudication of the quarter and semi final rounds of the Competition, while Jacquie Cassette (National Practice Head of the Pro Bono Practice) acted as adjudicator in the final rounds on 29 September 2019 at the Constitutional Court.
- Project O (a youth development organisation that aims to afford underprivileged students a better chance at realising their goals) was assisted by CDH and received advice on entity structures, registration of their chosen entity, tax advice as well as advice on volunteer/employment contracts.
- ProBono.Org – CDH partnered with ProBono.Org by assisting with the staffing of various of its legal clinics including the Master's Help Desk, the Deeds Office Help Desk and the Refugee Law Clinic.
- SASLAW Pro Bono NPC – CDH's Employment Practice has staffed the SASLAW advice Centre for a number of years and has continued to do so in 2019.


NSMCC


NSMCC
NATIONAL SCHOOLS MOOT COURT COMP
www.schoo


NSMCC
NATIONAL SCHOOLS MOOT COURT COMPETITION
www.schoolsmoot.co.za


WILLS & ESTATES


WILLS & ESTATES

ENABLING ACCESS TO HOUSING WITH THE **CDH REAL ESTATE PRACTICE**

The CDH Real Estate Practice, made a sizeable contribution to the firm's overall pro bono work in 2019. Our senior associates, associates and candidate attorneys voluntarily attend the ProBono.Org Help Desk situated at the Johannesburg Deeds Office on an almost weekly basis. Through this initiative and in collaboration with ProBono.Org and the Pro Bono Practice, our practitioners have assisted countless clients who could otherwise not afford legal services.

Matters taken on from the Help Desk have been attended to by our practitioners with care and effort, often going the extra mile for those clients who are unable to travel and have been incorrectly advised in the past. Besides taking on matters, our practitioners have helped many clients to identify the true issue/s at hand and have also provided advice and better-suited referrals for matters that our Real Estate Practice was not best-placed to take on.

Matters from the Help Desk consist primarily of circumstances, which require transfers and/or endorsements to be effected as a result of the death of a family member, and the winding up of such deceased estates. By way of example, we recently assisted a client with the transfer of her family home from her deceased husband's name to her name whereafter we also drafted an agreement and are currently attending to the process in respect of the transfer of two-thirds share in the property from her name into her daughters' names in order to have the family home equally owned by all the remaining members of the family.

In another matter, a client's mother had left the family home to him by way of a will – we have successfully attended to having the family home transferred to the client's name. We have also assisted various client's with rectifications of errors which occurred on their title deeds – often the client's names are incorrectly spelt, or their identity numbers are incorrectly captured. Through a number of endorsements, we have successfully rectified these errors.

The CDH Real Estate Practice looks forward to helping many more members of the community with real estate related instructions in 2020.

OUR TEAM

For more information about our Pro Bono & Human Rights practice and services, please contact:

Jacquie Cassette
National Practice Head
Director
Pro Bono & Human Rights
T +27 (0)11 562 1036
E jacquie.cassette@cdhlegal.com

Tricia Erasmus
Senior Associate
Pro Bono & Human Rights
T +27 (0)11 562 1358
E tricia.erasmus@cdhlegal.com

Gift Xaba
Associate Designate
Pro Bono & Human Rights
T +27 (0)11 562 1089
E gift.xaba@cdhlegal.com

Brigitta Mangale
Senior Associate
Pro Bono & Human Rights
T +27 (0)21 481 6495
E brigitta.mangale@cdhlegal.com

JOHANNESBURG

1 Protea Place, Sandton, Johannesburg, 2196. Private Bag X40, Benmore, 2010, South Africa. Dx 154 Randburg and Dx 42 Johannesburg.
T +27 (0)11 562 1000 F +27 (0)11 562 1111 E jhb@cdhlegal.com

CAPE TOWN

11 Buitengracht Street, Cape Town, 8001. PO Box 695, Cape Town, 8000, South Africa. Dx 5 Cape Town.
T +27 (0)21 481 6300 F +27 (0)21 481 6388 E ctn@cdhlegal.com

STELLENBOSCH

14 Louw Street, Stellenbosch Central, Stellenbosch, 7600.
T +27 (0)21 481 6400 E cdhstellenbosch@cdhlegal.com