

One-Child-a-Year campaign - Lawyers called to commit

ProBono.Org recently held an information-sharing seminar to launch its One-Child-a-Year campaign. Through the campaign, ProBono.Org aims to secure legal representation for children in need and to get attorneys and advocates to oversee and monitor the entire process of ensuring the child's wellbeing. Volunteers are asked to make at least one-year's commitment to a matter involving one child. The lawyer will be tasked to ensure that he or she represents the child at court and that the case is properly finalised in the interests of the child.

According to ProBono.Org's head of staff attorney, Annelie du Plessis, children are one group in particular that needs protection, support and proper care, but they often face abuse, neglect or maltreatment. She said that they are the members of society that most frequently have no voice within the legal system.

Speakers at the seminar were child development and protection consultant at the Johannesburg Child Advocacy Forum, Luke Lamprecht, who spoke on the issues related to the handling of child clients; attorney at the Centre for Child Law, Carina du Toit, who spoke on curatorship in the High Court; senior associate in the *pro bono* department of Hogan Lovells, Michal Johnson, who discussed legal representation involving children; and a magistrate from a Children's Court who asked not to be named. She discussed the need for *pro bono* services in children's matters.

The magistrate highlighted how the court where she works deals with as many as 40 cases per day. She said that the cases range from abuse, abandonment and trafficking, to the removal of children from unsafe or violent conflict situations. In one instance she said that a mother was said to have been sexually advertising her minor children online. The magistrate said that they have heard of reports of social workers selling babies, of children being placed back in very abusive or violent situations, of children being repeatedly raped or sexually exploited and abused, due to a lack of prosecution, and children abandoned to fend for themselves without any proper support or alternative placement. She said that sometimes the places of safety where children should be protected, are places filled with neglect and danger, and added that this is where attorneys can play a role as they would help make



Senior associate in the *pro bono* department of Hogan Lovells, Michal Johnson, and attorney at the Centre for Child Law, Carina du Toit, were part of the panel at ProBono.Org's information sharing seminar at the launch of its One-Child-a-Year campaign.

sure that the children are placed in a safe place, when seeing the case through from beginning to end.

Ms du Toit said that lawyers should apply to become curators in situations where children are orphaned or for various other reasons, have no one to look after their financial, educational and social interests. She said that a curator is usually appointed for a specific purpose, adding that this appointment is usually not permanent and does not have the same broad powers as a *curator bonis* to manage the child's life.

Ms Johnson said that mediators must ensure that children have their own representatives so that their voices are heard in family conflict situations. She said that in all circumstances where children are involved in legal proceedings, they must have their own independent legal representatives.

Ms Johnson said that s 28 of the Constitution provides that every child has the right to have a legal practitioner assigned to them by the state, at the expense of the state, in civil proceedings affecting the child, if substantial injustice would otherwise result.

Ms Johnson stressed that 'this child' included children who are not South African citizens.

In quoting s 14 of the Children's Act 38 of 2005 Ms Johnson said that the section provides that 'every child has the right to bring and to be assisted in bringing, a matter to a court, provided that the matter falls within the jurisdiction of that court'.

Ms Johnson added that there are different kinds of legal representation of-

ferred to a child. This is representation by -

- Legal Aid South Africa - Legal Aid SA has the power in terms of s 3 of the Legal Aid Act 22 of 1969 to render legal assistance to a minor at the state's expense. She added that the Legal Aid SA is not constrained by the need to obtain the parent's consent or a court order;

- attorneys or advocates as legal representatives for the child;

Ms Johnson stressed that this cannot be undertaken where a child cannot or will not give instructions. She said that the practitioner's duty is to ascertain the child's views, present the child's views logically, argue the standpoint of the child and provide the child with a voice; and

- legal representatives as *curators ad litem*.

In conclusion Ms Johnson said that there is a growing realisation that children need to be represented. She added that the Office of the Family Advocate does not function in this capacity as it has a different role.

According to Mr Lamprecht, the implementation and interpretation of the law has become a barrier to children accessing rights. He added that the law was meant to open a 'basket of services' to children, but that those involved are often not adequately trained and are under-resourced. Mr Lamprecht added that he believes that some rights are not met and that some are even regressive. He concluded by saying that there was a crisis in child protection and development.

Ms du Plessis said that ProBono.Org undertakes to secure cases for the volunteer attorneys and advocates through its close association with the children's courts, non-governmental organisations - particularly those that work with children - social workers and health care practitioners. She said that ProBono.Org will be tasked to obtain proper instructions, background information and supporting documents and to ensure that these cases where children are in need of legal support are taken up by *pro bono* lawyers.

At the time of going to print Ms du Plessis told *De Rebus* that six advocates and ten attorneys had volunteered to be involved in the project.

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