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OFFICE OF THE FAMILY ADVOCATE

Western Cape

SPECIAL EDITION

OFFICE OF THE FAMILY ADVOCATE

Western Cape

A sad reality is that almost every day, when you tune into your radio or television set; you will most likely come across a gruesome news story on gender-based violence, targeted mostly at women and/or children.

As the report of these incidents continue to rise at an alarming rate, one might not help, but wonder if government in particular and society in general are slowly losing the fight against gender-based violence. Having said that, it is, by no doubt, that government, through various stakeholders and platforms, is trying by all means to ensure that the scourge of gender-based violence is dealt with once and for all.

The Department of Justice, as a primary custodian of the Constitution as well as the champion of human rights, has been working tirelessly to ensure that it plays its part in protecting and promoting human rights in its entirety, particularly children's rights.

As a result, we bring you a **Justice@Work** special edition, specifically looking at the strides made by the Western Cape Office of the Family Advocate (OFA) in protecting the best interest of children whilst promoting and creating an enabling environment for their health and well-being.

Read more about the strides made by this office, including interesting stories on how - over time - has managed to rescue children who find themselves in the crossfire of squabbles involving their parents and families with a potential adverse effect on their lives.

We further share with you ground-breaking opportunities in the form of learnerships offered by the Western Cape OFA not only giving exposure to young graduates but also giving them a lifetime opportunity to further illuminate their career paths. Find out more on how these young enthusiastic graduates had to say about their experience.

Partnerships, especially within the public service are very crucial if one wants to use the limited available resources to a maximum effect. Read more on how Western Cape OFA has built solid relationships with various stakeholders in the public and private sector to ensure that the work of this office is impactful.

In many success stories, there are usually individuals driving such accomplishments. **Justice@Work** fills you in with some interesting profiles of individuals who have consistently ensured that the OFA continues to prioritise the best interest of children.

We hope that as you enjoy reading these stories, you would be inspired and encouraged to play your part in ensuring that we all contribute to make South Africa a safe haven for children.

Until next time,

Luyanda Makapela

Editorial team

Editor-in-chief

Nina Bhaktawar
NBhaktawar@justice.gov.za

Editor

Nomusa Mngadi
NMngadi@justice.gov.za

News Editor

Luyanda Makapela
LMakapela@justice.gov.za

Sub-editor

Rodgers Ndhlovu
RNdhlovu@justice.gov.za

Contributors

Mokgethwa Ngoepe
MNgoepe@justice.gov.za

Luyanda Makapela
LMakapela@justice.gov.za

Tsundzukani Maswanganyi
Tsmaswanganyi@justice.gov.za

Rodgers Ndhlovu
RNdhlovu@justice.gov.za

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Doing extra-ordinary work for her office pays off

Mokgethwa Ngoepe

“I have deep interest in serving communities, more especially in matters involving children; this has found meaningful expression through the work I do at the Office of the Family Advocate.”

- Advocate Shirin Ebrahim

The Western Cape Office of the Family Advocate's (OFA) achievements do not go unnoticed as they did not come easy but through hard work, thanks to the dedicated leader, Principal Family Advocate Shirin Ebrahim, who has risen through the ranks within the office, acquiring vast experience in her journey.

Born in northern KwaZulu-Natal, in a small semi-rural neighbourhood of Dundee, Advocate Ebrahim is equipped with an LLB and LLM degrees and various certificates relating to mediation, strategy and management. She is also an admitted Advocate of the High Court, previously employed at a legal firm in Durban where she specialised in commercial, labour and family law matters.

“I have deep interest in serving communities, more especially in matters involving children; this has found meaningful expression through the work I do at the Office of the Family Advocate,” she says.

Having joined the Department in 1997, Advocate Ebrahim initiated the idea to enhance service to communities and children through expanding the OFA's footprint and network, which ultimately gave birth to the establishment of the Worcester, Mitchells Plain, and George offices.

Reflecting on her career journey within the Department, Advocate Ebrahim started as a Family Advocate in Johannesburg for a year before she was transferred to the Cape Town office, and subsequently appointed as a Senior Family Advocate in 2000. She occupied the office for five years and was then appointed as Principal Family Advocate of the Western Cape in 2005 where she is still serving to date.





Team Western Cape: Officials from the Western Cape Office of the Family Advocate.

“I was wondering how we could assist the vast number of law graduates who need to find their feet within the legal fraternity and understand law in the public service. I discovered a few LLB graduates through a referral and they expressed interest in being mentored in law.”

- Advocate Shirin Ebrahim

Advocate Ebrahim attributes the continued role of extending services and enhancing the quality of those services to the assistance of a competent team which has been working tirelessly, at various stages of her journey.

Under her leadership, the office initiated an in-service training for social work students from the University of the Western Cape (UWC), a project which is the brainchild of Family Counsellor Manager, Ms Laura Baartman, implemented by Advocate Nashville Britz, together with Mr Mzonkwe Sikhweza, a former Family Counsellor Supervisor who has now advanced to a Family Counsellor Manager post in the Northern Cape.

“The social work students have benefited greatly from this process; we have made it an annual project that we aim to grow in leaps and bound,” says Advocate Ebrahim.

Passionate about student development and intergenerational skills transfer, she also initiated a mentorship programme

which was equally successful as the learnership programme earlier this year.

“I was wondering how we could assist the vast number of law graduates who need to find their feet within the legal fraternity and understand law in the public service. I discovered a few LLB graduates through a referral and they expressed interest in being mentored in law,” says Advocate Ebrahim, adding that the office further assisted by allowing students to gain proper exposure in the following fields:

- Criminal law
- Family law
- Estates guardianship
- Labour law
- Commercial crime
- Services by the state attorney and
- State law services

This, according to Advocate Ebrahim, presented an opportunity to strengthen the students' understanding of public service, law and different sectors.

"This, of course, is not a departmental programme. It is rather an initiative that we could do on our own by way of contributing to the development of insight into law in the public service. We have to do this by providing experience in various areas of law and by doing so, are trying to empower the youth and make them attractive candidates for future employment," she explains.

Advocate Ebrahim reveals that she had a clear and well thought approach to this mentorship programme. "Together with the mentees, we had an understanding that we could only offer exposure and experience without a stipend or remuneration. It was a six weeks programme; each student was dedicated to an office and the mentees were profuse in their appreciation for this opportunity," she concludes. ●

Benefits of consulting with the Family Advocate:

- If the parents/parties reach an agreement on the care and contact of their children, the matter does not proceed to court, thereby **saving legal costs and time**.
- **Courts will not readily issue a decree of divorce** where there is a dispute regarding minor children without the report or recommendations of the Family Advocate.
- The Family Advocate can **amend or terminate parental rights and responsibilities agreements** registered by the Family Advocate's office. This means that the parents/parties do not have to go to court if they want to amend the agreement when the need arises.
- Parental rights and responsibilities agreements or parenting plans registered with the Family Advocate have the **same legal effect as a court order**.
- **Courts or Judicial officers** are required by law to consider the report and/or recommendations of the Family Advocate when making a decision in the best interests of a minor child.



Cape Town OFA gives hope to children

Tsundzukani Maswanganyi



Following a tragic death of both parents in 2014 and 2015 respectively, two children were left in the care of their maternal uncle who saw an opportunity to benefit from the family's estate.

After his brother-in-law passed away in 2015, the uncle immediately moved into his late sister's home. As an 'unscrupulous' guardian, he immediately took advantage of the situation and sold the family's material possessions, including three vehicles owned by the deceased.

The late parents had left behind a house, three cars, policies and monies in pension fund for the benefit of their children. Observing the situation, the children, who were aged 17 and 14-years-old respectively at the time, raised their plight to their paternal family. However, fearing a backlash from the paternal family, the uncle, together with the maternal family, applied for custodianship of the children in January 2016 to legally alienate the paternal family.



They (maternal family) wanted to keep the children in order to benefit from their inheritance, regardless of who the children preferred to live with."

- Ms Esther Ngxekela

However, Ms Esther Ngxekela, who is a paternal aunt of the children, in turn, filed a counter application for custodianship of the children. "The death of my brother and his wife caused bitterness between the maternal and paternal families which resulted in a nasty tug of war in pursuit of the children's guardianship," she states.

Ms Ngxekela, who lives in Harare, Khayelitsha, Cape Town, reveals that the children preferred to live with her instead of their uncle. "They (maternal family) wanted to keep the children in order to benefit from their inheritance, regardless of who the children preferred to live with," she recalls.

According to Ms Ngxekela, securing guardianship of the children was an endless bitter battle. She first applied at Khayelitsha Magistrate's Court in 2016. However, the matter was transferred to the Western Cape High Court



I am so thankful for the work of this office (OFA) if it was not for their help, I would not have secured guardianship of my late brother's children."

- Ms Esther Ngxekela

as guardianship is granted by the high court. "Finally, the high court granted an order for the application to be referred to the Office of the Family Advocate for further investigation," she said.

The Cape Town Office of the Family Advocate (OFA) investigated the matter and both the maternal and paternal families were interviewed to assess the suitability of each family's capability to raise the children. Family Advocate Amanda Stemele, who was assigned the matter, says after successful intervention, her office managed to uncover that the three vehicles belonging to the family estate were sold by the children's uncle for his own reasons.

"The matter took longer than usual to conclude because the office was experiencing severe staff shortage at the time," she states, adding that the case was handed over to her at a later stage as she was still new in the office in September 2018. She, however, finalised the matter in November 2018.

Her colleague, who works as a Family Counsellor, Ms Ncebakazi Mlunjwa, had to interview the children in October 2018 and further offered counseling sessions.

The OFA then subsequently compiled a report and the recommendations were forwarded to the Western Cape High Court for a decision. "After realising the implications of their actions, and seeing that they do not stand a chance to win guardianship of the children in court, the maternal family retracted from appearing in court so they had to do *ex parte* application for the high court, meaning there was no one contesting with Ms Ngxekela," explains Advocate Stemele.

Ms Ngxekela, a single mother of three, could not hold back her excitement about the professional service she received at the OFA.

"I am so thankful for the work of this office; (OFA) if it was not for their help, I would not have secured guardianship of my late brother's children."

She also expressed appreciation for the assistance of Advocate Stemele, whom she says was very helpful and supportive, and handled her case with diligence.

"This office has given my brother's children a second chance in life. I am coping very well with the children; I am giving them back the maternal love they lost when their mother passed away and this can be seen by the improvement and excellence in their school performance," says Ms Ngxekela. ●

The rights of parents

Parents are expected to:



Take care of their child/ children.



Maintain contact with their child/children.



Act as a guardian to their child/ children.



Provide financial support to their child/children.



Provide for the needs of their child/children.



Justice at last: Ms Esther Ngxekela is happy that the Cape Town OFA secured the future of her brother's children.

Ground-breaking OFA, university partnership empowers graduates

Rodgers Ndhlovu

The South African government has prioritised skills development amongst young people to respond to its needs of economic and employment growth, essentially to drive the future prospects of the country forward. The Cape Town Office of the Family Advocate (OFA) is already dancing to the tune and has produced outstanding results.

In response to skills shortage in the field of social work, Ms Laura Baartman, Family Counsellor Manager at the Cape Town OFA, initiated a partnership with the University of the Western Cape (UWC) back in 2017 to afford fourth year students an opportunity to obtain forensic social work exposure.

Ms Baartman explained that the OFA environment demands a specialised set of skills, particularly forensic social work, which is not presently offered as part of the curriculum in most of the country's tertiary institutions.

“Our first intake of seven students have already graduated. They performed remarkably well and we were able to witness that first hand because we are part of the panel they present to in campus about their development in our social work setting.”

- Ms Laura Baartman

“The criterion for the social work modules offered in universities is different to our setting because we operate in a socio-legal environment. This is in contrast to the normal social work studies offered at tertiary institutions which focus on the welfare



Beneficiaries: Students who benefited from the Western Cape OFA graduate in-training programme, with Advocate Nashville Britz (centre).

Coming from the rural village in Mthatha, my mentor advised me to obtain urban social work experience. I therefore learnt of the OFA from my lecturer and this is how I knew of the Clinical Observation of Forensic Social Work programme which has empowered me both personally and professionally.”

- Siphso Gebhu, Walter Sisulu University



Mentoring: Ms Laura Baartman (second from right) together with Advocate Shirin Ebrahim (first from right), in discussion with the first intake of students.

environment,” she highlights, adding that forensic social work, therefore, spiked interest to the UWC when she pitched the idea to them.

The partnership, named Clinical Observation of Forensic Social Work, has recently welcomed five students who are part of the second intake since its inception in 2017. “Our first intake of seven students have already graduated. They performed remarkably well and we were able to witness that first hand because we are part of the panel they present to in campus about their development in our social work setting,” she explains.

The partnership, adds Ms Baartman, enables the office to equip students on what it takes to be an expert witness, further teaching them about the legal environment instead of the welfare scope of social work practice.

One of the graduates, Siphso Gebhu, from the Walter Sisulu University in the Eastern Cape, who was part of the first intake, says he gained a wealth of knowledge and skills. “Coming from the rural village in Mthatha, my mentor advised me to obtain urban social work experience. I therefore learnt of the OFA from my lecturer and this is how I knew of the Clinical Observation of Forensic Social Work programme which has empowered me both personally and professionally.”

Ms Baartman encouraged other OFA offices to consider partnering with institutions of higher learning in their respective provinces. “Offices that are interested in developing such a partnership have to approach the social work heads of departments at any university and propose the benefits that comes with the programme.”

The proposal, she adds, has to highlight how the programme will benefit final year students through the socio-legal setting of the OFA in light of the new developments in specialisation because it is the future of social work.

According to Ms Baartman, the partnership does not only benefit students, but also assists her office to address human resource constraints as students are able to participate in outreach programmes, supervised contacts and home visits thereby providing auxiliary social work services. ●

UWC social work students benefit from internship; thanks to OFA

Rodgers Ndhlovu and Mokgethwa Ngoepe

Twenty-one-year-old Aluta Sneke strongly believes that the internship programme offered by the Cape Town Office of the Family Advocate (OFA) has inspired her to pursue a Master's Degree in Social Work.

Aluta, a University of the Western Cape (UWC) student, is one of the five final year social work interns who is part of the second intake of students absorbed by the Cape Town OFA's Clinical Observation of Forensic Social Work internship programme currently in its maiden year of existence.

The young aspiring social worker, who hails from Tsomo in the Eastern Cape, said the internship programme has opened up a completely new world of social work which she never heard of before.

"As much as the internship programme is very fascinating and challenging, due to the fact that our modules do not correlate with the work that we do here at the OFA; this is mainly because the university curriculum focuses on the clinical aspect of social work, whilst the OFA specialises in forensic social work," explains Aluta.

The internship programme, she adds, gave them exposure on the challenges confronting South Africans, more especially children, a reality she learned about when conducting home visits and consulting with members of the public.

"I would have probably ended up aspiring to be just like any other normal social worker, nonetheless, I am now very much keen to pursue my Masters in Forensic Social Work - thanks to this internship programme which enlightened me to change my future plans."

Her fellow intern, also from the UWC, Fikile Msiza, also admires the exposure



I am now very much keen to pursue my Masters in Forensic Social Work - thanks to this internship programme which enlightened me to change my future plans."

- Aluta Sneke

she obtained from the different operations of the OFA. As a final year social work student, she grabbed the opportunity with both hands after learning what the family advocate's work entails. "I do a lot on investigative research here at the Office of the Family Advocate which is fact-based, I find that intriguing and fascinating at the same time," she says.

Prior to securing her internship which she started this year in February, Fikile conducted her practical work at Durbanville Children's Home. "It was a completely different job, I did counseling with children but I discovered that there are more interesting streams in social work including the forensics," she says, adding that she also plans to pursue Masters in Forensic Social Work.

Her role as an intern includes one-on-one interviews and family consultations, assessments and mediation. She believes that follow-ups form an essential part of OFA work; thus, she ensures that regular feedback is provided on all matters allocated to her. "When the matter is done, feedback is very important in this regard."

She expressed appreciation to her supervisors for the support they give her by ensuring that she is well equipped with OFA experience. "I learn a lot every day; there is absolutely no doubt that this experience will build me to become a better person in future. Opportunity comes once so I need to utilise every moment to maximise my knowledge," says Fikile. ●



I learn a lot every day; there is absolutely no doubt that this experience will build me to become a better person in future. Opportunity comes once so I need to utilise every moment to maximise my knowledge."

- Fikile Msiza



Learning curve: Fikile Msiza, UWC student training at OFA Cape Town Office.

Passionate WC family advocate up for the dual task

Rodgers Ndhlovu



Hardworking: Advocate Jana Gerber's inspiration comes from children's interests.

"The thought that my extra effort has a direct impact to the wellbeing of children is all it takes to inspire me to continue devoting my time to ensure that both offices are operating optimally."

- Advocate Jana Gerber

As the Head of the George Office of the Family Advocate (OFA), little did Advocate Jana Gerber know that hard work at an elementary stage of her career was going to mould her to adapt in future challenging responsibilities which she is currently juggling with ease.

Apart from running the George office, she also provides support to the Worcester's Office of the Family Advocate which is 400km away.

Hints of her destiny to greatness can be traced back to her rookie days as a young candidate attorney serving articles at the Stellenbosch's Law Clinic. She was instrumental in establishing the Family Law Section focusing on children at the law clinic.

"I sold the idea to the then office manager; we sourced funding for the project and thankfully, Legal Aid South Africa and other private donors came on board. I was able to run the project for six years," she recalls. Running a project of this magnitude, equipped her with



management skills at an early stage of her career, served as a gateway to a world of opportunities for Advocate Gerber when she later joined the OFA.

Armed with an LLB degree from Stellenbosch University, managing various responsibilities is not new to her, thanks to her management skills acquired at the Stellenbosch Law Clinic. Advocate Gerber hit the ground running when she was requested to assist with some management duties immediately upon joining the Department as a family advocate in 2014.

“ I hope that family courts can be established in South Africa because I would love to be one of the presiding officers in such a court.”

- Advocate Jana Gerber

When joining the Department back then, she realised that the head of office position in the George office was vacant. Western Cape OFA Head, Advocate Shirin Ebrahim subsequently made a proposal that Advocate Gerber could not resist when she asked her to perform some of the responsibilities of the vacant post.

“I assisted with the duties for a year and after the post was advertised, I applied for the position and became the successful candidate,” she reveals. Just when she was settling into her new role, Worcester’s head of office was transferred to the Cape Town office. “It was decided at our provincial meeting that I should also serve as an acting head of office when the Worcester’s post became vacant, a role that I have been fulfilling to the best of my ability on a voluntary basis since September 2018,” she says.

Advocate Gerber says managing two offices that are approximately 400km apart does not come without challenges. “I believe in an open door policy; although it is sometimes challenging to meet with Worcester officials regularly when I am in George. However, on a monthly basis, I ensure that I spend five days in Worcester in order for officials to have direct interaction with me on issues pertaining to the office.

“The thought that my extra effort has a direct impact to the wellbeing of children is all it takes to inspire me to continue devoting my time to ensure that both offices are operating optimally,” says Advocate Gerber.

Speaking of her future career prospects, Advocate Gerber believes she still has a huge role to play in the family law field. “I hope that family courts can be established in South Africa because I would love to be one of the presiding officers in such a court.” ●

Western Cape justice initiative realises graduates' dreams

Mokgethwa Ngoepe

While the country is experiencing high unemployment rate with post-graduates sitting at home without jobs, the Cape Town Office of the Family Advocate (OFA) is proud that its initiative of giving final year students an opportunity to obtain practical experience and gain exposure to the public sector is reaping rewards.

Thanks to Western Cape OFA Head, Advocate Shirin Ebrahim, for the idea which has now grown in leaps and bounds further extending to other stakeholders such as the National Prosecuting Authority (NPA), Cape Town Master's Office and the Legal Aid South Africa (Legal Aid SA).

Speaking about the experience and exposure students received in her office, Cape Town Assistant State Attorney, Ms Charlene Van Tonder said the OFA has done exceptionally well by introducing the idea.

Due to the staff shortage in her office, Ms Van Tonder appreciates the hard work and dedication the students display during their stay. "There are only two attorneys in the office and one secretary, you can imagine the lot of work we have, but we are now excelling

"The majority of the students did theoretical work at school and we provide them with the practical in a form of a public service experience; this will help open doors for them in future."

- Ms Charlene Van Tonder.



Mentors: Western Cape OFA Head, Advocate Shirin Ebrahim and Assistant State Attorney, Ms Charlene Van Tonder.



It was such a lovely experience to be placed in the Office of the State Attorney, because I had served my articles at private law firms. I must admit, this was the best experience that I would never exchange for anything in future..."

-Taheera Mohamed-Razak



Beneficiary: Taheera Mohamed-Razak

every day, thanks to the help we are receiving from these students," she says.

Ms Van Tonder further mentioned that seven mentees who were final year students, from various tertiary institutions within the Western Cape were given an opportunity to obtain experience in various fields of law, including courts and working on simple to difficult cases.

Ms Van Tonder also mentioned that she had a lot of files sitting in her office but since the arrival of students, they work tirelessly and reduce the workload. "As we speak, one of the students got a job at one of the law firms. The majority of the students did theoretical work at school and we provide them with the practical in the form of a public service experience; this will help open doors for them in future."

One of the mentees, Rezaahna Booyens said she learnt a lot during their stay in the office. "When I first came here, I did not

know how to write a judgement, but through the guidance from my mentors I am now able to do that."

Born in Malabar, Port Elizabeth, Rezaahna obtained her LLB degree from the University of the Western Cape. "I have really enjoyed my stay during our six weeks programme because we got exposed to other things that we initial did not know from school. The Office of the State Attorney has always been the best for me; I wish to comeback and work for them one day."

Taheera Mohamed-Razak, who also benefited from the programme, had qualified many years ago in Bachelor of Arts, majoring in English Literature and Private Law from the University of Cape Town back in 2001. She took a gap year and decided to study law, finally graduating in 2009. After serving her articles, she then left and focused on a family business.

"It was such a lovely experience to be placed in the Office of the State Attorney because I had served my articles at private law firms. I must admit, this was the best experience that I would never exchange for anything in future, it was such a wonderful insight to be placed within a public sector," says Taheera. ●



When I first came here, I did not know how to write a judgement, but through the guidance from the mentors I am now able to do that."

- Ms Rezaahna Booyens



Empowered: Rezaahna Booyens, LLB degree student from the University of the Western Cape.

Western Cape OFA opens doors to unemployed graduates

Rodgers Ndhlovu

The career prospects of a young LLB graduate from the University of Pretoria have turned around for the better, thanks to the mentorship programme conducted by the Western Cape Office of the Family Advocate (OFA).

As an aspiring law practitioner, who, ideally, was hoping to work in the Master of the High Court environment, Fadila Ismail, just like millions of graduates around the country, struggled to find employment after graduating with an LLB degree in 2014. She relocated to Cape Town in 2018, but her lack of experience proved to be a stumbling block during her job-hunting exercise.

"I seriously struggled to find employment because the market for inexperienced law graduates is very tough. Therefore, I then took it upon myself to speak to a number of experienced law practitioners, until I was finally introduced to the Western Cape Principal Family Advocate Shirin Ebrahim who runs a mentorship programme aimed at imparting skills to young law graduates," she recalls.

After consulting Advocate Ebrahim, Fadila immediately signed up to be part of the mentorship programme in January this year. The eight week mentorship programme exposed her and other graduates to the following aspects of law: Office of the Family Advocate; National Prosecuting Authority (NPA); Office of the State Attorney; Cape Town Master's Office; Office of the Chief State Law Advisor.

"I have always wanted to work as a lawyer within the public service; I never had experience in family or criminal law. However, this programme has exposed me to those key aspects of law. But I must admit, the Master's environment stood out for me," says Fadila.

For her, working in the Cape Town Master's Office has been an interesting journey to learn about estates and civil litigation; she served articles at a law firm that operates in the same area of speciality. "It was fascinating to learn how the work I did in the law firm was received on the other end in the Master's office," she remarks.

Blown away with the magnitude of experience she obtained in a short space of time through the mentorship programme, and eager to learn more within the Family Advocate, Fadila proposed to Advocate Ebrahim to continue working on a voluntary basis.



Aspiring lawyer: Fadila Ismail visiting the OFA again after her big break in law.

"If it was not for this exceptional mentorship training by Advocate Ebrahim, I would not have secured this position. I really thank the Department of Justice for giving me an opportunity to learn so much."

- Fadila Ismail

Thanks to the valuable experience she obtained, Fadila's stint was cut short after she bagged permanent employment at a law firm within a week of voluntary service.

"The recruitment agencies were stunned that I was the only candidate with a base of experience amongst my peers. I am now working as an associate attorney at M-Incorporated responsible for litigation and debt counselling," an ecstatic Fadila says, adding that she has not abandoned her dream of working in public service and hopes to join government in the near future.

"If it was not for this exceptional mentorship training by Advocate Ebrahim, I would not have secured this position. I really thank the Department of Justice for giving me an opportunity to learn so much within a very short space of time, the sky is the limit," she says. ●

Tough magistrate with a soft spot for children

Rodgers Ndhlovu

“Children are very close to my heart; this is the reason why I also felt a need to contribute immensely in the Western Cape Office of the Family Advocate as their core mandate is to protect the interests and well-being of children.”

- Cape Town Chief Magistrate, Mr Daniel Thulare

Children deserve to be loved, cherished and allowed to grow up in a healthy environment and there is arguably no better individual who walks the talk better than the Cape Town Chief Magistrate, Mr Daniel Thulare, who continues to invest his time on family law, particularly where children's issues are concerned.

Mr Thulare, who also doubles as an Acting Western Cape High Court Judge, is one of the legal shining stars advocating for children's rights and wellbeing. This is testament not only through the work he has carried out over the years, but by the fact that he is currently busy with his doctoral thesis with a particular interest in family law.

From a gruesome upbringing and growing up in family of 11, raised by a single mother, Mr Thulare is all too familiar with the challenges confronting children in South Africa. “Children are very close to my heart; this is the reason why I also felt a need to contribute immensely in the Western Cape Office of the Family Advocate as their core mandate is to protect the interests and well-being of children.”

Justice@Work recently met up with Mr Thulare at the Offices of the Family Advocate in Cape Town where the soft-spoken legal guru reminisced on how it all started.

He reflected back on how the burden of raising 11 children took its toll on his mother's meagre domestic worker salary,



A solid partnership: Cape Town Chief Magistrate, Mr Daniel Thulare with OFA Western Cape Head, Advocate Shirin Ebrahim.

affecting him from generating enough funds to acquire tertiary education. Instead, poverty forced him to work on menial jobs such as mixing cement and concrete for a construction company, a job which oddly inspired him to further his studies.

"Bear in mind that I already had matric when I worked in the construction company and my boss then, who was a bricklayer, only had standard one. Because I passed standard 10 at the time, he named me 'Matrikulant' in a derogatory way which essentially meant that my matric was insignificant to him," he recalls.

Mr Thulare remembers how the tag hurt him and, in turn, motivated him to continue studying regardless of the circumstances. "I therefore worked during the day and studied in the evening, ultimately joining the Department as a court interpreter in 1991."

Although he was studying part time, Mr Thulare managed to complete his B Juris degree in record time of three years. Immediately after completing his degree in 1996, he was then appointed a public prosecutor.

Mr Thulare's hunger for education and passion for law did not stop there, he proceeded to earn his LLB in 1998 and he left prosecution the following year to join private practice as a candidate attorney.

However, his tenure in private practice was short-lived as he was contacted by the then Gauteng regional head, convincing him to make a comeback to the public service and consider becoming a magistrate in Johannesburg.

Shortly after becoming a magistrate, Mr Thulare continued to pursue his LLM degree, completing in 2002 and admitted as an Advocate of the High Court in the same year.

"Three years later, I was appointed as a senior magistrate in the same court and it was in that capacity that I was leading a project for the Department of taking justice to the people," he highlights.

The project involved converting township courts into fully functional courts. "Remember that township courts only dealt with criminal matters in the past. Therefore, I led the Department's project of ensuring that township courts provide services such as family and civil law matters."

The project included determining the number of clerks and magistrates as well as capacitating them through training. One of his other highlights was acting as a chief magistrate for Pretoria and Benoni and head of office in Kempton Park from 2013 until 2016 when he was permanently appointed as a Chief Magistrate in Cape Town.

Apart from his hectic schedule, Mr Thulare is also responsible for developing a curriculum for judicial training and also practices as a judicial educator responsible for teaching newly appointed magistrates "I have been doing this since 2004, I develop curriculum for judicial training, I put together learning material which is used for this purpose," he adds.

Mr Thulare said he strives to sensitise other magistrates to look at the best interest of children when making judgements. he added: "It is important that we must hear

a child speak and determine what is in their best interest when issuing a court judgement, regardless of the child's age."

He recalls one particular case he once dealt with involving a child who was disowned by his affluent paternal family because they discovered that his mother was not of pure Jewish blood, dismissing the child's maternal great-grand mother simply because she was not a Jew.

According to Mr Thulare, the families reached an agreement and about the paternal family disowning the child and this had to be made an order of court. "With my conscience, I could not sanction a child being 'written off' by his family. Therefore, I engaged counsel to reconsider and this is what led me to communicate with the Office of the Family Advocate because sometimes we have to protect children even against their parents," he indicated.

The matter was ultimately referred to the OFA who investigated the matter and recommended that the child has to have contact with his paternal family. "This was one of many cases I came to work hand-in-hand with the OFA and forming partnerships to ensure that matters involving the well-being of children surpass those of family, religious or ethnic differences," said Mr Thulare. ●



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- Cape Town Chief Magistrate, Mr Daniel Thulare

Stakeholder collaboration, a great success for OFA

Rodgers Ndhlovu



Discussing: Ms Imelda April (left) discussing methods of strengthening partnership with Family Councillor Manager Ms Laura Baartman (middle) and OFA Principal Family Advocate Shirin Ebrahim.

An African proverb that goes; “it takes a village to raise a child” rallies an entire community to interact with children and play a meaningful role in growing and nurturing them to live in a safe and healthy environment.

Likewise, the Western Cape Office of the Family Advocate’s (OFA) approach in collaborating with various stakeholders, who share common interests is not only in line with African ethos but continues to produce the desired results.

Justice@Work recently visited the office and met with OFA key stakeholders such as the Department of Social Development, The Judiciary and the Office of the State Attorney, on separate occasions to find out how these three entities work together in ensuring that justice is done for children in province.

“Collaborating with the OFA does not only benefit children but also assists the Western Cape government to streamline its efforts thereby eliminating the possibility of duplicating resources used to solve children’s’ matters.”

- Ms Imelda April, Department of Social Development

The Department of Social Development (DSD), represented by Ms Imelda April said collaborating with the OFA does not only benefit children but also assists the Western Cape government to streamline its efforts thereby eliminating the possibility of duplicating resources used to solve children's' matters.

Highlighting the importance of this collaboration, Ms April cited an example pertaining to a matter which would have exhausted the resources of both DSD and the OFA. "There was a divorce matter we once dealt with in which the mother was granted primary care of children by the courts. However, still bitter about the divorce settlement, the father made up various allegations about the children's wellbeing," she recalls.

According to Ms April, the father manipulated the situation by alleging that the children were constantly abused and that their mother was not even buying groceries for them, further taking one of his children out of school.

"He was essentially draining government resources because we had to investigate every time he made new allegations. Moreover, he would lay a complaint to us about an allegation then wait for the

outcome and if the outcome was not favourable to him, he would proceed to lay the same complaint to the OFA and vice versa," says Ms April.

Principal Family Advocate Shirin Ebrahim shared how they eventually managed to crack the case, thanks to the stakeholder partnership. "I called an urgent intersectoral meeting and jointly, we have been able to save those children from trauma and put the case to rest when we released a consolidated report. State resources would have been manipulated if we have been doing independent investigations because, for example, if he did not like our recommendation, he approached Social Development and if not happy, he moves to the Department of Education and vice versa," she indicates.

In essence, the partnership saved both organisations from:

- Allocating more resources than necessary to investigate the same matter
- Ensuring that resources were not duplicated even though different departments became involved
- Each department maintained its core mandate



“The OFA does a tremendous job and I think they are underappreciated. However, I am grateful that the office exists and provides optimal support.”

- Bellville Regional Court Magistrate
Mas-Udah Pangarker



"We have also established a family law forum where magistrates meet quarterly and discuss common challenges and solutions."

- Cape Town Chief Magistrate Mr Daniel Thulare

Moreover, the Western Cape OFA is also enjoying similar stakeholder collaboration from the judiciary. Mr Daniel Thulare, Cape Town Chief Magistrate and Acting Judge at the Western Cape High Court, said one of the instruments to help capacitate the judiciary was internal training programmes which deal with skills required in handling matters involving children.

"We have also established a family law forum where magistrates meet quarterly and discuss common challenges and solutions," he highlights, adding that they often invite the OFA Head, Advocate Ebrahim to those forums to present on issues identified and engage in mutual discussions as part of their capacity-building programme.

The relationship, according to Mr Thulare, is mutually beneficial as the judiciary also avail themselves to the OFA to iron out any

pertinent issues that might present a challenge or an opportunity to work better.

Cape Town Magistrate's Court is not the only arm of the Judiciary that is in favour of the partnership. Bellville Regional Court Magistrate Mas-Udah Pangarker, whose involvement with the OFA dates back prior to being appointed to the bench, also attested to the meaningful role that the partnership plays in children's wellbeing. She indicated that the partnership is so much invaluable to an extent that she never finalises a divorce matter without considering an input from the OFA.

"The OFA does a tremendous job and I think they are underappreciated. However, I am grateful that the office exists and provides optimal support," she concludes. ●



Meet Worcester counselor, passionate in reuniting families

Mokgethwa Ngoepe



"I prepare forensic reports, validate the content of the report when conducting the unannounced home visits, and I am sure that I always have served the best interest of children."

- Social worker, Mr Wickun Oerson

Armed with 22 years' experience in the social work field, Mr Wickun Oerson, who is based at the Worcester Office of the Family Advocate (OFA), has developed great love for children and continues to ensure that children's rights are the first priority.

Born in Villiersdorp in the Western Cape, he always had passion for education and he obtained a Bachelor's Degree in Social Work from the University of South Africa (UNISA) in 1997.

As one of the longest serving social workers in the Western Cape, Mr Oerson previously worked for the Department of Correctional Services for 14 years. He also had a stint at the South African National Defence Force (SANDF) in Durban for six months and since 2014, he has been working at Worcester OFA as a family counselor.

"I have been at the OFA for five years now and my day-to-day duties include, amongst others, conducting care assessment in terms of the best interest of minor children.

I do assessment to assess minor children's views and wishes in terms of the future care positions," he explains.

Armed with 22 years' experience in the social work field, Mr Wickun Oerson, who is based at the Worcester Office of the Family Advocate (OFA), has developed great love for children and continues to ensure that children's rights are the first priority.

“ *If there is a dispute,
I have to go to court
to give a report
regarding children's matters.
I also conduct home
visits when required.”*

- Social worker, Mr Wickun Oerson

He also acts as a court expert if required to be a voice for minor children. "If there is a dispute, I have to go to court to give a report regarding children's matters. I also conduct home visits when required," says Mr Oerson.

Speaking of modern technology from manual to paperless system, Mr Oerson praises the evolution as one of the best, substantiating that it enables officials to complete reports much quicker compared to previous years when reports were completed manually. "Now, when you need to alter a report, you just use track changes to do corrections than having to start all over again," he highlights.

Working on weekends and conducting unannounced home visits are one of Mr Oerson duties closest to his heart as people are generally not prepared for his visits on weekends. He adds that this allows him to have a proper and authentic understanding of a family's circumstances which is key for his recommendations about the best interest of children.

Citing one of his cases, he recalls how, a mother of one of the children he was dealing with was addicted to gambling, leaving the children in the care of an au-pair. "This was confirmed when I conducted an unannounced visit and found that the mother indeed went out to gamble and left minor

children unattended and the recommendation favoured the father to live with children as she was a risk and could not be responsible."

Mr Oerson sometimes conducts visits at night around 21h00 with the main aim of checking the conditions or to confirm if the allegations made by either of the two parties are true and correct.

"I do everything possible to ensure that the best interests of minor children are taken care of all the time. I prepare forensic reports, validate the content of the report when conducting the unannounced home visits, and I am sure that I always have served the best interest of children," said he says.

Mr Oerson confirmed that it is good to work with different types of cultures as one gets to know more of other people's beliefs and cultures. He shared one of the cases that took place in 2016 in a matter of a Congolese father and a South African mother which was allocated to him for assessment.

"The couple separated and the mother sent the child to the Eastern Cape without the father's consent. By doing so, the mother made it difficult for the father to see their minor child. As part of our investigation, we consulted with the Department of Home Affairs to establish the father's status in South Africa and it was discovered that the father was still on a refugee status. However, the father had applied for permanent residence in South Africa since they got married," he says.

Mr Oerson applauded the assistance from the Department of Social Development (DSD) in the Eastern Cape with their investigation, the youngest child, who was staying with his maternal grandparent, was reconnected with his father.

"Because of the lack of contact between the father and the youngest child, we recommended that the contact between the father and the child should be phased in under the supervision of the DSD for a period of time until the relationship between the child and the father is re-established," he concludes. ●

**In the best
interest of
children.**

Justice@Work

The Minister of Justice and Correctional Services Mr Ronald Lamola, MP

PRETORIA

Private Bag X276, Pretoria, 0001
SALU Building, 28th Floor,
316 Thabo Sehume Street, Pretoria
(c/o Thabo Sehume and Francis Baard Streets)

*Andries Street was renamed Thabo Sehume Street and Schoeman Street was renamed Francis Baard Street by Tshwane Council in March 2012.

Tel: 012-406 4656
Fax: 012-406 4680 / 086 507 5765
E-mail: Ministry@justice.gov.za

CAPETOWN

Private Bag X256, Cape Town, 8000
120 Plein Street, Cape Town

Tel: 021-467 1708
Fax: 021-467 1730

REGIONAL OFFICES

EASTERN CAPE

Tel: 043-702 7006
Fax: 043-722 5525
No 3 Phillip Frame Road, Weaverly Park,
Chiselhurst,
East London, 5201

FREE STATE

Tel: 051-407 1800
Fax: 051-448 4458
53 Charlotte Maxeke Street,
Bloemfontein, 9301

GAUTENG

Tel: 011-332 9000
Fax: 011-331 0425
15th & 16th Floor, Schreina Chambers,
Commissioner Street,
Johannesburg, 2001

The Deputy Minister for Justice and Constitutional Development Mr John Jeffery, MP

PRETORIA

Private Bag X395, Pretoria, 0001
SALU Building, 26th Floor,
316 Thabo Sehume Street, Pretoria
(c/o Thabo Sehume and Francis Baard Streets)

*Andries Street was renamed Thabo Sehume Street and Schoeman Street was renamed Francis Baard Street by Tshwane Council in March 2012.

Tel: 012-406 4854
Fax: 012-406 4878
E-mail: deputyminister@justice.gov.za

CAPETOWN

Private Bag X9135, Cape Town, 8000
Room 541, 120 Plein Street, Cape Town

Tel: 021-467 1750
Fax: 021-467 1732

NORTHERN CAPE

Tel: 053-839 0000
Fax: 053-832 6815
Cnr Stead & Knight Streets,
New Public Building,
Kimberley, 8301

NORTH WEST

Tel: 018 - 397 7000
Fax: 018 - 384 3406
22 Molopo Road, Ayob Building,
Mafikeng 2745

WESTERN CAPE

Tel: 021-462 5471 / 5479
Fax: 021-462 3135
Plein Park Building, Plein Street,
Cape Town, 8001

The Department of Justice and Constitutional Development Director-General Mr Vusumuzi Madonsela

PRETORIA

SALU Building,
316 Thabo Sehume Street, Pretoria
(c/o Thabo Sehume and Francis Baard Streets)

*Andries Street was renamed Thabo Sehume Street and Schoeman Street was renamed Francis Baard Street by Tshwane Council in March 2012.

Tel: 012-406 4718
Fax: 012-406 4703
E-mail: VusiMadonsela@justice.gov.za

Momentum Building
Private Bag X81, Pretoria, 0001
329 Pretorius Street, Pretoria

Tel: 012-315 1111

KWAZULU-NATAL

Tel: 031-372 3000 / 3007
Fax: 031-304 9213
2 Devonshire Place, Smith Street,
Durban, 4001

LIMPOPO

Tel: 015-297 5577
Fax: 015-297 5570
92 Bok Street, Polokwane, 0700

MPUMALANGA

Tel: 013-753 9300
Fax: 013-752 2666
24 Brown Street, Nelspruit, 1200

Justice@Work is an online staff newsletter of the Department of Justice and Constitutional Development. It aims to help staff to network, get motivated and stay informed about issues in the department.

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To include your event, story or questions contact:
Luyanda Makapela LMakapela@justice.gov.za or **Rodgers Ndhlovu** RNdhlovu@justice.gov.za

