

JUSTICE ALLIANCE OF SOUTH AFRICA

J A S A

# ANNUAL REPORT

2009/10

PRESENTED TO THIRD AGM

6 May 2010

HELD AT

THE JUBILEE CENTRE  
CAPE TOWN

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## From Honorary Director John Smyth

*The plans of the Lord stand firm for ever, the purposes of his heart through all generations.*

*Blessed is the nation whose God is the Lord (Psalm 33)*

### 1. Parliamentary Matters

As promised in my last annual report we have returned to the parliamentary fray this past year. In October 2009 we presented a submission to the Trade and Industry Portfolio Committee of the National Assembly; following that we were invited to present an in-depth submission to National Commission of Gambling set up by the Minister, and accordingly in March 2010 JASA played the leading role as opponents of extending facilities for gambling yet further in SA when the Commission sat in Cape Town. I was well received and received good coverage on Eye Witness News (702 and Cape Talk) and in the Cape Times. The Gambling submission is up on the website. I wish to pay tribute to Jane Blomkamp of Rhodes University who provided some excellent research material for the submission.

Recently we have received a pressing invitation from the deputy Minister of Home Affairs, Malusi Gibaba, to draft a Bill which he could introduce to Parliament as a matter of urgency to ban internet and cell phone pornography in SA. The Minister recognises that the SA Law Commission is far too busy and cumbersome to produce a Bill in a month or two. They work to a time-line of 2 years at least. The invitation came through our friends in the Family Policy Institute and we are working also with ACA and STOP in this matter. JASA has been asked to provide a Draft Bill by the end of May; Brendan and I are therefore working closely together on this one. We are also receiving valuable assistance from *Virtuenet*, the only internet service provider in SA which provides the service after filtering out all porn.

Thirdly, Brendan Studti has given an enormous amount of time to the issues of Prostitution and Human Trafficking. A Bill has been introduced in Parliament which JASA commended in a recent Media Release. However we went on to call for public hearings on the Bill in order to ensure that the loopholes in the Bill do not allow these very proficient and ruthless international gangs to evade the arms of the law.

## 2. The Judicial Forum

JASA has scored two significant successes in the last year. First, on August 31 2009 the Cape High Court in a scathing judgement lasting only 15 minutes, declared the behaviour of the Minister of Police in refusing to pay compensation to firearm owners surrendering their weapons, to be unlawful and unconstitutional and ordered that the guidelines required to put the process in motion be drawn up immediately. Our lawyers were awarded their costs. (Alas, nothing comes back to JASA in these circumstances). The State then continued to cock a snook at the Courts by producing a document simply saying they would not pay compensation. We considered with our 2 leading counsel whether to apply to hold the Minister in contempt; but we are bringing a slightly less draconian application to get the matter back in court on May 31<sup>st</sup>. Brendan and I have been on prime time TV and radio programmes warning of how serious it is for the Executive to defy both Parliament and the Courts. This case of course raises far more significant issues than compensation for firearms. It goes to the root of the Constitution and the Rule of Law.

Our second success was a case I conducted myself without the appearance of attorney or counsel. The result was particularly pleasing, not only for that reason, but because we obtained a High Court order for the first time under the new Constitution that upholds the right of a *Christian* not to be unfairly discriminated against for his religion and beliefs. The case of course was that of the young Christian student who was forcibly circumcised by a gang of traditional leaders after refusing circumcision school on the ground of his Christian beliefs. It had been rumbling on for 2 years with more than one judge showing a reluctance to try such a controversial issue. The other gratifying feature was that the Chairperson of CONTRALESA in the E Cape, elected to office just before the trial, agreed to a settlement whereby he apologised on behalf of his organisation and accepted that every man has the right to choose whether or not to be circumcised. The judge emphatically underlined this constitutional right in his judgement.

What of the current year?

We are just about to file in the court perhaps our most significant constitutional matter yet. Andre Williams, a boy from a very poor home in the Cape flats, is now 18 and able to be named as an adult. JASA and Andre are co-Applicants in

this case, the papers for which have been drafted by no less than 3 counsel working pro bono. Almost three of Andre's most formative years were stolen from him when he was kept in custody – for most of the time in Pollsmoor – on a charge of robbery in which it was said he was part of a gang of five, all the others being at least 6 years older. At the time of his arrest he was 14! Nearly three years later, he was released aged 17, and the charge dropped, after JASA had sent someone along to the court to find out what was going on. The Respondents are 8 different individuals or State entities all of whom played a part, or had vicarious responsibility, in this appalling breach of basic human rights not to mention constitutional rights. They vary from the Cabinet of SA, to the Magistrate who kept turning the handle and remanding Andre in custody without a thought for what was happening. JASA is not ashamed to name and shame in a case like this. But I am so angry about the way this child's life has been destroyed that I am so glad we have eminent, cool-headed counsel to conduct the case. I shall have to try and be restrained in the media! Go to our website to read more about this very important case. I am excited about a case where we are helping the poorest of the poor to obtain some belated justice.

Finally, I should mention that **Mrs Pillay's case against Marie Stopes** is moving ahead in the High Court, We await a defence from the Clinic's attorneys. We very much hope this case will highlight the failure of the abortion industry as a whole to comply with the law that makes "informed consent" through proper counselling the lynch pin of legality for any abortion to take place.

### 3. Other Matters

- (a) It with sadness that I report that Denise Padayachee left us as a volunteer part way through the year to return to full-time pastoral ministry. We express our warm gratitude for all the help she gave us. I am happy to report however that Jane Blomkamp of Rhodes University has come on board and already done a great deal of valuable research for us as mentioned earlier in the Gambling context.
- (b) Lucy Hollands, our book-keeper and accountant, is engaged to be married! She is marrying a Texan and will move to America in August or September. We send her our warmest congratulations and very best wishes. And of course a huge thank you for all her work for us. We are delighted to use this year's AGM as an opportunity to express publicly our gratitude. *This means*

*that a replacement book-keeper able to handle accounts is an immediate need.*

- (c) We were delighted to welcome Mrs Linda-Jane Tippoo to the Board from 1 August 2009; she has already represented JASA on the radio in relation to the Marie Stopes case. I also want to pay tribute to Mrs Lindsey Pettit who has done so much to help and encourage us in a variety of ways.
- (d) It is trite but always appropriate to underline our dependence on the goodwill and pro bono services of the legal profession. Once again we express our heartfelt gratitude to Grant Gunston Inc, our attorneys, (and of course particularly to Brendan Studti) and to Peter Hodes SC, Anton Katz SC, Murray Bridgman and now also David Simonsz, our team of advocates.
- (e) Finally of course I must pay the highest tribute to the devoted members of the team not yet mentioned. Anne Smyth does so much behind the scene as secretary, and Gil Marsden never fails to update the website usually within a few hours of receiving a mail, and she does it wherever she is in the world!

I close therefore with the warmest thanks to all our supporters, and the plea that others will come on board as prayer partners and financial partners in this work. I believe this work is so worthwhile, but I do struggle with the fact that so few churches and individuals are prepared to make even a very modest contribution to support it. It perhaps needs to be said that only our secretary receives a salary (R.5000 pm); the rest of the team work pro bono with an occasional token honoraria.

*John Smyth QC*

*Honorary Director*

*May 2010*