

# **JASA**

## Justice Alliance of South Africa

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### **JASA NEWSLETTER March 2009**

**2009 AGM- Jubilee Centre, Nelson Road, Observatory, Cape Town.  
1730 – 1830 Thursday 30 April 2009 Refreshments will be served.  
PLEASE DIARISE AND COME IF YOU ARE IN CAPE TOWN  
All members and friends welcome**

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Our Dear Friends and Supporters,

While I have been away, much of the work has been carried by **Lucy Hollands**, our new administrator, and **Brendan Studti**, an exceptional young lawyer who graduated last year from UCT, who will embark shortly on his articles, or perhaps a pupillage for the Bar. They have been working on a voluntary basis for which we are so grateful. But our goal is to work out a long term arrangement with them both. **Tina Mostert** and **Gil Marsden** have continued their sterling work also.

As you know 2008 was a year in which Parliament was in turmoil and although there was a sausage machine churning out legislation, little of it was of a nature or importance to justify JASA's intervention.

Accordingly we concentrated on strategic matters in the Courts. And most of those matters together with two new ones so far this year are on-going. Here's a thumb-nail sketch of each:

#### **Executive Board**

Tim Makamu (Chairman), Stephen van Rhyn (Vice-Chairman), Tendai Musikavanu,  
Nigel Desmond, Roger Gifford, John Smyth

1. **Circumcision Case:** Very belatedly, the Nkosi who is Chairperson of the Eastern Cape of Traditional leaders decided to ask for an adjournment so that he could actively oppose our application seeking an order that nobody shall encourage ostracism of a youth who refuses circumcision school on the ground of his religious beliefs. So the hearing fixed for December 8 and 9 was aborted. As inconvenient, and time and money wasting, as this was, I believe it is right that this matter should be fully argued in court, and a full judgement obtained upholding Bonani's complaint that his constitutional rights were breached not only by the appalling assault on him, but also by the two Nkosi who used the press to encourage ostracism of him. Watch our website for new information on the hearing date, hopefully in a month or so now.
2. **Mrs Pillay's Abortion case.** Last year we received a letter from Marie Stopes which in our view amounted to an admission of negligence because it recounted how the nurse in charge of the abortion was fired. You don't fire someone in the new South Africa unless she has been guilty of serious misconduct! However the Attorneys for the company have ignored all our requests to make an offer in damages to her, and so we are about to commence proceedings.
3. **Breach of Privacy and Defamation on the web.** This is a very unusual case which we feel JASA should take up on behalf of a Christian doctor who was the victim of a police prosecution of mistaken identity ten years ago in his student days. The Die Burger newspaper reported a whole series of court appearances but not his final discharge without a stain on his character. A decade later all those reports are still available on the web simply by googling his name. This seems a travesty of justice and although it may be a ground-breaking case we are very keen to clear his name. Brendan's research indicates that this situation may not have received legal attention previously anywhere in the world.
4. **Compensation for Surrendered Firearms.** The State Attorney acting for the Minister and Commissioner of Police are over 6 months out of time in filing their defence to our constitutional action. As we suspected, this suggests there really is no defence to the appalling arbitrary and unlawful behaviour by the State not only to firearm's dealers but also to elderly people trying to comply with the law in surrendering one or two family firearms. However we are glad to report that one of Cape Town's biggest guns (forgive the pun) at the constitutional Bar has now agreed to take the case for JASA and we are hoping for a hearing before the end of the year. Grant Gunston are the attorneys kindly acting on a half-fee basis.
5. **16 year old youth held in custody on murder charge.** This is another case of an appalling breach of human rights. A youth with very little education picked up by the police after a taxi-shooting, incarcerated for a year awaiting trial and when at last the day comes, there is no evidence that even requires him to make a defence. Brendan is looking into the much bigger issue of appropriate holding facilities for youths refused bail; and we continue to research the possibilities of getting some redress for this youth. He not only lost a year of his precious teenage years, but suffered serious violence at the hands of the police desperate to extract a confession from him.

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## **What has Parliament got in store for 2009?**

Perhaps the first question is what will be the balance of power. The stronger the opposition, the better will be the atmosphere for public hearings on controversial Bills. A new Bill on hate speech is threatened; we shall oppose that tooth and nail if it inhibits the freedom of pastors to proclaim scriptural truths about moral issues. But we must wait and see. Please contact us if you are aware of legislation being pushed through without adequate publicity.

## **Membership Growth and Funding**

Membership and donations have slowly but steadily grown in 2008 and we are so grateful that there has been no dramatic drop since the financial crisis. Please encourage others to join us. May we suggest you print out this Newsletter and give it to a friend. There is no subscription. But we do ask members to donate what they can preferably by regular monthly payment so we can budget.

We continue to be severely limited in what we could do in this vitally important field of work by lack of funds.

Warmly,

John Smyth

On behalf of the Team and Board

PS. We would love to meet you at the AGM.

### **JASA Account**

**Standard Bank Constantia Branch 025309 Acc No 252844475**

Or go to [www.justicealliance.org.za](http://www.justicealliance.org.za) to donate through the website

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