

Happy Women's Day



Volume 11

Iifanelo

"It's Your Right"

Transforming Society. Securing Rights. Restoring Dignity
The South African Human Rights Commission Newsletter



01 - 31 August 2013

Commissioners at work

SAHRC finds against some of the Free State Municipalities over lack of sanitation



Deputy Chair talking to Khayelitsha residents during sanitation inspection



Chair visited Northern Cape to assess the attainment of Human Rights



Commissioner Malatji hosted Disability discussion in the North West



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Women’s Day, 09 August

This day commemorates the national march by women on 9 August 1956 to protest against the legislation requiring non-whites to carry a document proving they had permission to be in a white area.

Celebrations on this day highlight the role of women in society and opportunities available for future generations to contribute meaningfully to South African society.

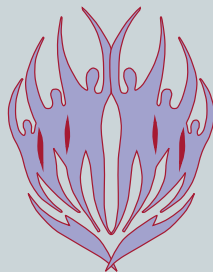
Source : SOUTHAFRICA.COM

Quote

“Woman is the companion of man, gifted with equal mental capacity.” – Gandhi

Pfanelo is a publication of the South African Human Rights Commission
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SAHRC pays tribute to former President Nelson Mandela



future, be built on the foundations of the glorious human rights vision spelt out in each of its clauses.”

During his term, Constitutional Chapter 9 institutions such as the South African Human Right Commission were established to support constitutional democracy. The Commission celebrates Madiba, as SA’s foremost human rights activist, who asserted and inspired human rights not just in South Africa, but across the world. Many South Africans attribute the right to freedom we enjoy today to

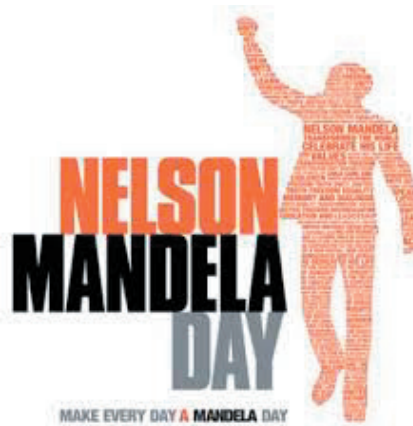
a way that upholds human dignity. It is time to honour Nelson Rolihlahla Mandela’s revolutionary belief in our individual and collective power: ‘It’s in your hands’. **Pf**



The South African Human Rights Commission joins the rest of the world in paying tribute to former President Nelson Rolihlahla Mandela, South Africa’s first democratically elected president, as he celebrates his 95th birthday on 18 July 2013.

The Commission wishes Madiba a speedy recovery from the recurring lung infection which has kept him in hospital for over a month. As he celebrates his 95th birthday, his words and deeds become increasingly relevant to the rest of us. His teachings will guide generations to come and will forever remain in the hearts and minds of everyone, young and old, black and white, rich and poor.

As an ambassador for human rights, President Mandela set the tone for human rights in South Africa and abroad. During the 50th anniversary of the adoption of the Universal Declaration of Human Rights on 21 September 1998, President Mandela told the 53rd General Assembly of the United Nations that the Declaration “held high the hope that all our societies would, in



him and his generation of women and men who fought for and asserted our right to dignity.

The SAHRC joins and applaud Government and Business employees who will participate in good deeds with many charities on Mandela Day. Government, and the Businesses it contracts, must use their power and resources, to deepen the realization of human rights as a Constitutional imperative. ‘Make everyday a Mandela Day.’ The Mandela Day activities should be linked to ensuring that the core work of creating employment and building schools, hospitals, clinics, homes, food, communities and our country, is done in

Inspirational Quotes: Nelson Mandela

On the future

“Many people in this country have paid the price before me and many will pay the price after me.”

On challenges

“Difficulties break some men but make others. No axe is sharp enough to cut the soul of a sinner who keeps on trying, one armed with the hope that he will rise even in the end.”

Source: Nelson Mandela.org

Commissioners visit provinces

SAHRC finds against some of the Free State Municipalities over lack of sanitation



Deputy Chair, Pregs Govender launching the findings report on Water and Sanitation in Bloemfontein

The South African Human Rights Commission launched the water and sanitation findings report against four Free State Municipalities; Mangaung Metropolitan, Setsoto, Dihlabeng, and Masilonyana. The findings relate to complaints lodged with the Commission over lack of sanitation in the respective areas.

In all these findings the Commission elaborated an underlying lack of implementation of a human rights based service approach which led to communities not receiving their right to access to water and sanitation.

Meanwhile, on 02 July 2013, the Deputy Chair visited Khayelitsha in the Western Cape, inspecting the sanitation state in the area. Community members raised frustration over inadequate sanitation. *Pf*



4 Deputy Chair Pregs Govender on an inspection of water and sanitation in Khayelitsha

SAHRC Chair visits Northern Cape to address human rights challenges



SAHRC Chair, Adv Mushwana and Northern Cape Provincial Manager, Chantelle Williams, at the Roundtable on Xenophobia in Port Nolloth.

The South African Human Rights Commission Chair, Adv Mushwana visited Northern Cape, where he conducted xenophobia discussion and assessed other Human Rights challenges in the province.

The visit is part of the Chairperson's role as strategic focus area champion for Northern Cape and issues of Migration. He held a meeting with the Premier and other stakeholders including Communities in the Northern Cape.

The Roundtable followed complaints received by the Commission and media reports around the alleged discriminatory and ill-treatment of foreign nationals in the province, and across the country. In Port Nolloth, the community alleges that the non-nationals are smuggling drugs and sexually exploiting the youth in the area.

The Commission upholds on protection of the rights of all people, including non-nationals. As such, the Commission brought stakeholders, including government departments responsible for immigration, NGOs, and community representatives together at the Roundtable to find ways of dealing with this problem.

The Commission will continue to monitor and protect the rights of non-nationals as enshrined in the Constitution. *Pf*

Commissioner Malatji visits North West to assess status of people with disabilities



Commissioner Malatji responding to queries at the dialogue

On Thursday 11 July 2013, Adv. Bokankatla Malatji, SAHRC Commissioner responsible for Older Persons and Persons with Disabilities, visited the North West office to conduct a dialogue on the Convention on the Rights of Persons with Disabilities (CRPD), an international instrument providing protection for people with disabilities.

The dialogue, which comprised of stakeholders in the disability sector assisted the Commissioner to assess the status of the implementation of the CRPD in the province.

The Commission remains concerned that despite laws such as the Employment Equity Act (EA), the Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA) that aim to protect persons with disabilities, they remain marginalized. Furthermore, in 2007 South Africa signed to abide by the CRPD.

The Commission also constantly receives complaints regarding unfair discrimination on the basis of disability. Some of the cases reported with the Commission in North West include:

- A Child who was discriminated at school because she was an albino;
- Four children of the Mmupele family at Verdwaal village, near Itsoseng, died in the veld, reportedly due to hunger and thirst; and
- A local Councillor of Suiwerbult informal settlement was allegedly selling water to residents.

The Commission used the dialogue to assess the status of implementation of the CRPD and other legislation such as EA and PEPUDA. **Pf**

MARIKANA: SAHRC hopes funding solution is found to enable the Commission to do its work



The South African Human Rights Commission (SAHRC) calls on the Commission, government and all parties to use the break in proceedings to find a funding solution that will allow those injured and arrested at Marikana on 16 August 2012 to continue to take part in the Commission process.

The current position - where those injured and arrested by police have no funding for representation before the Commission - is unacceptable, particularly in a process that has been run on

adversarial lines.

While the High Court has determined that neither the state nor legal aid is obliged to pay for the legal representation of the injured and arrested, it remains the case that they have a discretion to do so.

The Presidency, the Department of Justice, and the Legal Aid Board should urgently consider exercising that discretion to allow the work of the Commission to continue in an inclusive, responsive manner.

Denying funding - and therefore denying representation - to a party that includes many individuals who were shot by police excludes many of the most affected individuals from the

Commission process.

This exclusion is also of an indigent group of persons, who are unable to afford legal services and should be assisted. Their exclusion hampers the ability of the Commission to fulfil its Terms of Reference.

Given the huge importance of the Marikana Commission of Inquiry, and given the issues at stake, the SAHRC hopes that a solution can be reached before the resumption of the Commission.

The SAHRC, in line with its constitutional mandate, will continue to monitor the proceedings. **Pf**

SAHRC concerned about corporal punishment in schools

The South African Human Rights Commission expresses immense concern at the rise in incidents of corporal punishment in schools across the country. The Commission has received complaints and has noted instances where the violence committed by educators against learners extends far beyond the ambit of the definition of corporal punishment. These include instances where children were severely humiliated, grievously injured, left disabled, or did not survive their injuries.

On 4 July 2013, the South African Human Rights Commission's Children and Basic Education Portfolio convened a meeting on corporal punishment in schools. Institutions represented were the South African Principal's Association, The South African Democratic Teacher's Union, The National Alliance of School Governing Bodies, the South African Council of Educators, the Department of Basic Education, UNICEF South Africa, the Centre for Child Law, and the University of Stellenbosch.

Corporal punishment in schools was outlawed by section 10(1) of the South African Schools Act 84 of 1996 (The Act). Despite this, statistics from the 2011 General Household Survey (StatsSA; 2011) indicate that there were 2 103 677 reported incidents of corporal punishment in schools in 2011.

Section 3 of the Act makes school compulsory for children. This gives rise to an imperative that such institutions must therefore be safe and enabling environments. Teachers, in many respects, have own protective and proactive role to play in the growth and development of children. It is therefore deeply disconcerting

that educator-learner violence rates are so high.

This meeting was convened so that different perspectives and facets of the issue could be explored. It was an extremely useful interaction. Importantly, factors that predominated the discussion were that all stakeholders share the fundamental belief that educators should follow the dictates of the law, and that it is important to work together in order to make this a reality in schools.

Concurrent to the Commission's endeavours in this field is a study currently underway, commissioned by the Centre for Child Law. Its broad aim is to gain understanding of the practice of corporal punishment in schools and why it remains common practice. The end purpose is to inform a strategy to systematically end corporal punishment in schools. This approach may include litigation, hearings by the SAHRC and other improvements in ensuring accountability of educators.

It is the full intention of the Commission to continue to pursue this matter- in partnership with other interested parties - and our hope is that this will result in the formulation of a just and equitable way forward for children.

Pf

The Commission has received complaints and has noted instances where the violence committed by educators against learners extends far beyond the ambit of the definition of corporal punishment

Did you know?

- Statistics South Africa's General Household Survey 2011 found that the Eastern Cape is the province where children are most likely to be hit, at 30%.

- KwaZulu-Natal has the second highest rate of corporal punishment at 23%. The Western Cape is the kindest to school kids, they only have a four percent corporal punishment rate. Stats SA Chief Survey Statistician, Niel Roux says urban areas have lower rates of corporal punishment.

- Corporal punishment in schools was outlawed by section 10(1) of the South African Schools Act 84 of 1996 (The Act). Despite this, statistics from the 2011 General Household Survey (StatsSA; 2011) indicate that there were 2 103 677 reported incidents of corporal punishment in schools in 2011.

- Four KwaZulu-Natal teachers have been arrested in connection with beating a pupil so severely he lost sensation in one testicle

Sources: Statistics SA and SABC News

In Madiba's words: "[s]afety and security don't just happen, they are the result of collective consensus and public investment. We owe our children, the most vulnerable citizens in our society, a life free of violence and fear."

Corporal punishment in schools: the battle continues



By Sarisa van Niekerk, Intern
(Office of Commissioner Mokate)

Since the United Nations officially declared 18 July as Nelson Mandela International Day, it has been celebrated to encourage people globally to devote 67 minutes of their time to make a positive contribution towards the goodwill of mankind. Mandela, who devoted himself to public service and campaigning for human rights, played a significant role in the efforts that brought about South Africa's democracy. For the past two decades institutions such as the South African Human Rights Commission (SAHRC) have dedicated their work to continue his legacy.

During the month of July I have had the privilege of serving as an Intern at the SAHRC, and specifically worked with the Commission's Children and Basic Education Portfolio. During this time the SAHRC focused on matters surrounding corporal punishment in schools. Below are some reflections on this issue.

One of Madiba's well-known sayings is that "[t]here can be no keener revelation of a society's soul than the way in which it treats its children". The SAHRC is committed to, among other things, contribution to the realisation of educational goals for all learners throughout South Africa. One of the indicators that the SAHRC Charter of Children's Basic Education Rights draws on is making education acceptable to all children. This refers to teaching methods, educational outcomes and teacher and learner behaviour having to be acceptable. However, numerous complaints have been lodged with the SAHRC regarding incidents of corporal punishment in schools across the country, despite it being outlawed by the South African Schools Act 84 of 1996, which undoubtedly undermines this goal, as well as children's rights to basic education, as guaranteed by the Constitution.

Instances have been reported where corporal punishment amounts to gratuitous violence by educators, which therefore exceeds the ambit of "corporal punishment". Some cases are so severe that learners are beaten and die, as a result of their injuries. In other instances, children were severely humiliated, or where children's eardrums were ruptured or a learner was blinded, it left them disabled.

During an exploratory meeting con-

vened by the Children and Basic Education Portfolio with various stakeholders, discussions were held on different facets of corporal punishment in schools. The South African Principal's Association, the South African Democratic Teacher's Union, the National Alliance of School Governing Bodies, the South African Council of Educators, the Department of Basic Education, UNICEF South Africa, the Centre for Child Law and the University of Stellenbosch were among the stakeholders present. Corporal punishment remains a contentious issue as rights and responsibilities as well as the necessity to maintain order and manage discipline in schools are considered. Some of the factors discussed that increase the chance of a learner being subjected to corporal punishment includes cultural, religious and socio-economic grounds. It was mentioned that mechanisms (such as litigation, education, training and school policies) should be implemented to end corporal punishment and establish healthy learner-teacher relationships.

In the spirit of Nelson Mandela's legacy, the Commission, together with other institutions, continues to collectively promote respect for as well as the protection, development and attainment of children's rights in South Africa by working on ways to systematically put an end to corporal punishment in schools. **Pf**

“All that glitters is gold” – The role of education in attaining the “glittering prize”



By Thandi Matthews
Senior Legal Officer

“The great powers of the world may have done wonders in giving the world an industrial and military look, but the great gift still has to come from Africa – giving the world a more human face... We have set out on a quest for true humanity, and somewhere on the distant horizon we can see the glittering prize. Let us march forth with courage and determination, drawing strength from our common plight and our brotherhood.”- Steve Biko

As a young South African, reared on the philosophy of Black Consciousness inspired by African Nationalism, the recent passing of the literary giant, Chinua Achebe, provided me the opportunity to critically reflect on the meaning and value of education in contemporary Africa. In a world characterized by growing inequality between rich and poor, with developing nations frequently being adversely affected by constant calls to liberalise its markets and participate in a globalised economy, one has to question the role of education in providing African youth the opportunity to actively participate in the market economy, and whether such education will indeed contribute in reducing poverty, as African youth continue in their quest to attain “the glittering prize”.

Inspired by the teachings of leaders

and intellectuals in search of African unity and autonomy from hegemonic Western discourse that either sought to divide African nations or plunge them deeper into conflict and poverty, such as Kwame Nkrumah, Jomo Kenyatta and Amilcar Cabral, Steve Biko’s philosophy of Black Consciousness (BC) encouraged black people during apartheid South Africa to look beyond the institutional constraints imposed on their freedom and development by that regime. Perhaps more importantly, the BC philosophy recognized the psychological impact that such institutional exclusion and alienation had on the self-perceived identity of black people in general. Thus, through advocating for the collective unity of all of the country’s oppressed peoples, the BC movement attempted to counter-act the psychological impact of apartheid and encourage black people to think critically and redefine their blackness according to their own values (Matthews, 2012).

Similarly, Chinua Achebe’s fiction and academic essays encouraged Africans to reimagine their identity beyond global perceptions generated of them by the dominant powers of the West. His love for literature challenged him to question the construction of an African identity created by authors emanating from the previous colonial empires, and inspired him to write novels which told a different story of Africa. Stories by an African for the people of Africa. Stories that allowed African people to imagine themselves differently, with characters who understood their struggles and yet were able to overcome them, victoriously

(The Economist, 2013).

However, in recent years, ideas of what education means and its purpose appear to have drastically altered from the times of Biko and Achebe’s writing. Contemporary approaches to education tend to place emphasis on achieving universal access to basic numeracy and literacy skills, and more prominently in the South African context, there has been a drive to encourage young people to not only attain a basic education but to focus their attentions on mathematics, science, engineering, technology and business entrepreneurship, with the hope that the development of these skills will assist in advancing the South African economy. As explained by Leon Tikly (2011), there exist two dominant approaches to assessing quality in education, namely, human capital and human rights based approaches. In terms of the human capital approach, the central purpose of providing quality education lies in the contribution that education can make to economic growth, with GDP the most significant indicator of development. The initial focus of the approach was based on an understanding of better investment choices at different levels of education through a rate of return analysis. As the theory developed the rates of return approach was complemented with an interest in the role of education in alleviating poverty and the promotion of social welfare, as a basis for encouraging growth and human security. A shift was therefore made to the promotion of free basic education, with current proponents of this approach attempting to extend this emphasis to include secondary education in order to adequately

