



Iifanelo

"It's Your Right"



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

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**Celebrating 25 years
of Child Rights**

**Commissioner Malatji meets
Limpopo Leaders during Disability
Indaba**

**Launch of Land
Restitution Report**



**No reprieve for Qwelane in answering hate speech case,
and many more**

World Aids Day, 01 December

On World AIDS Day, recognising that we all live with HIV- in ourselves, our families, our friends and in our workplace, the challenge is how we do so in ways that respects and upholds human dignity. In this regard, the recent ICAS wellness day was a practical starting point.

The call by the UN to ‘close the gap’ resonates powerfully in a society as divided as SA’s where poverty and inequality remain key factors in determining who survives and who doesn’t.

This has to change. Next year the SAHRC will hold hearings to ask Government how far it has progressed in addressing the right to healthcare contained in the SAHRC’s report (from previous hearings). The Commission will also be looking at the social determinants of the right to health that undermine well-being. Pregs Govender, SAHRC Deputy Chairperson.



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Limpopo children with disabilities lack access to quality education

The Limpopo Disability Indaba also focused on what the Limpopo government is doing to implement programmes that create employment opportunities for people with disabilities.

The South African Human Rights Commission (SAHRC) says children with disabilities in Limpopo remain disadvantaged in accessing quality education.

Stakeholders were meeting at a provincial disability indaba held in Polokwane on 06 November 2014.

The Commissioner responsible for disability matters, Bokankatla Malatjie says he was disappointed by what he discovered during his visit to some of the special schools.

“One imminent challenge that was there was the question of enough teaching staff. There were posts that were vacant which were not yet filled. Secondly, that there were not enough personnel who have been trained specifically for children; disabled children and lack of braille material. We have taken up the matter with the department of education.”

The indaba also focused on how the provincial government is doing in implementing programmes that create employment opportunities for people with disabilities.

According to the Commission’s report, only four of the departments



Limpopo Provincial Manager, Victor Mavhidula; Commissioner Malatji and MEC Joyce Mashamba at the Indaba



The disability sector came in their numbers to engage Commissioner Malatji on their challenges

have managed to achieve an overall two percent target of employing persons with disabilities.

Julia Mmanasoe, who has Albinism, is among those struggling to get jobs.

“We gather here every year but

we speak, they are doing nothing. At least the Premier’s Office has done something because there are some classes we are attending at SETA. They would not employ us we know, they are just skilling us, but it’s useless. We feel we are still left behind.” **Source: SABC News**

Celebrating International Day of People with Disability



Commissioner Bokankatla Malatji handing over books to Mr Job Dooka, Principal of Bosele Special School in Limpopo earlier this year during inspection.

Over one billion people, or approximately 15 per cent of the world's population, live with some form of disability!

Around the world, persons with disabilities face physical, social, economic and attitudinal barriers that exclude them from participating fully and effectively as equal members of society. They are disproportionately represented among the world's poorest, and lack equal access to basic resources, such as education, employment, health-care and social and legal support systems, as well as have a higher rate of mortality. In spite of this situation, disability has remained largely invisible in the mainstream development agenda and its processes.

Earlier, the international disability movement achieved an extraordinary advance in 2006, with the adoption of the Convention on the

Rights of Persons with Disabilities. The Convention follows decades of work by the United Nations to change attitudes and approaches to disability that would ensure the full equality and participation of persons with disabilities in society. The Convention is intended as a human rights instrument with an explicit, development dimension. However, to realize equality and participation for persons with disabilities, they must be included in all development processes and, now more importantly, in the new emerging post-2015 development framework.

The UN General Assembly in the recent years has repeatedly emphasized that the genuine achievement of the Millennium Development Goals (MDGs) and other internationally agreed development goals, requires the inclusion and integration of the rights, and well-being, as well as the perspec-

tives of persons with disabilities in development efforts at national, regional and international levels.

Toward this end, in 2011, the General Assembly convened the High Level Meeting on Development and Disability (HLMDD) at the level of Heads of State and Government, on 23 September 2013, under the theme: "The way forward: a disability inclusive development agenda towards 2015 and beyond".

The High Level Meeting was held at a strategic timing of the UN history. It took place five years after the UN Convention on the Rights of Persons with Disabilities entered into force, two years after the release of the World Report on Disability and two years away from 2015 -- the target date for the achievement of the Millennium Development Goals (MDGs) -- and thereafter, the commencement of the post-2015 agenda and new development priorities.

The HLMDD Outcome that was adopted is an action-oriented document that provides policy guidance that helps to translate the international commitment for a disability-inclusive society into concrete actions and to strengthen global efforts to ensure accessibility for and inclusion of persons with disabilities in all aspects of society and development. **Pf**

Did you know?

The Commission will celebrate International Disability Day by hosting an Internal Seminar on Sign Language as well as Mobility of People with Disabilities.

SAHRC engages Mogale City youth on political rights

By Oscar Nwandzule and Nompumelelo Sobekwa

The South African Human Rights Commission, in particular the Commissioners' Programme received an invite to participate in the Democracy Education Workshop which was hosted by the Regional Office of the Independent Electoral Commission in Mogale City, targeting People with Disability. The Democracy Education Workshop was hosted under the theme "Celebrating Our Democracy" in association with the West Rand Association for People with Disabilities on 24 October 2014 in Mogale City. The Commissioners Programme participated in the Democracy Education Workshop and shared their work in the area of Human Rights and Democracy for the last 20 years of democracy.

The Commissioners Programme was represented by Oscar Nwandzule and Nompumelelo Sobekwa, with support from the Head of the Programme, who prepared the presentation on "Youth, Democracy and Human Rights".

The presentation focused on what the mandate of the Commission is, particularly its monitoring and education mandate. In terms of the monitoring mandate, opportunities are created for the Commission to monitor elections. This monitoring would focus on monitoring the protection of human rights and monitoring quality of the election process. In conjunction with other Chapter 9 institutions such as the Commission for Gender Equality (CGE), the Commission for the



The right to vote is one of the fundamental rights that people have

Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities (CRL); different human rights issues focusing on equality, cultural groups etc, and the monitoring role, would be addressed. The presentation also reflected on the African Charter on Democracy, Elections and Governance, 2007.

In the context of civil and political rights, young people from Mogale City were provided with an understanding of what the Constitutional right 19, the right to political rights, should mean to advancing South Africa's constitutional democracy. During question time, delegates raised concerns with their immediate challenges such as access to sanitation facilities in a hospital, shopping centre, and public transport. The participants were very engaging and probing of their daily interaction with each other as it

relates to Human Rights and their disability and this led to lengthy discussions of scenarios of Human Rights.

"As a young person, working for the Commission, the opportunity to engage with unemployed youth, opened our eyes to some of privileges we have. Besides being part of economically active young people, we are exposed to a living university of human rights; every day we get to interact with experts such as Commissioners and staff who are leaders in various fields of human rights." said Oscar. "This interaction deepens our appreciation of what human rights means." added Nompumelelo.

As we gear up for the local government elections; we are assured that the youth of Mogale City are better equipped to knowing and appreciating their political rights.



No system to track land claims : SAHRC

The SAHRC has expressed concern at how the CRLR is handling numerous land reform related problems.

An SA Human Rights Commission (SAHRC) report released on Friday, 21 November 2014 says there is no system in place to keep track of land claims, causing a major problem for the process.

“A key problem is that there is no conclusive system in place at the moment that will be able to give a claimant, who dutifully lodged a claim before the 1998 deadline, more information regarding the

status of the claim,” it said in the report on an investigation into the land restitution process.

According to the report, the number of claims said to be outstanding (8 733) was not dependable as the system of counting claims had changed so often.

Additionally, not all claims had been gazetted, and the loss of files and documents made it difficult to solve complex claims and “opened the door to actual or perceived manipulation by officials.”

The commission for the restitution

of land rights (CRLR) admitted it would be unlikely to cope should the claims process be opened for another five years, as proposed in the Restitution of Land Rights Amendment Bill.

“The CRLR submitted in the follow-up hearing that with the lack of standard operating procedures and the current absence of an electronic system to capture the lodgement of claims, it is unlikely to cope with new developments and new claims,” the report found.

The SAHRC expressed concern at how the CRLR was handling these problems.



SAHRC Deputy Chairperson, Pregis Govender; Advocate Patric Mtshaulana from Duma Nokwe Group of Advocates ; Commissioner Janet Love, and Commissioner Lindiwe Mokate at the launch of the Land Restitution Report

Summary of the findings

The hearings revealed the following:

- The Department of Rural Development and Land Reform (DRDLR) and the CRLR identified poor research methodology that informed the land claims. While the CRLR acknowledged difficulties with regard

to how the existing claims have been recorded and captured in a number of different ways over time and problems that have occurred as a result of documents and files being lost, there was no indication of how the CRLR intends to deal with these problems.

- The backlog of unresolved restitution claims raises concerns that claims filed under the new restitu-

tion period might further undermine the fulfillment of existing claims.

- Significant challenges in relation to the calculations and determination of the value of land from which individuals and communities were historically dispossessed, but which today have to be seen in the context of subsequent developments and uses.

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“Transforming Society, Securing Rights, Restoring Dignity”

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Cadastral surveys of millions of hectares of land have not been undertaken

- SAHRC is concerned at the absence of capacity with the Chief Surveyor General (CSG) to do historical research work and, if there is a proposal to recommend resettlement, to provide a proper survey of the land and complete register of all land owned by different spheres of government and parastatals, to help the Department and community develop plans for the future, given the fact that this comes two decades into our democracy.
- The SAHRC is also concerned about the fact that the cadastral surveys of million hectares of land have not been undertaken and the plans and resources necessary for this do not appear to be in place. Sub-divisions and title deeds have not been finalized and registered. This is particularly relevant in cases where the same land is subject to competing claims – a phenomenon that the SAHRC believes will increase now that the lodgement of claims has been reopened.
- The Commission understands that the CRLR is tasked with facilitating the policies of the state in relation to restitution, acting first to secure the interests of those whose lives were uprooted and destroyed through discriminatory regimes of colonialism and apartheid. It is the Commission's view that these interests will not at all times be the same as the DRDLR and thus is concerned that in the current set-up this is unclear and that the CRLR defers to the DRDLR priorities in relation to the settlement of claims and the post-settlement arrangements, which the CRLR ought to confirm and ensure that there are arrangements in place to support prior to the finalization of the settlement.

Outstanding Land Claims Noted By Committee on Rural Development and Land Reform

The Portfolio Committee on Rural Development and Land Reform noted the report by the South African Human Rights Commission (SAHRC) on the systematic challenges affecting the land restitution process in South Africa.

While the Committee appreciates progress made in the restoration of claimants' land, it also notes that one of the challenges with the process is the backlog in claims lodged prior to 31 December 1998 and the lack of capacity to settle land claims timeously. "The delays in processing claims are worrying, but the Commission on Restitution of Land Rights has plans to settle all backlogs and outstanding claims. In terms of the amendments to the Restitution of Land Rights Act, 'old' claims must be prioritised," said the Chairperson of the Portfolio Com-

mittee, Phumzile Ngwenya-Mabila.

The SAHRC briefed the Committee on the challenges involved in land restitution and told the Committee that there are more than 4 000 outstanding land claims.

Ngwenya-Mabila noted that the report focused more on stakeholder perspectives than engaging with claimants who had lodged complaints with the SAHRC.

"The Committee accepts that the restitution and redistribution of land is not an event, but a process and that there are many processes that need to be followed before a claim is finalised. Therefore, South Africans need to be patient," Ngwenya-Mabila said.

Reactions to SAHRC Land Restitution Report

The recent report of the South African Human Rights Commission (SAHRC), on the systemic challenges facing the land restitution process is consistent with DA policy.

The obstacles to land restitution as identified by the report do not stem from constitutional provisions and the accompanying legal framework, as constantly put forward by the ANC.

The true obstacles, as identified by the SAHRC, are:

Challenges in relation to the calculations and determination of the

value of earmarked land.

The publicised number of claims outstanding is not dependable as the system of counting has changed so often.

No system is in place that will give claimants information regarding the status of their claims.

The Commission for the Restitution of Land Rights differs with the Department of Rural Development and Land Reform in terms of strategy, policy priorities and processes in relation to models for the settlement of claims and implementation.

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Challenges in Land Restitution are caused almost entirely by an inability of government to effectively administer the process

A thorough reading of the report indicates clearly that the challenges in Land Restitution are caused almost entirely by an inability of government to effectively administer the process.

In short, the ANC is to blame for not properly implementing and managing the Land Restitution Programme.

From a policy perspective, the DA supports a land reform process that achieves redress in rural communities and that promotes economic inclusion to lift rural people out of poverty.

A key tenant of the DA policy on land restitution is increasing the security of tenure in informal areas by amending Section 10 of the Housing Act (Act 107 of 1997) which concerns restrictions on the voluntary sale of state-subsidised housing.

The current probationary period of eight years should be reduced to two years.

Source: DA

Did you know?

The report is available on the website www.sahrc.org.za

No reprieve for Qwelane in answering hate speech case



Former columnist Mr John Qwelane

FORMER South African High Commissioner to Uganda Jon Qwelane may not have a hate speech case against him put on ice while he challenges the constitutionality of the Equality Act.

Instead, the two matters will be heard at the same time and before the same judge, the Johannesburg High Court said on Friday.

The South African Human Rights Commission (SAHRC) brought an application last week to join its Equality Court case against Mr Qwelane and his constitutional challenge of provisions of the Equality Act. Mr Qwelane had sought a stay of the Equality Court proceedings against him pending the outcome of his constitutional challenge.

The SAHRC first instituted a hate speech case against Mr Qwelane in the Equality Court in 2009 following the publication of his Sunday Sun column on July 20 2008 headlined: "Call me names, but gay is

NOT okay..."

In 2011, the Equality Court ordered Mr Qwelane to apologise to the gay and lesbian community and pay R100,000 to the SAHRC. He refused, claiming his column did not amount to hate speech.

Although Mr Qwelane succeeded in having that judgment rescinded, the commission instituted new proceedings against him, in which it is seeking the same relief again.

In his judgment on Friday, Judge Frits van Oosten said the High Court had the power to consolidate the Equality Court case and Mr Qwelane's constitutional challenge of the legislation.

He said the cases would be heard before a single judge, who would adjudicate the issues in each case "within the parameters of the powers as specified in the applicable legislation, rules and procedures".

"All the evidence the parties wish to present on all the issues will be led and arguments advanced with the only difference that it will be confined to one hearing. The unique characteristics of the proceedings therefore remain intact without compromising the rules, procedures and powers of each of the courts," Judge van Oosten said.

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SAHRC celebrates 25 years of the Convention on the Rights of Children

How has South Africa protected its children?

On 20 November 2014, the South Africa Human Rights Commission, along with the United Nations and member states hosted a dialogue to commemorate and reflect on the 25th anniversary of the Convention on the Rights of the Child. It was on 20 November 1989 that the Convention was brought to life upon the realisation that the child's dignity was under threat. It was then that government representatives from across the world gathered at the UN General assembly to formalise an international treaty that would hold nations to a set of rules and principles ensuring that the rights of children are protected.



Commissioner Lindiwe Mokate at the CRC dialogue

The CRC's 25th anniversary was hosted 5 days before the initiation of the 16 days of activism against women and children and this commemoration further provides the opportunity to reflect on South Africa's promotion and protection of the rights of the child. Great progress has been made in ensuring that children are protected since 1993 when then president FW de Klerk and Nelson Mandela signed the 1990 declaration and

Plan of Action of the world summit for children and notably the CRC. Even so, more still needs to be done. The Round-table of this celebration came right before the release of the hidden camera footage of a 22 year old Ugandan nanny, Jolly Tumuhirwe who brutally subjected a 2 year old little girl to horrific beating. Punished for spitting her food out on the floor, the little girl was violently beaten with a household item, had her back

stood on and was kicked to a point of flying across the floor. The existence of such brutality in a continent as nurturing as Africa, proves the need for effective means of ensuring that our children are protected.

Many (64%) of South African children still live in poverty, some without access to basic water and sanitation as well as other services. The child's education is the most fundamental source of progress for any nation, yet with all the country's resources, South African children still lay destitute to an educational system that continues to fail them. The knowledge that a child will grow up not knowing how to read and write and that government still has not produced viable strategies on ensuring the realisation of children's rights, is an indication of low political will in meeting the obligations of the CRC.

SAHRC deputy chairperson Pregs Govender raised her concerns on the fact that, "After such solidar



Former UNDP Deputy Regional Director for East and Southern Africa, Dr Scholastica Kimaryo delivering the key note address at the CRC

Twenty-five years of children's rights

The Convention on the Rights of the Child has been signed by 194 countries; it is the most ratified United Nations Treaty in history.

November 2014 marks the 25th anniversary of the United Nations (UN) Convention on the Rights of the Child (CRC). On November 20 1989 government representatives from across the world gathered at the UN General Assembly to formalise an international treaty that would hold nations to a set of rules ensuring that the rights of children are protected.

The CRC sets out the civil, political, economic, social and cultural rights of children and has three optional protocols dealing with: the involvement of children in armed conflict; the sale of children, child pornography and child prostitution; and a communications procedure for complaints. To date 194 countries have ratified the CRC, making it the most ratified UN treaty.

Dawn of a new era for child rights in SA

The commemoration of the 25th year of the CRC provides the opportunity to reflect on South Africa's relationship with children's rights as it coincides with its own commemoration of 20 years of constitutional democracy.

Throughout the struggle against apartheid, nongovernmental and community-based organisations recognised the exceptional vulnerability of children and fiercely advocated for their rights.

In 1987 the Children, Repression and the Law in Apartheid South Africa conference was held in Zim-

babwe. In his address to the conference, the late Oliver Tambo said: "We cannot be true liberators unless the liberation we will achieve guarantees all children the rights to life, health, happiness and free development, respecting the individuality, inclinations and capabilities of each child. Our liberation would be untrue to itself if it did not, among its first tasks, attend to the welfare of the millions of children whose lives have been stunted and turned into a terrible misery by the violence of the apartheid system."

Following this conference, the United Nations Children's Fund (Unicef) published the report *Children on the Frontline: the Impact of Apartheid, Destabilisation and Warfare on Children in Southern and South Africa*. It added impetus to the child rights movement, motivating organisations to advocate, lobby and campaign for a child rights pro-

tection system in South Africa. By 1990 the National Committee on the Rights of the Child (NCRC) was formed, comprising more than 200 organisations working in the field of children's rights.

In 1992, the University of the Western Cape's Community Law Centre hosted the International Conference on the Rights of Children in South Africa. As part of the conference, leading child rights organisation Molo Songololo facilitated the International Summit on the Rights of Children in South Africa. The summit brought together over 200 children from different backgrounds, races and ethnicities from across the country. The children spoke out about their concerns and the effects of apartheid on their rights. This conference resulted in the drafting of the Children's Charter of South Africa, considered a turning point in the realisation



Former President, Nelson Mandela strongly advocated for the rights of children
Pic: @Unicef/Davey

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of a culture of children's rights, child participation and advocacy in South Africa.

The Charter also played a crucial role in the Convention for a Democratic South Africa (Codesa) negotiations, calling for political parties to give priority to the rights of children in shaping a new democratic South Africa.

By 1993, the NCRC had established itself as a strong force, calling for the inclusion of children's rights in the new Constitution for South Africa. In addition to all the other rights afforded in the Bill of Rights, Section 30 of the interim Constitution bore the fruits of the NCRC's efforts and set out children's civil and socio-economic rights. In the same year, the NCRC and Unicef launched the report *Children and Women in South Africa: A Situation Analysis*. It explored such themes as education, health, nutrition, violence and abuse, analysing how these relate to children and women and providing baseline data. The report noted that there were major data constraints in the official national statistics of the black population, particularly those residing in the "independent homelands".

The release of this report provided the opportune time to call for the creation of a National Programme of Action for Children (NPAC). In the same year, the NCRC and Unicef hosted a two-day conference in Thembisa, *The State of the African Child: An Agenda for Action* to examine the situation analysis report and explore proposals for the formation of a national programme of action for children. The outcome of the conference was the adoption of the Thembisa Declaration, which identified nine main areas of action, including the establishment



Children have a right to basic education Pic: @Unicef/Rebecca

of a National Forum for Children and the development of a NPAC.

Putting children first in the new South Africa

In December 1993, then President FW de Klerk and Nelson Mandela jointly signed the 1990 Declaration and Plan of Action of the World Summit for Children and, more notably, the CRC. Guided by the CRC, in February 1994 the NCRC hosted a conference to discuss the operational and technical aspects of a NPAC. The conference resulted in the establishment of a NPAC task team, with a mandate to prepare a NPAC outline for presentation to the new democratic government in post-April 1994.

Significantly, on June 16 1994, the task team presented its NPAC outline to South Africa's first democratic president, Nelson Mandela. On this day, he confirmed the needs of children as paramount and pledged the government's commitment to prioritise children's rights at the highest level. A year later, on Youth

Day in 1995, President Mandela announced that South Africa officially ratified the CRC — the first international instrument to be ratified by the new democratic government.

President Mandela also ensured the establishment of the Inter-Ministerial Cabinet Committee on the Rights of the Child, whose steering committee included the then newly formed South African Human Rights Commission (SAHRC) and Unicef, with the primary task to develop and implement the NPAC Framework.

In 1996, Cabinet approved the first National Programme of Action for Children. Adhering to its obligations under the CRC, in 1997, government submitted its initial national report to the UN Committee on the Rights of the Child. The Committee welcomed the establishment of the NPAC, recognised the establishment of the SAHRC and specifically asked the South African government to ensure that adequate resources were allocated

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Government has neglected its obligations under the CRC

for the effective functioning of the SAHRC to carry out its mandate to protect, promote and monitor children's rights.

When the co-ordination of child rights was moved from the Department of Health (previously designated by Cabinet to lead the NPAC process) to the Office of the Presidency in 1998, it reflected President Mandela's promise afforded to children to place them at the highest level of government priority. The children's desk (later known as the Office on Child Rights or ORC), co-ordinated the NPAC, liaised with stakeholders and provided advice to the Presidency on the situation of children in South Africa.

In 2009 government established the Department for Women, children and People with Disabilities (DWCPD), dissolving the ORC in the presidency. Subsequently, a call was made to review the NPAC in line with the mandate of the new department.

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In 2013, Cabinet approved the revised NPAC 2012-2017, which seeks to "bring together existing international and national priorities for the survival, protection, development and participation of children in South Africa into one coherent framework". It is directly aligned to the five government priorities: education; health; the fight against crime and corruption; economic growth, decent work and sustainable livelihoods; and rural development, food security and land reform.

A step backwards for child rights

Two decades after the dawn of democracy in South Africa and after taking several leaps forward in recognising and facilitating children's rights in South Africa, government has seemingly taken a step backwards. After the 2014 general elections, the DWCPD was disbanded and the children's portfolio shifted to the widely mandated Department of Social Development.

gression of the children's portfolio that creates a potential vacuum for government, as it lacks a specific focal point and mandate on children's rights. The dissolution of the DWCPD has resulted in the end of the parliamentary committees whose role included oversight and holding of government to account for measures taken to ensure the realisation of children's rights.

In addition, government has neglected its obligations under the CRC. At the time of this article, it is noted that the combined 2nd, 3rd, and 4th Periodic Report was completed and approved by Cabinet, but has not, as yet, reached the Committee on the Rights of the Child in Geneva. The SAHRC is concerned that failure to submit timeous reports demonstrates to the international community government's lack of political will in adhering to its child rights obligations under the CRC.

The SAHRC monitors child rights

The Commission views this as a re-

Since its inception, and as an insti-



The illustration shows five diverse children standing in a row. To their left are various religious symbols: the Om symbol, a crescent moon and star, a cross, a Star of David, and a lotus flower. Below the children are the logos for the Human Rights Commission and UNICEF, along with the text 'CRC@25 CONVENTION ON THE RIGHTS OF THE CHILD'.

Children have the right to freedom of religion and thought; and must respect the religions and thoughts of other people.

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Children have the right to a clean and safe environment; and should find ways to keep their environment clean and safe.



CRC@25 CONVENTION ON THE RIGHTS OF THE CHILD

unicef
unite for children



tution established to support constitutional democracy, the SAHRC has monitored the realisation of children's rights in South Africa. In this regard, the Commission has engaged at various levels, including investigating complaints alleging violation of children's rights to embarking on numerous advocacy and research initiatives.

In addition, it also established an expert Advisory Committee on Children's Rights under the S.A. Human Rights Commission Act, which allows the SAHRC to facilitate engagement and dialogue on key children's rights issues with stakeholders from government, academia and civil society. The advisory committee addresses matters like violence against children, for example the prohibition of corporal punishment in the home, the establishment of a national protocol on corporal punishment in schools, education for children with disabilities, the impact of poverty, inequality and HIV and Aids on the rights of the child and other areas where there is an intersection of rights that affect children.

The SAHRC has published several reports relating to children's rights in South Africa. Notably over the last five years the SAHRC has partnered with Unicef to publish

South Africa's Children: A Review of Equity and Child Rights (2011), which details the inequities within South African society in relation to children and addresses the gaps in policies and service delivery programmes. In 2012 the Charter of Children's Basic Education Rights was published, which sets out the obligations and indicators for monitoring the fulfilment of the right to basic education.

Earlier this year, a report on Poverty Traps and Social Exclusion Among Children in South Africa was released by the Commission, examining the extent of poverty, inequality, and exclusion among South African children, the characteristics of children most affected, and the efficacy of existing policies designed to reach those children.

Following the non-delivery of textbooks in the Limpopo province in 2012, the commission conducted an investigation into the matter and in 2014 released its Report on the Investigation into the Delivery of Primary Learning Materials to Schools. All these reports were widely disseminated to government and civil society and the Commission has formally presented these reports to Parliament.

As South Africa's national human

rights institution, the SAHRC has also raised its concern over government's lack of reporting and non-adherence to its obligations under the CRC with Parliament and, at an international level, with the UN Human Rights Council.

Put children first again

The SAHRC emphasises the fact that government bears the primary responsibility under international, regional and national commitments to pass laws, conduct education, raise awareness, monitor, evaluate and ensure that children, as active rights bearers, are provided with remedies when their rights are violated.

On this occasion of the 25th anniversary of the UNCRC, the SAHRC calls on the South African government to once again prioritise children's rights as a key government agenda, commit to its obligations under the CRC, uphold the promise made to South Africa's children by the late Nelson Mandela and heed his powerful words: "History will judge us by the differences we make in the everyday lives of children."

Pf

THE IMPACT OF MIGRATION AND EQUALITY ON CHILDREN

The Commission's work on migration has an impact on children in that the enactment, implementation and any non compliance of migration laws affect migrant children as it does their parents.

The infringement and / or non compliance with migration laws, also has an effect on migrant children. The detention of foreign nationals beyond the prescribed legal periods at Police Stations holding cells, or at Lindela for purposes of deportation has an adverse effect on the children's right to family and parental care due to their parents being detained.

The 2008 xenophobic attacks had an adverse effect on migrants from affected communities. Family lives were disrupted. For minor school going children this inevitably affected their right to access basic education.

The plight of undocumented and unaccompanied migrant children remains a challenge in South Africa. Children flee their countries of origin without being unaccompanied. In these instances, they arrive in the country without any identification documents. This makes it difficult for these children to be able to register for primary education and to access social assistance.

Equality

The Constitution guarantees that everyone is equal before the law and has the right to equal protection and benefit of the law. More emphasis and focus should also be placed in addressing matters of gender equality, transformation, LGBTi rights and gender based violence in relation to children, specifically ways to eliminate any form of discrimination in schools.



Commissioner Malatji conducts inspections of special needs schools to assess compliance with the Convention of Rights of Persons with Disability

The Office of Commissioner Malatji has the mandate to promote and protect the rights of persons with disability. Recognizing that children with disability will be unable to participate fully in society if attitudinal and environmental barriers are not removed, the Commissioner is passionate about ensuring that rights of children with disabilities are protected and promoted.

In line with this, the Commissioner meets with various stakeholders to promote the rights of children with disability. One such meeting is the meeting with Deaf Kidz International on 14 October 2014. The purpose of the meeting was to highlight the challenges faced by deaf children in South Africa and recommend solutions on how to ease these challenges in collaboration with Deaf Kidz International.

The Commissioner also conducts inspections of special needs schools to observe if these schools comply with the Convention of Rights of Persons with Disability. In September 2014, the Commissioner visited Tshildzini Special School, Letaba Special School, Bosele Special School and Setotolwane Special School in Limpopo Province.

The Commission after the visit believes that there is more that needs to be done in guaranteeing that children with disabilities are provided with quality education that is their basic right. The Commission intends to institute an investigation into possible violation of human rights against the children in these schools.



Environment, Natural Resources, Rural Development and Children

By Commissioner Love

The South African Government has placed human rights at the heart of its development agenda, and has enshrined in the Constitution of the Republic of South Africa, Act 108 of 1996 the right to an environment that is not harmful to one's health and wellbeing; and one that is protected for the benefit of present and future generations. This is central to the Government's sustainable development agenda, and also to Commissioner Janet Love's portfolio on Environment, Natural Resources, and Rural Development.

The right to a healthy environment is fundamental to the enjoyment of all human rights and is closely linked with the right to health, wellbeing, and dignity. A sound and healthy natural environment lends an enabling background for the enjoyment of other human rights. It is clear therefore that the right to a healthy environment is a fundamental part of the right to life and to personal dignity. Environmental destruction can result in discrimination as the effects of environmental change are felt mostly by vulnerable and socially and economically disadvantaged groups. These groups include children.

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All over South Africa, children experience the negative effects of environmental degradation

All over South Africa, children experience the negative effects of environmental degradation, including water shortage, compromised air quality, fisheries depletion, soil erosion, and unsafe management and disposal of toxic and dangerous wastes and products particularly from the extractives industry. Climate change, for instance, is exacerbating many of these negative effects of environmental degradation on human health and wellbeing, and is also causing new ones, including an increase in extreme weather events and an increase in the spread of malaria and other vector borne diseases.

In the context of socio-economic rights and the environment, the Commission has identified the need to carry out a number of activities in promoting and protecting the rights of people affected by natural resource issues. One of these activities is monitoring the impact of mining on environmental rights. One environmental impact that has received attention over the years is that of Acid Mine Drainage (AMD). The Commission has worked for a number of years on the issue of AMD and the human rights implications of this mining-related environmental problem. The Commission deals with various complaints and submissions on AMD and related impacts, including the lack of public participation in decisions related to the treatment of AMD in affected areas, the lack of health studies in AMD affected areas, and the lack of monitoring of adherence to social and labour plans and environmental management plans.

AMD, as with other environmental problems, poses a risk to the

realisation of children's rights of access to food and sufficient water, adequate housing, access to healthcare services, freedom and security, and human dignity. It is a pattern seen in various parts of the world — children being sickened from exposure to chemicals, contaminated air and water, and physical danger resulting from mining activities. In the South Durban Basin, where air quality is severely compromised from activities of several refineries operating in the area, the Commission received complaints of children suffering from respiratory conditions such as asthma and persistent colds and coughs, and general malaise linked to the poor environmental quality in the area. Despite reports from within mining communities as well as former miners of the adverse effect of mining dust on human health, no generalised epidemiological studies have been completed in South Africa on health and mining. There is a need for urgent study on mine dust in order to protect the health rights of children in those communities.

Meanwhile, in the gold and coal mining regions affected by AMD, children are exposed to a host of environmental issues including toxic mine dust, acidic, and radioactive water. The lightly coloured mine dust covering mine tailings, and the warm acidic water in rivers and streams in AMD areas present an attractive nuisance for children to play and swim in, oblivious of the toxicity they are exposing themselves to.

The Commission also continues to monitor rights issues related to illegal artisanal mining activities. These manual labour activities have been shown to impact on children. Children are at times involved in some processing stages of the illegally mined product — be it in breaking and grinding rock, or the chemical extraction of gold ore using mercury. Mercury usage has incredibly serious consequences for human and environmental health.

In these illegal mining areas, very young children (including infants often on the backs of their working mothers) can be exposed to mining dust and chemical hazards when they accompany parents to work sites. Furthermore, a child being roped into these mining activities when they should be in school has a bearing on their education. Lastly, the Commission has heard of incidences where non-national minors are involved in illegal artisanal mining. There is no adequate provision made for these children. The quality of the physical environment affects girls' and boys' health and wellbeing. Inadequate living standards and degraded environments ultimately impact on the quality of life of children.

There is increasing evidence, nationally and globally, in support of the crucial role that children can and must play in environmental protection through their participation and also developing of appropriate mechanisms that protect the children's rights to a decent environment. From the environmental perspective, the UN Convention on the Rights of the Child (1989) emphasises four important principles namely Article 2, 3, 12, and 6 which specifically provides that all children have the right to adequate environmental conditions for good health and social, intellectual and emotional development, focusing on the fact that a general understanding of environmental preconditions are necessary for realising children's rights and knowledge about and respect for the natural environment is an integral part of the development of every child.

Environmental and other rights can only be realised in the context of adequate and supportive housing and human settlements, and facilities and infrastructure geared to the needs of children.



How magistrates and local government are failing to uphold the rights of the children in eviction matters

CRC@25
Message



The Constitution and the legislation protect vulnerable people (especially children) from being evicted into homelessness. Section 26 of the Constitution seeks to prevent arbitrary evictions. To give effect to that right the Prevention of Illegal Eviction and Unlawful Occupation of Land Act (PIE) was enacted. Germane to this analysis is section 4 which prescribes that an eviction order should only be granted if it is 'just and equitable'. The considerations which the court must have regard to a priori determining that an eviction order is just and equitable are the rights and needs of the "elderly, children and people with disabilities".

The trite principle regarding evictions that have emerged from the jurisprudence of the courts is that it is only just and equitable to evict unlawful occupiers who would be rendered homeless as a result of the eviction if alternative accommodation is provided. The duty to

provide alternative temporary accommodation for evicted people falls squarely on the local government authority. This is regardless of who the evictor is, be it a state or private entity. This is because, as the Constitutional Court so aptly state, "To differentiate between emergency housing situations caused by eviction by reference to the identity and purpose of the evictor [is] unreasonable, since it matters little to a homeless person what the cause of her homelessness is. Her need is the same". Corollary thereto, it means that "in an eviction proceeding which is likely to trigger constitutional obligations on the part of a local government authority (i.e. municipality) to provide emergency accommodation, the local authority will be a necessary party to the litigation, and must be joined".

In a nutshell, a local government authority has a constitutional duty to provide alternative accommoda-

tion to people who are likely to be rendered homeless as result of an eviction. This means that the local authority must have in place an emergency housing plan that caters for such instances.

If an emergency housing plan does not cater for the most desperate and vulnerable it will not pass constitutional muster.

One factor constituting a component of the 'just and equitable' analysis in terms of the PIE Act is the rights and needs of the child. Section 28(1) (c) of the Constitution provides an unqualified right for every child to shelter. Where parents are unable to shelter their children, the court in Grootboom stated that the obligation falls to the State. The principle is that the obligation to provide shelter rests primarily with parents and families and alternatively, if parents cannot then upon the state. However, it does not mean that 'the State

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Instances where we hear that magistrate courts are handing down eviction orders without having due regard to the constitutional framework as enunciated by superior courts, is disturbing.

incurs no obligation in relation to children who are being cared for by their parents or families'. The State must provide the legal and administrative infrastructure necessary to ensure that children are accorded the protection contemplated by section 28.

At an international level, the Convention on the Rights of the Child, 1989, in Article 27, obliges State Parties to take appropriate measures to assist parents and others responsible for the child to implement the child's right to an adequate standard of living, and in case of need, provide material assistance and support programmes, particularly with regards to, among other, housing. At a regional level, the African Charter on the Rights and Welfare of Child, 1990 provides in Article 20 that the primary obligation of parents is to secure

conditions of living necessary to the child's development and in case of need, State Parties should take all appropriate measures to provide, material assistance and support programmes, particularly with regard to, among other, the right to housing.

Having noted the preceding, it is clear that no child should be rendered homeless. This constitutional obligation is fortified by section 28(2) which provides that the best interests of the child are paramount in any matter concerning the child. Therefore, it is logical to argue that in an eviction matter which is likely to render the parents of a child homeless, corollary thereto, the child, the courts must be loath to grant an eviction order unless alternative accommodation can be provided by the relevant local authority.

This is not to argue that children should be used as 'shields' by parents when they have to be evicted from land they have hitherto occupied unlawfully. However, my thesis is that the "best interests" (section 28(2)) of the child requires that where an eviction is likely to result in homelessness then alternative accommodation has to be made available. This is because a child has an unqualified right to shelter and a weaker but larger right of access to adequate housing. Surely, an eviction order which is likely to render a child homeless cannot be said to be just and equitable.

Therefore, instances where we hear that magistrate courts are handing down eviction orders without having due regard to the constitutional framework as enunciated by superior courts, is disturbing. The doctrine of stare decisis requires lower courts to follow precedents set by the higher courts. Thus, it will be failing, and violating the rights of children, if magistrates are to make an eviction order evincing a scant regard of the best interests of the child.

Thus, if the facts in the Walmer Estates matter as captured by Ground-up, are accurate then the court as well as the local authority have acted unconstitutionally.

The facts in that matter are that a magistrate court on 17 June 2014 signed an eviction order. This order was granted notwithstanding that the occupiers, who also include children, would be rendered homeless and the City of Cape Town would not provide alternative accommodation. Moreover, it would appear that the rights and needs of the children (as a vulnerable group) were not given the due consideration they deserve.

Consequently, an eviction of such a nature will be invalid and must be set aside. This is firstly because of the non-compliance with the "just and equitable" requirement of the PIE Act, and secondly, the local authority must have been a necessary party to the litigation since the eviction was likely to result in homelessness.

More information on the CRC is available at www.sahrc.org.za



Pic: @Unicef

Time for a peaceful revolution



**SAHRC Deputy Chairperson,
Pregs Govender**

From high-profile cases to cases that never make the headlines, it is clear that there is no ceasefire of the war in homes, neighborhoods and workplaces. Patriarchs, from pulpits and podiums, attack the dignity of people who do not conform to militarized masculinity and submissive femininity. Every day we hear of misogynistic attacks on babies, children, heterosexual and lesbian women and people who are gay, bisexual, transgender and intersex.

The international campaign of 16 days of activism to end gender violence begins, the international day against violence against women. The global solidarity campaign initiated 23 years ago in 1991. The year before, Nelson Mandela was released from prison and led the ANC in intense negotiations with the Apartheid regime. Those negotiations, together with active civil society campaigns, ensured that racist threats of civil war were successfully averted and SA developed a Constitution that committed to a non-sexist society in which women

could enjoy the rights to bodily integrity and substantive gender equality.

This year's global campaign theme is "From Peace in the Home to Peace in the World: Lets challenge militarism and end violence against women". Gender equality and relations are ultimately about power and the definition, use or abuse of that power in the home, society and the state. Policy-makers, legislators, trade unionists, civil society activists and human rights institutions have to interrogate the analytical frameworks and programs of action that reflect and shape how we think and act. We need to understand which social, economic and political policy choices undermine women's power. What is making women vulnerable to gender based violence and the institutionalized violence of poverty and inequality. What is preventing women from enjoying human rights?

Women's unpaid or poorly paid work helps corporations make billion-dollar profit for a handful of very greedy owners, executives and share-holders, while a self-perpetuating arms industry provokes war across the planet. Women's role as subsistence farmers and small-scale farmers is recognized as the key to the right to food security, sovereignty and an end to hunger. Yet that work is not valued or counted as a contribution to the economy and receives little or no support. Instead policy-makers develop laws such as the Traditional Courts Bill that undermine rural women's rights. Today, 95% of SA's rural water is used by 1.2% of people who own agribusiness, mining and other industry, while over

60% of SA's children live in poverty. Stats SA's most recent report reveals that, "only 30.8% of Black African women are employed". Most of the jobs in which women are employed are precarious jobs. They receive little protection from the labour laws, which they had fought for. Instead thousands of 'women's jobs' in the formal economy have been destroyed by economic policy choices that are blind to human rights, especially substantive gender equality.

In 1996, our Government acceded, in a critical post-Beijing Cabinet commitment, to 'decrease military expenditure and increase spending on women's empowerment.' Yet later that same year our country entered into an arms-deal with European corporations. This deal was a corruption of SA's policy priorities to address violence, poverty, inequality, HIV and AIDS, by arms corporations, backed by their powerful governments. Central to these priorities was the need to demilitarize our police and security forces after the war of Apartheid against the citizens of our country and neighboring countries. Democratic SA had to build a new culture of accountable and responsive government that respected the dignity of those the Apartheid state had deliberately undermined. Accountability of the state to people who are Black, female and poor requires a fundamental shift of paradigm and practice from Apartheid's capitalist, patriarchal mindset. Elected leaders whose mandate is to protect and promote human rights must be held accountable to those who have been reduced to the poorest and the most powerless as their

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Leaders cannot collude or be corrupted by those who lay claim to the wealth of the world

land, water and other natural resources are taken from them. Leaders cannot collude or be corrupted by those who lay claim to the wealth of the world.

Civil society has demanded that Government “develop and implement a comprehensive and fully funded national strategic plan to prevent, combat and respond to gender based violence”. There are many expert research reports that address the policy and program changes required in the departments of co-operative governance, the criminal justice system, social development, health, finance, human settlements, water and sanitation, labour, trade and industry, economic affairs and many other departments in all spheres of government. The many parliamentary hearings and consultations in civil society that have been held, can inform the strategic plan.

This year’s campaign can be used to expose the connection between the violence against women and the institutionalized violence of economic and religious fundamentalisms that perpetuate war, poverty and inequality. This campaign ends on International Human Rights Day, which recognises women’s rights as human rights and human rights as women’s rights. The Universal Declaration declares that human beings are entitled to the right to be ‘free from fear and free from want’. It also recognizes that “Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized” Nothing less than a peaceful revolution in ourselves and our world is needed to create that order.

Pregs Govender, SAHRC Deputy Chairperson.



SAHRC reflects on 25 years on the CRC

SAHRC Deputy Chairperson Pregs Govender raised her concerns on the fact that, “After such solidary, in our country we still have over 60% of children living under the poverty line.” She further mentioned the incident of another child falling into a pit latrine, and although the child did not die, she stated that the child’s dignity was severely impaired. Such incidents are an indication of the level in which leadership in government has reached incompetency. The CEO of the SAHRC Kayum Ahmed urged that time needs to be taken to reflect on challenges and achievements and noted that, “As the SAHRC, we have fallen short in monitoring government compliance in its international obligations, including the CRC.”

The round table served its purpose of creating a dialogue that is necessary to create changes that will improve the lives of children by calling on the South African government to commit to its obligations under the CRC. The pitfalls were stated and discussed and the successes were celebrated. Patrick Solomons, Director of Molo Songololo shared children’s thoughts on SA’s achievements. Among others was that, “Children’s rights were respected,” this being

the fundamental achievement of the CRC. The children were also said to have stated the gaps, which include the fact that child abuse, sexual violence, gangsterism, peer pressure and bullying are still prevalent and continue to be a threat.

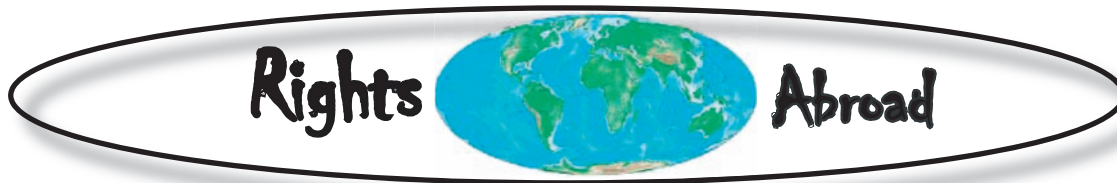
Commissioner Lindiwe Mokate, reflected her SAHRC responsibilities for children’s rights and education by leading the proceedings accompanied by UNICEF. She mentioned that, “reflecting on the CRC is a good opportunity for the country to assess the progress made and the challenges still faced in the realisation of children’s rights. People such as Bridgette Mabandla, Andre Viviers, Mathole Motshekga and many others played an important role in the realisation of children’s rights.”

Former UNDP Deputy Regional Director of East and Southern Africa, Scholastica Kimaryo discussed various ways of creating positive change in the lives of children. She mentioned the need for an interactive approach and asked why children are treated as a well-fare issue when they are the future. “There is nothing as unequal as treating unequal people equally,” she said.

Pf



Chairperson of the Justice and Correctional Services Portfolio Committee, Hon. Mathole Motshekga promised to work with the SAHRC to protect children from abuse.



World Human Rights Forum

The second edition of the World Human Rights Forum was held in Marrakesh, Morocco from 27-30 November 2014 and brought together thousands of human rights advocates from civil society, academia, State representatives and other stakeholders including members of parliament and judiciary from around the world. The ICC in collaboration with the National Council for Human Rights of Morocco and the Office of the High Commissioner for Human Rights jointly hosted a workshop titled National Human Rights Institutions and the Engagement with the UN Human Rights Mechanisms. This was in recognition of the limited focus given to NHRIs in the first edition of the World Human Rights Forum that was held in Brazil in December 2013. It was also in follow up to the ICC advocacy efforts that contributed to the adoption of the landmark General Assembly NHRI resolution in December 2013, which not only reiterated the important role that NHRIs can play in advancing human rights promotion and protection but also called for consideration for NHRIs to participate in full in all UN human rights mechanisms and processes. To this end the UN Secretary General was tasked by the General Assembly to prepare a report on NHRIs and their participation in UN system-wide mechanisms and processes. The ICC is committed to lending its voice to the development of this report.

The ICC Chair, Advocate Mbedle Lourence Mushwana spoke on the importance of NHRIs contributing to the process of the adoption of the new set of development goals commonly referred to as the sustainable development goals (SDGs). The SDGs are set to be adopted at the expiration of the millennium development goals at the end of 2015. For NHRIs the imperative lies in ensuring that the next set of development goals are implemented using a human-rights based approach.

NHRI Panel on Opportunities and ways to strengthen NHRIs' interaction and engagement with UN organs and mechanisms

Opening statement by Adv. Mbedle Mushwana delivered on 28 November 2014 in Marrakech, Morocco.



Adv Mushwana at the World Human Rights Forum, Morocco

I am honoured today to present one of the opening statements at this panel as the Chairperson of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights better known by its acronym "ICC".

I would first like to convey my sincere appreciation to the President of the National Human Rights Council of Morocco for extending an invitation for me to attend this auspicious World Human Rights Forum.

The hospitality extended to me and my staff has been very warm and is deeply appreciated.

I wish to acknowledge the members and staff of the National Human Rights Council of Morocco for

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General Assembly resolution on NHRIs encouraged NHRIs to continue to participate in and to contribute to deliberations in all relevant UN mechanisms and processes

their time, efforts and dedication to the successful hosting of the Second World Human Rights Forum.

I would also like to commend the National Human Rights Council of Morocco for ensuring that this Forum recognises the importance of highlighting the particular role that national human rights institutions, referred to also as NHRIs, play in promoting and protecting human rights.

Opportunities for NHRIs

The concept note for this session points to the efforts that the ICC together with individual NHRIs have made in advocating for an increased recognition of NHRIs within the UN mechanisms and processes.

NHRIs compliant with the Paris Principles now enjoy full speaking rights at the Human Rights Council and can actively participate in its work.

The various Treaty Bodies as well as Special Procedures are also increasingly taking note of the important opportunities presented by formally interacting with NHRIs.

In addition, the most recent General Assembly resolution on NHRIs encouraged NHRIs to continue to participate in and to contribute to deliberations in all relevant UN mechanisms and processes.

The resolution went a step further and requested that the Secretary General in his next report on NHRIs to the General Assembly provides concrete information on the feasibility of NHRIs, compliant with the Paris Principles, participating independently in UN human rights mechanisms and processes.

This resolution is a step forward for NHRIs as it provides a much-needed

leverage mechanism in the ICC's efforts to push for a UN-wide recognition for NHRIs; particularly in New York.

The ICC will in consultation with the Office of the High Commissioner for Human Rights contribute to the next Secretary General's report.

A more detailed account of the ICC's work in advocating for the increased recognition of NHRIs in the work of the General Assembly, Human Rights Council, the treaty bodies, and UN processes such as Working Groups will be provided by the ICC Geneva Representative shortly.

Challenges and recommendations

Ladies and gentlemen,

While the strides to increase NHRI recognition within the UN human rights mechanisms and processes have enhanced NHRIs' participation and contribution to the advancement of human rights, the ICC's experience is that NHRI engagement with these processes and mechanisms remains limited.

Several factors may contribute to this fact including NHRIs having limited financial resources at their disposal to meet the costs of travelling to Geneva, limited access to information on these mechanisms and processes, limited understanding of what is required of NHRIs and at times limited State engagement with certain processes such as reporting to Treaty Bodies which has a converse impact on NHRIs' opportunities to themselves submit reports.

Some of these challenges may only be overcome with successful advo-

cacy to ensure that States meet their international obligations and commit in action to strengthening NHRIs to be fully compliant with the Paris Principles.

Other challenges will require creative approaches.

For instance, in September 2014, the ICC hosted a joint meeting with the Committee on the Rights of Persons with Disability and NHRIs and Independent Monitoring Mechanisms.

What stood out was both the nature of the meeting-it was the first of its kind -and also the innovative use of technology. The entire meeting was webcast and was thus available to NHRIs around the world in real time.

Such use of technology enhances the accessibility of the UN human rights mechanisms and processes. It increases the number of individuals that can interact with these mechanisms and processes and also slashes the cost of the engagement.

Therefore, rather than the traditional 1 or 2-member NHRI delegation attending a session in New York or Geneva, large numbers of staff of an NHRI can participate in the particular session even as observers.

Similarly, the use of video statements within the Human Rights Council by NHRIs is a useful tool but still remains largely under-utilized. If used more often, it would go a long way both in terms of impact and in saving costs for engagement with the Council.



“Who wants to be an activist librarian?”



By Tawana Malapane
Assistant Librarian

On 22-26 September 2014 we attended the 16th LIASA conference held at Birchwood hotel. I was impressed by a number of interesting and informative research presented at the conference. Peter Sharpe presented a paper about “Who wants to be an activist librarian?” He emphasized that being an activist librarian can change mindset and provide the reality that another world is possible to promote equal rights and lead minorities.

Sharpe also presented on Collection-centered focus and Community-centered focus.

Collection-centered focus

This refers to library collections and the technical aspects of the library.

Community-centred focus

This refers to the use of library by communities. The focus is outward, building relations, and development of communities. In other

words, taking the library to the communities.

Advocacy.

What activism is, should be

Getting your audience to change their behavior is harder than simply getting them to agree with you, but a dedicated activist will work diligently towards that goal, knowing that it will benefit not just the planet society. Lifelong activist (Rettig, 2006)

As librarians our role is closing the information gap and motivating that we all must enjoy the freedom of democracy. The challenges in South Africa are that a number of people are still information illiterate.

It is also a challenge in outreach activities when information is disseminated but there are no strategies to maintain the culture of learning, and education is not enforced. Then what roles as librarians should we play? As Jesse Shera (1965) put it, “The purpose of the library is to maximize the social utility of the graphic records”.

A successful embedded librarian provides sophisticated contributions to the teams they work in. However, the nature of work varies among different organizational sectors (Shumaker, 2012).

We must all take opportunities and participate in contributing and building the economy of our country, as we will be presented with opportunities of making informed choices so we can be able to make best decisions with regards to our

personal goals, academic and careers choices.

Outreach activities

‘These common aspirations of the peoples of the world need to be addressed by all of the world’s basic institutions including libraries’. Community engagements are not a product that can be purchased. It needs to be a non-prescriptive approach that is highly adaptable, lending itself well to the numerous and varied social contexts of each library system and the communities they serve (William, 2014).

We must address all the challenges that we have in society that limit communities to become passive participants in our societies. Being information illiterate does not imply that people do not deserve to be active members of societies, where they can enjoy equal rights and opportunities with those who are privileged.

Librarians must work to improve society through action; we cannot have a discussion on importance of action and activism without also considering service. Librarians strive to serve the communities to which they belong (Ojala, 2014).

Royley (2006) argues that data becomes information, which becomes knowledge, which becomes wisdom. By taking the above actions, librarians will not only improve knowledge in their communities but also encourage the creation of wisdom.



Opinion: What is it about feminism that creates so much misunderstanding instead of unity?



Kebothale Motseothata,
Visiting student

Women are nurturers of humankind. Through the warmth of the womb, man blossoms to life and becomes a vital part of the universe. All human life and form are due to the protective nature of the womb. Why then, are women mistreated by the very flesh they harbour? Why then do we bare sons who rape and violate our very essence? Silencing our voices until our words internalize into self-hate? The two dominant species of humankind are man and woman, both unite to create the world we know yet for centuries, one has always enforced a certain level of oppression upon the other. Without women, there are no men and in turn without men, there are no women. It is in this regard, that man and woman must peacefully work together to create an ideal life. A life free of hatred as the violation of any human right.

History has told stories of men and women having to play roles around their environment in order to cre-

ate viable means of life. The authoritative nature of the man has always been at the forefront of providing while the nurturing nature of the woman has always been to strengthen. It has been embedded in the human mind that the man has always been the one to work and bring food home, while the woman remains home to simultaneously take care of her offspring and exude warmth into the household. These dynamics of living have always been the source of family functionality and with time, they evolved as the two species of humankind devised newer means of survival. In those times, the physical strength of a man and the emotional strength of a woman were used as the foundation of building a home. As the world changed with its laws, women were made to believe they had no place in the broader developments of society.

We now live in an era where women have located their voices and are creating movements to fight for their rights. The economic developments of society have played a role in the manner in which man currently perceives woman, and how in turn, woman perceives herself. Feminism has found life and is now at the forefront of fighting gender inequality. The movement is good for an era where women are beginning to find their feet, but the question is, how effective is it? Does it need to be redefined in order to effectively fix patriarchal privileges that have for years, placed women at a disadvantage? Why do some women oppose the mandate of feminism, while some men view it

as an attack on manhood? What is it about feminism that creates so much misunderstanding instead of unity?

The rise of the movement is prevalent on social media and more young women are beginning to question the dynamics of male authority, inequality and consequently the violation of women's rights. A good initiative which one is afraid will need some redefining if its mandate is to be as effective as it should be. Women possess a natural power and a gracious nature that should speak for itself. The consciousness of womanhood is the only solution to creating an environment where women will rise in their own right. In order for this to be achieved, the plight of women can no longer be solved by making reference to men. Although we are facing violations that threaten our sense of self, we must start rising and speaking as warriors and not as victims. As women, we should be in a position to say, this is what is happening to us, but this is what we are going to do to overcome and as a result, empower each other to strive towards healing. We may host seminars pointing out everything that is being done to make us helpless, but if we do not truly introduce ourselves, we will never be known.

Questioning some dynamics of feminism should not be seen as anti-woman and anti-justice. It is not a matter of holding an aggressive stance against the progress of women, but a question of devis-

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We (women) need to channel our voices towards creating a change in the way we are perceived.

ing more methods of creating understanding. Methods that create authentic unity between men and women in fixing the ills of patriarchy and every other thing that threatens the value of a woman. We are more than just victims, but lionesses who have carried the world on our backs for centuries. We have experienced pains that society will never understand no matter how hard we try to articulate that pain for the world to see. By realising our power and promoting a new way of consciousness to womanhood, society will learn how

to treat us. We need to channel our voices towards creating a change in the way we are perceived. A woman who holds a position of power in the workplace allows her work to speak for her, and in turn progress occurs because her natural feminine grace protects her. She does not do her work any less because she is a woman, nor does she have to state in her work, the flaws of her male counterparts in order for it to be recognised. Her work encompasses the goals she wishes to reach, as a result, her vision is understood and those who work with

her, assist in making it come alive. She is a mother, a wife and a member of society and carries all her duties accordingly. She doesn't strive for domination, but works for the greater good of progress. And that is how she gains respect. We need to create a society that will unite the differences of men and women in a peaceful manner.

Women walk with nations on their backs while carrying buckets of life on their heads. Our struggles need solutions that are going to breed more unity than defense and separation due to lack of understanding. The African mind, the African way of living and everything that has affected the African nature, has to be considered in order to emancipate the African woman. For her peace lies in the peace of her nation, and the strength of her nation, lies in her consciousness of self. 

Notices

Invitation: Business and Human Rights on Migration

The South African Human Rights Commission in collaboration with the UNHCR & the Department of Home Affairs will host a Business and Human Rights Dialogue on 08 and 09 December 2014. The workshop will focus in particular on challenges faced by small business owners who are foreign nationals as well as the state of xenophobic attacks against foreign nationals since the 2008 xenophobic attacks.

International Human Rights Day, 10 December

The Commission will host a focus group dialogue on race and racism; jointly with the Nelson Mandela Foundation and OHCHR in commemoration of International Human Rights day in January 2015.



From the Strategic Desk

By Strategic Support and Governance Unit

Commissioners leading from the front

In October 2014, the Strategic Support and Governance Unit presented a process plan for organisational strategic planning. Included in the process plan is a consultative process with the Executive Authority, the Commissioners, who held one

of their strategic planning sessions at the end of October 2014. They reflected on the institutional approach to strategic planning and directed the organisation towards an increasingly outcomes based planning, evaluation and reporting

model. This involves a re-emphasis on the key issues and specific outcomes to be pursued within the next few years and particularly during the next financial year, 2015-16.



While the contents of the current strategic plan will not change significantly, the Commissioners are initiating approaches to formulate and identify institutional deliverables such that they extensively enhance achievement of identified strategic objectives, realisation of outcome oriented goals, and promote integration across the strategic focus areas. The process will culminate in a revised strategic plan by the end of January 2015. *Pf*

Enhancing monitoring and evaluation

Meanwhile the Commissioners deliberate, in consultation with senior management, on the strategic direction, the Secretariat is gearing itself for proper monitoring and evaluation, subsequent to the anticipated revised strategic plan to be implemented as of 01 April 2015. A workshop was conducted at the end of October 2014 to ensure managerial responsibility for performance monitoring and evaluation, as well as enhance outcomes based reporting, aligned with the adopted outcomes based planning approach. The monitoring and evaluation workshops will be rolled out for the benefit of all institutional staff, including provincial offices, during the 2015-16 financial year. *Pf*



Understanding and eliminating Gender Based Violence

By Yolisa Mfaise and Siyasanga Thulani Giyose

Shopping at one of the large furniture stores recently, an intercom rang: "all male employees please come to the front". I was stunned by the announcement. I looked at the female employee who was serving me. She was unperturbed by it. I heard seemingly jubilant voices of male employees in the background, as they heeded the call. I asked the employee serving me what that was about: "A delivery truck has arrived."

Immediately I reflected on conversations had with my colleague - with whom we have shared thoughts on this article - relating to understanding and seeking to eliminate gender based violence. Our conversations were stirred by the country's sixteenth '16 days of Activism for Non-Violence against Women and Children' campaign, launched on 25 November 2014, with the national theme, 'Count me in: Together moving a non-violent South Africa forward'. As we share our thoughts, we confirm and commit ourselves to be counted in to move South Africa towards a non-violent and equal society.

We further note that whilst gender based violence is violence perpetrated against individuals on the basis of their gender, evidence clearly shows that a higher percentage of victims of gender based violence are female - regardless of sexual orientation or geographical dispersal. Therefore, our focus is mainly on women as victims.

In the quest to eliminate gender based violence, it is important to understand its underlying causes so that these may be addressed and a per-

manent 'truce on violence against women and children' be realised, as the global theme emphasises, 'From Peace in the Home, to Peace in the World'.

We pondered that, while the campaign's objectives are useful in developing an understanding into the causes and consequences of gender based violence, there seems to be a deeper rooted challenge that we believe is seldom brought forth to the mind of ordinary folk like us, in unraveling the violence syndrome in our society. The objectives of the campaign towards eradicating vio-

lence against women and children can be summarized into:

- a) Active participation by all citizens;
- b) Promoting government accountability;
- c) Raising awareness of the effects violence against women and children, through technology, all media including social media; arts and culture; business etc;
- d) Mobilisation of communities for increased responsibility;
- e) Encouragement of society to acknowledge that this is a



broader societal problem than merely a government problem; and

- f) That the solution lies with every one of us.

The objectives are focused on addressing some of the causal aspects and consequences of a larger societal issue that institutionalises gender based violence. The aspects are often linked to various societal causes, including cultural barriers, poverty, low self esteem, unemployment and financial problems, alcohol and drug abuse, stress etc.

Gender analysts, experts and activists have developed and use the 'Gender Based Violence Tree' to help us understand the challenge better. The various social aspects or causes as outlined earlier form the roots of this tree. The consequences of these root causes include child headed households; single parenting; absenteeism from work / school; out of school youth; divorce and unstable family life; low self esteem of individuals; never ending cycle of poverty; continuous cycle of violence and abuse. Furthermore, these have an adverse effect on the economy due to absen-

We should implement changes to our institutional policies, decisions and practices to promote gender sensitive structures

teeism from work, as well as on state resources, heightened by the overburdening of state services such as health, justice, correctional services, and municipal services.

Going back to the tree analogy; while every tree has its roots, which are visible to the naked eye, there is often an overlooked or seldom mentioned element, the tap root of a tree. This is the root that holds the tree upright despite the elimination of its ordinary roots. This is an analogy we are carrying through as an attempt to promote understanding amongst our peers, of the phenomena of gender based violence. Having identified some of the causes and potential consequences of gender based violence as usually distributed in public messages, there remains the less advocated territory, at least to our minds, that of substantially and effectively challenging the entire patriarchal system – which is itself a system of maintaining the status quo of male power.

The seemingly normalised and acceptable ‘call for male employees’ at the furniture store is but one example of the institutionalisation and entrenchment of the patriarchal system. While the act of offloading furniture from a delivery truck does not in itself lead to gender based violence, the implication of the call is that all male employees are more physically powerful than their female counterparts. This has implications of power imbalances, instilling that men are more physically powerful than women. While this may be argued from a biological perspective, it

tends to have adverse social effects. It often spills over to perceived male power and dominance in all facets of life. It then influences people’s behavior, perpetuating stereotypes, and thereby promoting unequal and unfair treatment between the sexes. Similarly, within the workplace and cultural and religious institutions, the tendencies are promulgated, via policies; governance structures and the nature of decisions; practices and expectations. Most of these are configured with the underlying notion of men as supposedly dominant and are consequently often gender insensitive and biased.

As such, we fully support the suggestion of the SAHRC Deputy Chairperson, Pregs Govender, that,

“This year’s campaign can be used to expose the connection between the violence against women and the institutionalised violence of economic and religious fundamentalisms that perpetuate war, poverty and inequality”. (Time for a Peaceful Revolution, accessed online on 2 December 2014).

We also acknowledge government’s commitment to gender equality, as substantiated through legislation, continued involvement in the global campaign, as well as statements and opinions by our Ministers in the Presidency. The Minister of Women, Susan Shabangu, in a Parliamentary Debate on 21 November 2014, alluded to her department’s plans to host dialogues to broaden understanding of the causes and impact of our national challenges, including violence against women and children. She mentioned that the dialogues will also ‘facilitate the identification of gaps in legislative, policies and programmes implementation’. In her words, “Current strategies mean nothing if they cannot give meaningful expression to the victims they must impact on positively”.

Minister Jeff Radebe, in an opinion piece published by S.A. News on 2 December 2014, acknowledges that

government legislative and institutional mechanisms have not been adequately effective to reduce violence against women and children. This is reiterated by Gender Links, (cited in S.A. Info - <http://www.south-africa.info/services/rights/16days.htm> – accessed 02 December 2014), that, “Changing laws can be swift. Giving them effect, and changing the mindsets that often render them ineffective, is a much more demanding task.”

The gender based violence tree reminds us that progressive utterances and policies should be institutionalised through direct practical and real challenges to the status quo, both at institutional and individual levels. We should implement changes to our institutional policies, decisions and practices to promote gender sensitive structures. At an individual level, we call on our peers to set an example by beginning to act in gender sensitive ways, be it within their workplaces, communities or private homes. It is important to note and understand that institutional structures, discriminatory policies and practices do not fall from the sky, without influence from individuals, as much as progressive policies and practices cannot implement themselves. The change we seek to see therefore begins with ourselves. As we occupy respective positions and roles within society, we should actively support gender sensitivity, while we resist and reject any forms of discrimination. It is through accepting the patriarchal system and its institutionalisation of gender inequality that power imbalances are spread onto the various aspects of our lives. It is with this background and understanding that we add our voice:

*** Count us in: We will protect our sisters.**

*** Count us in: We care for the safety of women and children.**

*** Count us in: We are cool, we do not bully.**

*** Count us in: We do not punch others.** 

In the Seat

with Daisy Kenny
Deputy Human Resources Manager



Tell us about Daisy in a nutshell?

I am an energetic and private individual. I enjoy the outdoors and particularly community work. I am a family person and enjoy the company of my family.

Where were you born and how was it for you growing up?

I was born in Mpumalanga. Had a fairly normal childhood, I played on the streets, ate ghetto snacks. I am the 3rd child of 4 children.

Educational background?

I completed my matric at Rand Park High School. Got my undergraduate from WITS, in BA Industrial Psychology and Industrial Sociology. I then proceeded to complete my Honours in Industrial Psychology from UNISA.

I was very active in student politics in my varsity years.

Describe your position at the Commission and explain what it means to you working in that position?

My main portfolios are Training & Development, Performance Management, Employment relations. Basically I am there to provide support and guidance to both employees and the company. It is very interesting and requires one to be sober minded. You are dealing with people's lives and their trust and confidence in your knowledge of the field. Confidentiality and ability to attend to queries is crucial. I personally enjoy working with people and believe it is an opportunity to learn and be a part of the positive change which can impact the work environment.

In a summary can you take us through your day at the Commission?

That is difficult as no day is the same. It's dealing with queries and attending meetings. We plan.

Day outside office?

I enjoy baking and cooking, I'm always experimenting with new recipes and concoctions (laughing). I am involved in community youth development projects.

I plan to run the comrades marathon one day

What motivates and inspires you?

The art of life inspires me. Living in itself is an art and the way it expresses itself on a daily basis motivates me to do more and aim to be more.


Favourite activities?

Baking, listening to music.

Any interesting things that people don't know about you?

I am a long distance athlete (1500 meters), cross country and orienteering. I also write lyrics although I do not know how to sing. I plan to run the comrades marathon one day.

What are your views on racism and what do you think should be done to ensure a racism-free SA?

Racism is a taught concept, an ignorant expression of fear, it is learned through socialization. A mechanism of defense against the unknown. I'm not sure what could be done to ensure a racism-free SA. Perhaps we could start by making an effort to know and understand other races. 

Did you know?

Daisy has an Irish background.

Happy Birthday

The following colleagues are celebrating their birthdays in December. Please join us in wishing them well.

Dineo Phushuli (HO) & Thandeka Magwenyama (KZN) – 1st
Pamella Pango (HO) – 3rd
Sonto Nxumalo (HO) – 05th
Thabang Kheswa (EC) – 07th
Penny Carelse (WC) – 10th
Charmaine Leso (NW) – 20th
Nokuthula Ntantiso (GP) & Commissioner Love – 21st
Hlamalani Ngobeni (HO) – 23rd
Ntombentsha Lubelwana (HO) – 24th
Motshabi Moemise (HO) – 25th
Joyce Tlou (HO) – 26th & Nomvuyiseko Mapasa (WC) – 26th
Bahia Steris (WC) – 27th

Appointments

Pfanelo would like to congratulate the following colleagues on their appointments

* Mr Walter Nene has been transferred to the North West Provincial Office as Human Rights Advocacy and Research Officer

* Mr Oupa Dithejane, has been appointed to the position of Compliance and Reporting Officer