

# Fanelo

"It's Your Right"

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



Volume 25

01 - 31 october 2014

## Commissioner Malatji visits Limpopo



**Urgent action needed to address the "unacceptable" disability challenges in schools**

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**SAHRC concerned about the way evictions are handled**

**Calls to make sign Language an Official Language**

### Heritage day Special



## SAHRC celebrates 19 years

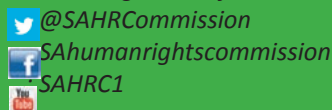
The Commission was inaugurated on 02 October 1995 under the Human Rights Commission Act 54 of 1994 and as provided for by the Constitution of the Republic of South Africa Act 200 of 1993.

The Constitution is the highest law in the country and it was adopted to heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights. These rights are listed in the Bill of Rights, in Chapter 2 of the Constitution.



**First SAHRC Chairperson: Professor Barney Pitso Molekane**

*Pfanelo* is a publication of the South African Human Rights Commission  
Private Bag X2700, Houghton  
Johannesburg 2041  
Tel: (011) 877 3600 • Fax: (011) 643 6472  
www.sahrc.org.za / info@sahrc.org.za



Editor in Chief: Kayum Ahmed, CEO

### Editorial Team:

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- **Chairperson Mbedle L Mushwana, Chairperson**
- **Commissioner Bokankatla Malatji, SAHRC Commissioner for disability and older persons**
- **Commissioner Ameermina, Commissioner responsible for housing**
- **Siyasanga Giyose, Head of Strategic Support & Governance**
- **Naomi Webster, Head of Commissioners Programme**
- **Hellen Mankwana, Brailist**
- **Witness Ndala, Personal Assistant to the CFO**
- **Vivian John-Langba, Research Associate, ICC**
- **Kebohlhale Motseothata, Visiting student**





## Bosele Special School not getting adequate support from Government



**Commissioner Bokankatla Malatji handing over the brailled Charter of Basic Education Rights to Bosele Special School Principal, Mr Job Dooka in Limpopo**

Bosele School for the blind and deaf, one of the few Disability Resource Centre Schools in Limpopo, is not receiving adequate support to cater for the special needs of its learners. Commissioner Bokankatla Malatji, SAHRC Commissioner responsible for Disability and Older Persons was shocked to learn that the aftercare teachers are not allowed to use the Government provided scholar transport for emergencies after 17H00. "This is totally unacceptable" said

a shocked Commissioner Malatji, who was in Limpopo as part of his Provincial visit to assess and monitor the realization of human rights.

Bosele School Principal Mr Job Dooka added that the transport restriction is one of the major frustrations that they have to live with as there is no support from the Department of Education and other relevant departments. "When these learners are hurt and require to be

taken to a local hospital for treatment, after care teachers are forced to use their own cars as the Department does not allow us to use the provided vehicles after hours," said Mr Dooka, adding that this depends if those teachers are around school.

The school has 15 vacant support staff positions including those responsible for food services, laundry, grounds and general house management activities, posts which government has decided against filling. House mothers have been complaining of the workload and also not being compensated for working during weekends. Owing to lack of response from Government they went on strike. "School Governing Body had to use money for other activities to pay house mothers for the work done during weekends. We have been reporting these challenges to the Department of Education with no fruitful response. When house mothers retire, posts are not advertised and as a result the existing mothers are left with huge workloads," he added.

The school used to have a Speech Therapist and a Nurse but the Department felt their services were more needed at a local hospital. "We are working with children who have speech challenges, others require constant medical care and now we have to take them to a local hospital to get services that were supposed to be inhouse," Added Mr Dooka.

Bosele was upgraded from a school for the blind and deaf to a Resource Centre. It now caters for all sorts of severe disabilities including total blindness and dyslexic children.

## No resources at Bosele Special School



"A Resource Centre is supposed to have a Nurse, a Speech Therapist and a Psychologist. There is no school nurse or any specialist and as a result we are forced to wake these learners up at 4 o'clock in the morning in order for them to access medical care. The School has learners with chronic conditions who require constant medical care. We are forced to use house mothers who are not professionals to care for these children" said Mr Dooka.

There are no workbooks in brail, question papers are only delivered on site. The school has to transfer material, which is time consuming and as a result learners do not get reading material on time. There are educators who are totally blind and as a result the School is forced to use budget for other activities to translate workbooks into brail in order for teachers to be able to use them. "If Government does not deliver textbooks in brail for a school that is for the blind, this is regarded as non-delivery and a violation of rights. We will take appropriate steps to make sure that learners rights are realized," said the fuming Commissioner.

The Limpopo Provincial Manager, Victor Mavhidula echoed sentiments by Commissioner Malatji that education is a fundamental right and if facilities are not provided it is a violation of human rights. "The Office will come and meet with the whole management to look at all challenges at the school. Subsequently a report encompassing all challenges will be developed," said Mavhidula.



Hostels meant to accommodate 12 learners has 16 due to lack of resources. The building is also worn out.

## Equality courts not capacitated in Limpopo

Commissioner Bokankatla Malatji could not believe that both Thohoyandou and Nkowankowa Magistrate Courts have each held only one Equality case in the 2013/14 financial year. Furthermore, Nkowankowa Magistrate Court is not disability friendly.

This revelation was made during Commissioner Malatji's provincial visit as part of enhancing the realisation of human rights. Staff at the Nkowankowa Magistrate Court poured their frustrations over issues such as non-accessibility and under capacity as major obstacles hindering their progress on Equality matters. "Only the Chief Magistrate is trained on Equality matters, by virtue of his position she attends lots of meetings and as a result equality matters are not given necessary attention," said Joyce Monyela, Nkowankowa Court Equality Clerk.

"I have to go assist people on wheelchairs as the court does not have ramps that can take people straight to the office," she added.

Commissioner Malatji was not happy that these courts that are meant to assist the poor are not utilised. "People are not using these courts because they are not aware that they exist. It cannot be right that only one case was held in the 2013/14 financial year," he said.

Commissioner requested the SAHRC Limpopo Office to conduct thorough investigation into the matter and provide him with a detailed report. "I will present the report to the Minister of Justice & Correctional Services for actioning," said Commissioner Malatji.





## Hura leads discussion on Deaf awareness



Staff learned more about Deaf awareness at an internal seminar

**Tshepang Sebulela**  
Research Associate, Human Rights Advocacy

The month of September is Deaf Awareness month and the International Week of the Deaf is observed annually during the last full week of September. This culminates with International Day of the Deaf on the last Sunday of the week, and it was only fitting that Human Rights Advocacy Unit (HuRA) marked this day with an activity.

A lot of us know a Deaf person or have had an encounter with one, yet most of the time we never know how to interact with them as most of us cannot even do a simple greeting in sign language, which is a simple act for them to feel as part of the hearing world. HuRA hosted an internal seminar on Deaf awareness on 12 October 2014 to enlighten staff about the Deaf community and encourage them to learn a few basic signs when communicating with Deaf

people. Mr Abram Maripane from Deaf SA was our guest at the seminar. He gave us his lived experiences and taught the participants a few basics on Deaf etiquette, phrases and words they use in the South African Deaf community.

The seminar was well attended, very interactive, informative and gave everyone an opportunity to ask questions. We learnt basic phrases and words to equip us when we happen to interact with Deaf people. By the time the seminar ended we all had sign names and were also able to greet each other and say thank you in sign language.

Here are quick and informative facts we learnt about the deaf community –

- Deaf people all over the world view themselves as belong-

ing to a linguistic minority with its own culture.

- The South African Deaf community has its own language (Sign Language) specifically for the South African Deaf culture – South African Sign Language (SASL).

- There are around 40 schools for the Deaf in South Africa, most using a variety of SASL.

- The term “Deaf” is written with a capital “D” - in the same way as one refers to “Jewish people” using a capital “J”.

- One in 10 babies in South Africa are born with some degree of hearing loss (World Health Organisation statistics).

- Most Deaf children are born from hearing parents, which means the parents would need to learn how to interact with the child.

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## THE DEBATE TO MAKE SIGN LANGUAGE OFFICIAL SHOULD BE ELEVATED



As South Africans join other nations of the world in observing International Week of the Deaf (22-28 September), the Department of Social Development supports all efforts to elevate the debate to make South African Sign Language an official language in South Africa.

Deaf persons continue to experience high levels of marginalisation and exclusion due to a general lack of understanding of Deaf culture, lack of South African Sign Language proficiency, and the availability of and expense associated with professional sign language interpreter services. This limits the social participation and integration of Deaf persons. One way of addressing this marginalisation is having South African Sign Language recognised as an official language in the Constitution of the Republic of South Africa, and the country needs to seriously discuss this matter if we are going to walk the talk in advancing disability rights.

The theme for the 2014 International Week of the Deaf is “Strengthening human diversity”, which calls for society to be sensitised so that it can better enhance its capacity to take into

account diversity and make needed changes. Part of this, according to the World Federation of the Deaf, is obtaining recognition of sign languages in all legislation and policies and the right to receive education in sign language.

The announcement by the Minister for Basic Education that South African Sign Language will be introduced in the curriculum of schools in 2015 is therefore an important step in the quest for equality for Deaf South Africans.

The Department of Social Development encourages South Africans to learn South African Sign Language, to include Deaf persons in their social circles at home, work and places of worship, and to take action, speak out against any discrimination, abuse or other forms of human rights violations perpetrated against Deaf persons.

The Department also acknowledges that not all Deaf and hard of hearing South Africans speak sign language, as they rely on sub-texting and lip-readers to access information on an

equal basis as their hearing peers. The broadcasting media in this regard plays a particularly important role, and regulating bodies such as ICASA should strengthen legislation and their oversight in ensuring that sub-texting on television programmes, DVDs etcetera is available.

In his June 17 State of the Nation Address, President Jacob Zuma said government will continue to advance and improve the lives of people with disabilities over the next five years.

“We will work with the Disability sector to identify key areas in which we should fulfil South Africa’s role as signatory to the UN Convention on the Rights of Persons with Disabilities and its Optional Protocol. Another key intervention this term will be to finalise the National Disability Rights Policy which includes the National Disability Rights Framework. The Policy and the Framework will guide Government action to promote a more inclusive society and to promote the involvement of people with disabilities in decision-making processes,” said President Zuma.

The Department of Social Development has committed to working with Parliament, national, provincial and local government institutions, as well as Chapter 9 institutions and organisations representing Deaf and hard-of-hearing persons, for the full implementation of Articles 9 and 21 of the United Nations Convention on the Rights of Persons with Disabilities as it pertains to giving equal access to communication and information to Deaf and hard-of-hearing persons through the recognition of sign language and availability of appropriate technology.

**Source: Department of Social Development**





# Why Casual Day is important?

By Hellen Mankwana  
Brailist

CASUAL DAY: 05 SEPTEMBER  
2014

Casual Day is the project of The National Council for Persons with Physical Disabilities of South Africa (NCPDPSA), a public benefit organization mandated to improve education, accessibility and social inclusion for persons with disabilities in South Africa, since its inception in 1995.

It is an excellent opportunity for corporate team building, whilst also making a contribution to one of the country's most vulnerable sectors of society; persons with disabilities. The aim thus is to have fun, support, empower, and create an inclusive society.

Casual Day's national beneficiaries include The National Council for Persons with Physical Disabilities in SA, Epilepsy SA, SA Federation for Mental Health, Deaf Federation SA, SA National Council for the Blind and Disabled People SA, each of which participate in raising funds from sticker donations, and sales of caps and shirts.

Casual Day is an annual event that takes place on the first Friday of September each year – this year it was on Friday 5 September where all South Africans were encouraged to dress differently for a day to raise funds and raise awareness of opportunities for full inclusion of persons with disabilities into the community. To earn the right to dress up differently (formal wear down) participants make a donation of R10 for the official



casual day sticker, buy a t-shirt, or a cap from any of the following:

- Any Edcon Group store: Edgars, Jet, Boardmans, CNA, Red Square, Jet Mart or LEGIT.
- Absa branches.
- Game and Dion Wired stores.
- Shoprite Checkers stores.
- National and local participating beneficiary organi-

zations.

The Casual Day National office, Edenvale, Gauteng. The South African Human Rights Commission - also celebrated this day with colleagues wearing casual day stickers, caps and T-shirts to show their support for persons with disabilities.



## Commissioner Malatji expresses concern at the continued discrimination of people with disability



Commissioner Malatji advocating the rights of people with disability at a global scale

**In his address to the delegates at the First Meeting between NHRIs, National Independent Monitoring Mechanisms designated under article 33.2 of the UNCRPD and the Committee on the Rights of Persons with Disabilities, held in Geneva on 25 September 2014, Adv Malatji called on governments to do more to promote rights of people with disability**

Systemic barriers to equal participation and equal access to opportunity have historically marginalised the rights of persons with disabilities quite significantly. It is, therefore, of considerable importance that, to date, 149 nation states have undertaken, through their ratification of the United Nations Convention on the Rights of Persons with Disabilities (CRPD), to advance the rights of these individuals through numerous complementary mechanisms. One of the little known facts about the CRPD,

for example, is that, in the canon of international legal instruments, the CRPD is notable for containing the most references to the duty of States not only to protect rights but, also, to promote them.

Another important provision of the CRPD, and the one which brings us here today, is the duty to implement the Convention diligently and to monitor that implementation through the designation of independent monitoring mechanisms. This provision, contained in Article 33 of the CRPD is made all the more relevant to my work and the work of the South African Human Rights Commission by the inclusion of a proviso in subsection 2, which states the following:

*'States parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of rights.'*

As a national human rights institution, the South African Human Rights Commission's role in the implementation and monitoring of compliance with the CRPD is, therefore, inherent to the Convention, whether designated as such or not. I should mention that no formal designation has taken place, and that dialogue with relevant organs of state continues on the subject, though I would be remiss to suggest that this precludes us from doing the work of monitoring the rights of persons with disabilities in South Africa. On the contrary, the Commission ensures that this duty is diligently carried out, whether a formal designation has taken place or not.

The South African Human Rights Commission is a constitutionally established body, whose mandate requires that it protects, promotes and monitors the advancement of human rights in South Africa with-

*"Transforming Society, Securing Rights, Restoring Dignity"*



## Needs of people with disabilities are not considered when services are provided



out fear or favour. With regard to disability, research is regularly conducted to consider the manner in which the rights of persons with disabilities are being realised or being violated through actions of the State or other actors. For example, in 2014, the Commission published its 'Report on the Right to Access Sufficient Water and Decent Sanitation in South Africa: 2014'. The impact of the lack of human rights-based approaches to water and sanitation on vulnerable groups, including persons with disabilities, was noted as a significant area of concern. The

Commission noted that infrastructure such as standpipes and communal taps were largely inaccessible to people with disabilities, and that budgeting for water and sanitation did not take into account the specific needs of persons with disabilities. Engagements with the Department of Water and Sanitation continue in this respect and the Commission intends ensuring that the right to access water and sanitation on an equal basis with others is realised for persons with disabilities.

As the Commissioner responsible for the rights of persons with disabilities, I have been active in holding consultative dialogues with relevant government departments and Disabled Peoples' Organisations (DPOs). The stated objective of these dialogues is to assess the level of preparedness and compliance with the CRPD, particularly at

the level of provincial government. At a provincial engagement in the North West province in 2013, for example, DPOs raised concerns about the fact that special needs schools were not appropriately accredited; while, during provincial engagement in Limpopo province, I was encouraged by the inclusion of disability forums in provincial government departments such as the Department of Agriculture. These annual dialogues are, therefore, an opportunity for the Commission and DPOs to engage substantively on areas of concern; as well as allowing participants the opportunity to reflect on progress towards the realisation of the rights of persons with disabilities. We will continue to hold such dialogues to ensure that constructive engagement continues and that we can monitor progress in advancing the rights of persons with disabilities, while also bringing attention to areas that require action on the part of State entities.

Each year, the Commission publishes an Annual Equality Report, with a chapter dedicated to the rights of persons with disabilities. Topics which have been included in the report in previous years include the rights of persons with disabilities to access decent work opportunities, inclusive education and livelihood assets. In the current financial year, the Commission has made a concerted decision to focus on Business and Human Rights as its Strategic Focus Area. In relation to disability, we will, therefore, be considering the role that businesses can play in the advancement of the rights of persons with disabilities, paying particular attention to issues of reasonable accommodation and universal design in the workplace.

Through the course of regular complaints handling during the last financial year, 72 cases were



**Adv. Malatji reminds delegates that people with disability continue to be systematically discriminated**

## SAHRC handled 72 disability cases in the last financial year



handled by the Commission in which the complainants argued that they were unfairly discriminated against on the basis of their disability. These included issues such as discrimination on the basis of disability by a private bank. The Commission has since intervened and the bank has agreed to undertake efforts to make its facilities more accessible to persons with disabilities. The Commission has recently received another matter of significant importance in relation to the CRPD. It relates to the rights of persons with psychosocial disabilities to vote. At present, the matter is being investigated and the Commission is engaging with all relevant stakeholders, including the Independent Electoral Commission to ensure full compliance with national and international human rights norms and standards. These initiatives represent just a small portion of the work of the South African Human Rights Commission in the area of disability, but they are illustrative of the fact that we remain active in the pursuit of the realisation of the rights articulated by the CRPD.

The brief I was given for this panel was to discuss some of the needs and challenges with regard to our work in ensuring the implementation of the CRPD and the monitoring of that implementation. This is a complex proposition, because our needs extend not only to physical and material resources but also, to an enabling environment, characterised by policies and practices which foster an optimal climate for the work of a national human rights institution. While it

may be suggested that there is sufficient political will to advance the rights of persons with disabilities in South Africa, as manifested by the ratification of the CRPD, the fact that an independent body has not been designated by the State in compliance with Article 33 (2) remains a considerable challenge. A similar difficulty exists with regard to a lack of clarity in terms of the positioning of the national focal point for disability. As delegates may be aware, in 2009, a Ministry for Women, Children and People with Disabilities was established in South Africa. Earlier this year, and following the country's fifth general election, this Ministry was renamed the Department of Women and its disability functions were transferred to the National Department of Social Development. Without pronouncing on the logic or rationality of such a decision, I do wish to make it clear that this has made it difficult to engage with appropriate persons at the most senior level of government. Consistency and clarity going forward would ease the process of constructive engagement considerably.

In the course of conducting research into the rights of persons with disabilities at the South African Human Rights Commission, we regularly face constraints in respect of data quality and the unavailability of accurate statistics. These render the assessment of progress difficult, and they illustrate pointedly how the work of a national human rights institution dovetails with that of the United Nations system and, to a large extent, with that of the State as well. Thankfully, the completion of South Africa's Baseline Country Report on the CRPD may alleviate some of these difficulties. Nonetheless, I note with concern the fact that this report has not yet been deposited to the Committee. These represent some of the most

immediate challenges we face and regarding which I hope to engage constructively with the State and with delegates here today in order to propose lasting solutions.

I recently attended a training initiative in Kampala, Uganda, hosted by the Network of African National Human Rights Institutions, on best practice in monitoring the rights of persons with disabilities in line with the Convention. This was a very thought-provoking journey through some of the methodological and political challenges that might be associated with such a large task. Nonetheless, it was also a clear indication that this is a thematic area that must be pursued with the necessary rigour. I am confident that it can be done and that our work will be enriched significantly through the adoption of an approach that is participatory, that reflects critically on shortcomings and opportunities for improvement and that encourages the inclusion of multiple perspectives.

In seeking complementarity between our work and that of the Committee on the Rights of Persons with Disabilities and the international community, it is through engagements such as these that we can consider best practices and potentialities for cooperation, collaboration and knowledge transfer.

I would, therefore, like to congratulate the Committee for having convened this meeting and for actively providing the platform for national human rights institutions to be a part of what is both a vital and a very exciting step in the CRPD's progression. I wish to conclude by again thanking you for the opportunity to be a part of this dialogue and I look forward to further robust interaction as this historic meeting continues.



## SAHRC forms strategic partnership with Univen to advocate Human Rights at the campus

By Naomi Webster  
Head of Commissioners Programme

Nestled in the lush green valley of Thohoyandou lies an institution whose 32 years of history has established itself as a living icon of the Vhembe community in Limpopo. The University of Venda (Univen) was a quiet display of student learning and interaction as we drove into campus on Monday morning to begin what was the first ever Human Rights Week in the history of the University. The event was held from 11 - 15 August 2014. This quiet and peaceful energy was overshadowed by the recent spate of violent attacks and death of a female student and staff member of the University. The zealous security staff search of our vehicle were indications of the University's resolve to enforce security measures that would allay any newcomers fears of the possibility of another or similar attack. The task of implementing a Human Rights Week for students and staff across different faculties seemed daunting in the face of the University's tragedy. With enthusiastic support from the Deputy Vice Chancellor Professor JE Crafford and the Dean of the Law School, Ms Annette Lansink as well as Academic staff from the School of Law; the Human Rights Week proved to be timely as the University struggled to come to terms with the tragedy.

This article considers the question of whether an enabling framework exists for university students to understand human rights. This question is posed in the context of the country's twenty year democracy and as part of the South African Human Rights Commission's (SAHRC) first ever



Some of the students who took part in human rights discussions at the University of Venda

presentation of Human Rights Week at Univen. The article suggests possible areas of intervention on building a human rights culture for all Universities. The article is dedicated to the memory of the University's staff member; Brenda Ndove and student, Livhuwani Mbodi. It is also dedicated to the memory of Thabang Mokhoang, a University student from the University of the North West whose death was the catalyst that led to a complaint lodged by the Higher Education Transformation Network with the SAHRC. Through this complaint, the SAHRC has begun a national enquiry into Racism and Transformation at institutions of higher education.

Government's review of twenty years of democracy and specifically in relation to higher education reveals find-

ings that were evident during the Human Rights Week. Particularly that;

- University enrolment has increased over the past twenty years but education and skills system have not been able to meet the needs of the growing economy
- There is a limited racial integration in institutions of higher learning
- A transformation in institutions of higher learning has been slow
- 'Opportunity is still defined by race, gender and class'

These findings are confirmed, to some extent, by the SAHRC Section 184 (3) Economic and Social Rights Report 2012; particularly that there has been an increase in number of students but a decline in the quality of education.

Government's response to setting a new vision for the next twenty years

**Participants shared some of their experiences with staff who acted in a tribal and racist manner towards students who did not speak**



**Students at Univen learned more about the importance of human rights**

is articulated in the National Development Plan 2030 (NDP) which sets targets for a South Africa with increased access to higher education that promotes Constitutional values at institutions of higher education. This vision is what all universities should aim for. The question is, how should this be achieved? If we ensure that resources (financial, human and technology) together with political will are evident; would this guarantee the attainment of the goal? Judging from recent media articles of University students (White and Black) in adequately resourced institutions dressing as domestic workers; the goal would seem illusive.

In the case of the SAHRC's Human Rights Week; it was evident that the University has yet to define how it would contribute towards the vision of an education system based on Constitutional values as set out in the NDP.

The request for provision of a joint Human Rights Week (the week) was made by the Law School to the SAHRC in March 2014. Due to the timing of the request, an agreement was reached to postpone the week to Women's Month. It may seem ironic that the week focused on critical civil and political rights such as the right to equality, right to higher education and freedom and security of the person. Whilst we prepared and negotiated the programme with the Law School, no one could have foreseen the tragedy that would take place in a learning institution.

The legislative framework that gov-

erns universities is the Constitution 108 of 1996 and the Higher Education Act 101 of 1997. The Constitution guarantees that "everyone has a right to receive education" and that the "state must take into account ... the need to redress the result of past racially discriminatory laws and practises." The question to be addressed is what the State has done over the past twenty years to ensure that institutions of higher learning redress past racially discriminatory laws and practises. At the Univen, racially discriminatory practises are evident in how staff deal with students from different parts of South Africa and from other African countries. With a history of the University's student selection criteria based on ethnicity (only Venda students were accepted in 1980s); during the week, participants shared some of their experiences with staff who acted in a racist manner towards students who did not speak Tshivenda. On the morning of our arrival, the University Security guards approached us in Tshivenda and as the Gatekeepers of the institution; this practise which can be alienating to those who don't speak the language, should be addressed by University management.

The Higher Education Act 101 of 1997 (the Act) sets out in its preamble, that Universities should "redress past discrimination and ensure ... equal access". The Act also requires the creation of an institutional forum at institutions of higher learning. This forum must include; "Council, Senate, Academic employees, employees other than academic employees, the students and any other category determined by institutional statute." The Act (section 35) states that "The Institutional Forum of a public higher education institution must advise the Council on issues affecting the institution including (ii) race and gender equity policies and (v) fostering of an institutional culture which promotes tolerance and respect for fundamental human rights and creates an appropriate environment for teaching and learning." The University's institutional forum issues; if it is in existence would have to address how UNIVEN deals with racial transformation as well on how to promote human rights. From the interaction and comments made by students during the week; the promotion of human rights at the University was sporadic. During one of the evening debate sessions on 'Same Sex Relationships; some examples of discriminatory



## Students and staff should see themselves as human beings bound to each other by ties of recognition and concern

debate was the homophobic statements made by academic staff during lectures. The debate also revealed divisions among students; where some were in favour of the right to equality but did not support sexual orientation non-discrimination.

With a legislative mandate for institutions of higher learning to transform and to promote human rights; what

are possible lessons for other institutions? It seems appropriate to take a leaf from the writing of Badat in his research, 'Challenges of transformation in higher education institutions in South Africa', 2010, who suggests two elements required to cultivate a human rights agenda at institutions of higher learning. These include:

- Capacity for critical examination of oneself and one's tradition; and
- Students and staff to see themselves as human beings bound to all other human beings by ties of recognition and concern.

Simplistic in their nature, the two elements suggest that institutions, which consist of management, staff

and students; should examine their individual and collective actions towards each other. It requires institutions to put in place programmes that raise awareness of human rights, not in an abstract manner but from a simplistic perspective that resonates with the Ubuntu idiom, "I am because you are".

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### Did you Know?

With a history of the University's student selection criteria based on ethnicity (only Venda students were accepted in 1980s)

## SAHRC urges NHRIs to protect Human Rights Defenders in Business and Human Rights

Commissioner Lindiwe Mokate, SAHRC Commissioner responsible for Children and Basic Education was in Addis Ababa, Ethiopia from 16 - 18 September 2014 with other human rights campaigners from across the continent. She delivered a presentation on "How National Human Rights Institutions can protect Human Rights Defenders in Business and Human Rights."



Commissioner Lindiwe Mokate during her presentation in Addis Ababa

## Evictions of illegal land dwellers must be done humanely, Ameerma



Eviction left scores of people homeless in Lwandle, Cape Town. **Source: Mail & Guardian**

Cape Town - The Lwandle township in Cape Town was “off the map” until people and structures were recently violently removed from the land there, the Lwandle Migrant Labour Museum said on Wednesday, 10 September 2014.

Acting Chairperson of the Museum’s Board, Noleen Murray, said although media coverage had thrust the area into the spotlight since the removals on 2 June and 3 June, it remained dislocated and invisible.

She said the name of the affected informal settlement within the area, Siyanyanzela, had rarely been used. “The Google car had not even been into Lwandle,” she told an inquiry investigating the removals, showing the search engine’s largely sparse map of the area.

When she asked how many inquiry members had visited the museum only one or two people raised hands. Inquiry chairperson Denzil Potgieter smiled and said her invite had been noted.

Human Settlements Minister Lindiwe Sisulu set up the inquiry to probe the forced removals from the SA National Roads Agency Limited road

reserve.

Murray said the area had a history of marginalisation since its establishment in 1958 as a site for migrant labourers in single-sex hostels.

In the late 1980s, residents in nearby Strand petitioned for the removal of Lwandle, considering its residents an “uncontrolled social problem”.

When a democratic government was elected in the 1990s, hostels were turned into family housing and solar water heaters were installed on the roofs.

“In 2014, soon after the evictions, they [the heaters] started to disappear from rooftops as they were sold off for scrap metal,” Murray said.

She said there was a housing market emerging in Lwandle, and this was accompanied by increased calls for fencing, closed off spaces and security.

The inquiry heard submissions from legal and policy research institutions, including the SA Human Rights Commission (SAHRC), which was conducting its own investigation into the removals.

SAHRC Commissioner Mohamed Ameerma said evictions should be done humanely and abide by the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act.

“In conclusion, we have got to look at evictions in a humane way in the spirit of ubuntu [African concept of humanity],” he said.

Plans should also be made for alternative accommodation and municipalities should be joined to any eviction order to facilitate these contingency plans.

Lwandle evictees were forced to find shelter in the Nomzamo community hall.

Potgieter said more than 300 people were still living in the hall three months after the eviction.

“We are not sure what the developments around that are going to be but we are keeping an eye on that aspect,” Potgieter said.

The inquiry previously heard that people would be moved back to the land they were evicted from. Sanitation and basic services were being provided. **Source: Sapa**





# Extracts from SAHRC presentation at Lwandle Commission

Extracts from presentation by  
Adv Ameermia, SAHRC Com-  
missioner  
responsible for housing

## The crystallised principles

### 1. Alternative Accommodation

It is now trite principle that it is only just and equitable to evict unlawful occupiers if alternative accommodation is provided where an eviction would otherwise result in homelessness. The duty to provide alternative accommodation applies not only when an organ of state evicts people from their land, but also when a private landowner applies for the eviction of unlawful occupier/occupiers. Although the nature and standard of the alternative accommodation to be provided has not been clearly resolved, it is clear that certain so-called alternative accommodation will not pass constitutional muster. This was made clear in the recent ruling in the South Gauteng High Court where the court held that the gender segregation of married couples and the day time lock-out for residents imposed by the City of Johannesburg's outsourced arrangements to provide alternative accommodation impinged on various constitutional rights. The rights which were infringed by such an arrangement were found to include the right to human dignity, privacy and security of person.

### 2. Consideration of all relevant circumstances

Section 26(3) provides that no one may be evicted from their home or have their home demolished with-



A helpless woman being manhandled by the police during Lwandle evictions. Source: IOL

out a court order authorising such eviction after having due regard to "all the relevant circumstances".

This was affirmed in *Pheko and Others v Ekurhuleni Metropolitan Municipality* where the court stated that section 26(3) does not permit legislation authorising eviction without a court order. The PIE Act amplifies this by providing that a court may not grant an eviction order unless the eviction sought would be "just and equitable" in the circumstances. The court thus has to have regard to a number of factors including but not limited to: whether the occupiers include vulnerable categories of persons (the elderly, children and female-headed households), the duration of occupation and the availability of alternative accommodation or the state provision of alternative accommodation in instances where occupiers are unable to obtain alternatives on their own.

### 3. The law of joinder

Another principle that has crystal-

lised is the law of joinder, viz. municipalities must be joined where eviction is likely to result in homelessness, is now part of our law. Wallis JA amplified on this in *Changing Tides*:

Whenever the circumstances alleged by an applicant for an eviction order raise the possibility that the grant of that order may trigger constitutional obligations on the part of a local authority to provide emergency accommodation, the local authority will be a necessary party to the litigation and must be joined.

This is because section 26 of the Constitution's positive obligations in respect of the provision of alternative accommodation to evictees who would otherwise be rendered homeless lie primarily with the state rather than private parties.

### 4. Onus of Proof

The onus of proof in eviction proceedings has been altered with the property owner now required in terms of the PIE Act to satisfy the

## Meaningful engagement means relevant engagement on all aspects

court that the eviction would be just and equitable. It has been held that a property owner is required to put such information as she is able to before a court to demonstrate that an eviction would be just and equitable in the circumstances.

The distinction made in section 4(6) and 4(7) of the PIE Act has been obliterated. These sections differentiated between unlawful occupiers based on the duration of occupation. The Constitutional Court in *Skurweplass and Mooiplaats* notwithstanding that the group of occupiers had resided on the properties for short periods held that the state was obliged to provide alternative accommodation to the occupiers as the eviction would likely render them homeless.

### 5. Meaningful engagement

A new development in the field of evictions is the requirement of “meaningful engagement”. The Court noted that the best way to ensure reconciliation between parties in a dispute would be to “encourage and require the parties to engage with each other in a proactive and honest endeavour to find mutually acceptable solutions”. Content to the concept of meaningful engagement was developed in the *Olivia Road* case where the Court clarified that meaningful engagement is a salient component of a reasonable state response to the housing programme. Meaningful engagement means that the occupiers, owner and the relevant municipality have to meaningfully engage on all aspects related to the eviction and the provision of temporary shelter to those who require it. It was said that meaningful engagement is ‘a

two-way process in which the City and those about to become homeless would talk to each other meaningfully in order to achieve certain objectives’. These objectives include the need to determine the following: what the consequences of the eviction might be; whether the city could help to improve those consequences; whether it was possible to make the buildings safer and less of a health risk for an interim period; whether the city had any obligations to the occupiers; and when and how the city could or would carry out its obligations.

In *Residents of Joe Slovo Community, Western Cape v Thubelisha Homes (Joe Slovo)*, the State was castigated for taking a ‘top-down’ approach to engagement, whereby the state officials would unilaterally make decisions without consultation or inclusion of the community. Meaningful engagement is an expression of ‘bottom-up’ participatory democracy promoting transparency and accountability in the realisation of socio-economic rights leading to the resolution of disputes. In the *Joe Slovo* case it was held that ‘the requirement of engagement flows from the need to treat residents with respect and care of their dignity’.

### 6. Personal accountability of municipal officials

Unfortunately, municipal officers have appeared indifferent to court orders mandating them to provide alternative accommodation. However, the courts have dealt with this attitude by providing that municipal office bearers may be held personally accountable for the State’s failure to perform. In the *Mchunu* it was found that the Mayor of eThekweni, the City Manager and the Director of Housing of eThekweni are constitutionally and statutorily obliged to take all “necessary steps” to ensure that court orders are complied with,

failing which, they may be held in contempt and fined or imprisoned. These principles were reiterated in *Hlophe* where Satchwell J ordered the Executive Mayor, City Manager and Director of Housing for the City of Johannesburg to personally explain why the City had not acted to provide shelter. The Court lambasted the City’s lackadaisical attitude, noting that the City “cannot continue to sit back and throw up its hands in horror every time it had to house people about to be evicted”.

## Conclusion and Recommendations

### 1. General Remarks

This report has set out the jurisprudential pronouncements of the South African courts in relation to the constitutional right of access to adequate housing. It has been identified that the courts through giving content to the substantive provisions in the Constitution, and through their interpretation of the progressive legislative framework have infused new normative legal requirements to eviction matters. These legal requirements include inter alia the need to meaningfully engage and the state’s obligation to provide alternative accommodation where the unlawful occupiers would be rendered homeless as a result of eviction. Further, as a result of the innovative interpretation the courts have created a ‘new cluster of relationships between the parties involved in eviction proceedings.’

It cannot be again said that an eviction is a traumatic experience. Muller notes the following about an eviction :

An eviction will cause many people to lose the support structure that they have established for themselves as well as for others who have come to rely thereon. An eviction will furthermore, perhaps most



dramatically, destroy the livelihoods of individuals and their families because relocation to another area brings with it various uncertainties. These uncertainties vary from their ability to earn an income as informal traders or take up other unskilled employment that depends on living in close proximity to those employment opportunities; the general safety of the new area or the prevalence of gang related violence; the closeness of health care facilities, recreational facilities, religious institutions and schools; infrastructure; and service delivery. These circumstances should be taken into consideration by any court in determining the justice and equity of an eviction because a failure to do so may perpetuate or even exacerbate the vulnerable position of the occupiers. During evictions a lot of things often go wrong. It has been noted that when evictions are carried out in a violent manner people's valuables such as ID books, birth certificates, school uniforms and medicine and medical prescriptions get damaged.

## 2. Recommendations

It has been noted above that the mandate of the Commission is to carry out research and educate on human rights and related matters. Further, the Commission under strategic objective 4 seeks to advance the realisation of human rights. In fulfilling the role of advancing the realisation of human rights, the Commission deems it fit to make some recommendations to the various stakeholders concerning the matter of evictions. It is noted that it is now trite law that an eviction without a court order is impermissible. An individual or a community can only be evicted based on a court order. Such a court order must be made after all the 'relevant circumstances' have been considered. It is now a prerequisite that there must be meaningful engagement between the par-

ties before a court order authorising eviction is granted. The court will be hesitant to order the eviction of vulnerable and poor occupiers if such an eviction would render them homeless.

Therefore, in the light of the above it should be noted that human rights in the Bill of Rights are indivisible, intertwined, interrelated and interlinked. As such, wherever there is an issue on the right to access to adequate housing, there always is a possibility that a number of other rights are directly or indirectly adversely affected. This is because the right to have access to housing is a critical right without which many other fundamental rights cannot be realised. The right to housing is an indispensable means of realising other rights.


Therefore, whenever a municipality or private owner is faced with the situation of unlawful occupiers in his or her property, the remedy is not to unlawfully evict them. Rather, the solution lies in meaningful engagement and proper consultation to find a lasting solution which does not adversely violate the rights to human dignity, security of the person, the rights of children and any other relevant rights. Such a lasting solution invariably includes the state seeking alternative accommodation for the unlawful occupiers who would otherwise be rendered homeless as a result of such an eviction.

It cannot be gainsaid that Sheriffs play a vital role during the eviction process. After the court orders eviction the sheriff is tasked with implementing the decision of the court. It is submitted that in that process the sheriffs should treat people with dignity and respect. They should conduct their actions in accordance with the Code of Conduct, which were framed in terms of section 16(k) of the Sheriff Act. According

to the Code of Conduct the Sheriffs must act in an impartial, unbiased and fair manner. Further, the Sheriffs should at all times not only treat the affected people with dignity and respect, but also ensure that they do not unreasonably cause damage to the property concerned. This should also apply to private security companies when operating as agents on behalf of sheriffs, municipalities and/or private persons. Moreover, the South African Board of Sheriffs should be more accessible to the public. This will help the public in knowing how and where to lodge complaints of misconduct against the Sheriffs.

In relation to the South African Police Services (SAPS) they must act in accordance with the strictures of the Constitution. Further, they must treat those to be evicted in a dignified and respectful manner ensuring that they do not unreasonably cause damage to property.

Thus, the Commission invites a synergy between all the relevant stakeholders to ensure that the letter and dictates of the law are followed in eviction matters. Where a court order authorising eviction has been granted, such an eviction must be done humanely and in a way that does not impinge on the human dignity of those being evicted. Sachs J, noted that 'the integrity of the rights-based vision of the Constitution is punctured when governmental action augments rather than reduces denial of the claims of the desperately poor to the basic elements of a decent existence'.

Therefore, the 'spirit of ubuntu' must permeate eviction of unlawful occupiers. This is because we are not islands to ourselves but are part of the rainbow nation. The unlawful occupiers must not be construed as objects. 

## SAHRC finds against the municipality in QwaQwa evictions

The South African Human Rights Commission has found that the rights of Qwaqwa residents in the Free State province were violated during a process to evict hundreds of residents who occupied a farm in the Bokamoso area.

The Commission's attention was drawn to the plans by the Maluti A Phofung Local Municipality to evict residents on the 10 June 2014. The residents were, according to the Municipality, "unlawfully occupying" the remainder of Farm Bluegumbosch 199, Ha Tshohanyane, Bokamoso in QwaQwa. The Commission's investigation sought to determine whether any one or more of the human rights listed in the Bill of Rights, were violated during and after the eviction of Bokamoso residents. The eviction took place on 11 June 2014.

The eviction followed a Constitutional Court decision to dismiss an application for leave to appeal made on behalf of Bokamoso residents. The application was dismissed on the basis that it bears no prospects of success. The eviction was initially ordered by the Free State High Court on 17 August 2012.

The matter was brought to the Commission by the Chief of the Maboletla Traditional Council, Morena Tsolo Mopeli, who sought the Commission's intervention in order to halt the eviction process pending a comprehensive assessment of the needs of the residents, their details and personal circumstances, the impact of eviction on vulnerable groups, the provision of adequate alternative accommodation by the Municipality, and meaningful engagement with the residents.

### FINDINGS

The Commission has found that:

The Maluti A Phofung Local Municipality has violated the right to human dignity of the evicted people by providing them with inadequate and unsanitary ablution facilities;

The Municipality has violated the right of access to adequate housing of the evicted people by its failure to provide them with sufficient alternative accommodation that is habitable, accessible and located in close proximity to public amenities and job opportunities; and

The Municipality's insufficient engagement with the community about a range of issues on consequences of eviction including alternative accommodation and relocation and the general lack of information about future resettlement plans upholds the complaint of a violation of the right of access to information.

### Recommendations

(i) The Municipality is directed to provide the evicted persons with adequate alternative accommodation where they can live without the threat of another eviction and with access to basic services such as sanitation, water and refuse services within a period of three (3) months from the date of this finding.

(ii) The Municipality is directed to furnish the Commission with a permanent relocation plan for the evicted people within a period of three (3) months from the date of this finding. This plan should make special arrangements for the elderly, orphan children,

persons with disabilities and other vulnerable or marginalised groups.

(iii) The Municipality is required to enhance community participation and demonstrate some level of transparency in its governance by convening regular feedback sessions every three (3) months relating to access to adequate housing. A copy of the minutes to be submitted to the Commission

(iv) The Municipality is urged to apply to the Provincial Department of Human Settlements for provision of emergency housing funding to ameliorate the plight of the evicted persons who have been rendered homeless.

(v) The Free State Department of Cooperative Governance, Traditional Affairs and Human Settlements is directed to carry out a full social impact assessment of evictions on vulnerable and marginalised groups in the Province within a period of twelve (12) months. A copy of the report, to be submitted to the Commission for review.

(vi) The Free State Department of Cooperative Governance, Traditional Affairs and Human Settlements is further directed to develop a human rights-based approach and plan to evictions to guide municipalities in the Province within a period of twelve (12) months. A copy of the plan should be submitted to the Commission for review.

Meanwhile, the High Court in Pretoria ordered the City of Tshwane to rebuild shacks it destroyed in Mamelodi East. The court ordered the municipality on Monday 29 September 2014 to rebuild the shacks within 15 days and to pay all costs for rebuilding and legal costs.

Source: Sowetan





## SAHRC bears witness to the signing of an agreement in racism dispute



James French and comedian Mongezi Mahlangu signing the agreement at the SAHRC



“The South African Human Rights Commission (the Commission) received complaints about violations to the rights to dignity and equality from James French, Alice Choe, Mongezi Mahlangu and Mome Mahlangu. The Commission was requested to bear witness to the signing of an agreement between the parties on 18 September 2014.

The parties directly and of their own accord, engaged with each other towards the amicable resolution of this matter, and provided the Commission with the terms of their agree-

ment, with which the Commission expressed its satisfaction.

The Commission held a meeting with Mr Mahlangu and Mr French on Thursday, 18 September 2014 at 14h00 at its offices situated in Braamfontein. The Commission noted the responsibility taken for actions by the parties, and the integrity that parties demonstrated in achieving reconciliation. It recorded its commendation to the parties for their commitment to resolving this matter in a truly reconciliatory manner aimed at personal growth and a sincere commitment to

the promotion of human rights. “The Commission views their approach as a praiseworthy example of how individuals can work towards achieving society’s broader nation-building goals,” said Chantal Kisoon, Gauteng Provincial Manager.

She added that, “The SAHRC is pleased that the two parties were able to reconcile. The agreement holds a great deal of promise to the spirit of human rights.” Pf

## Failure to provide scholar transport violates right to education, SAHRC



**Pupils were forced to walk long distance to school due to failure by officials to provide transport. Pic: Dailydispatch**

The South African Human Rights Commission (Commission) has completed an investigation into the problems with the scholar transport in the Eastern Cape and found that the Eastern Cape Education and Transport Departments violated the learner's right to basic education by failing to provide them with transport to school.

The Departments have been ordered to provide urgent time-bound remedies to deal with this problem.

The Commission received a complaint in May 2013 from former Democratic Alliance Parliamentarian Ms Lindiwe Mazibuko alleging that learners from Zweledinga Senior Secondary School in Queenstown had to walk long distances to school in order to access education. These learners were provided with scholar transport in the previous year, and the scholar transport was suspended without notice given to the school.

Owing to recognizing the systemic challenge of lack of transport for learners to schools in the province, the Commission elected to investigate more schools in the province and visited schools such as Lovemore Park farm Primary School in Port Elizabeth, and Ntabankulu, Dalibaso, Luthubeli and Upper Mpako secondary schools in Mqanduli area to gather more evidence relating to the scholar transport problems.

The investigation revealed that the availability of transport to learners at these schools was not adequate and in some instances, non-existent.

The Commission found that the failure by the Department of Education and the Department of Transport to provide transport violated learners' right to education as enshrined in Section 29 of the Constitution.

In addition, the departments' fail-

ure to provide subsidized transport amounts to an infringement of its duty to consider the best interest of the learner as per section 28 of the Constitution.

As a result, the Commission recommended that these Departments should review their memorandum of agreement regarding the provision of scholar transport to ensure that it is consistent and does not prevent learners from going to school, thus violating their right to education.

Departments must provide the Commission with monthly written reports on the progress made towards the delivery of transport to the learners of the schools as listed above. The reports should include:

- Location of the affected learners, per district
- Number of learners requiring transportation per school as at date of the first report and the extent to which figure fluctuates throughout the reporting period;
- Number of learners that have been provided with transport since the last report and the extent to which this figure fluctuates throughout the reporting period; and
- Time bound plans, including immediate and temporary plans, to address the affected transportation challenges of the affected children.

Furthermore, the principals of the six schools are directed to take proactive steps in establishing from learners who are registered at their respective schools whether the basis of their nonattendance is due to the lack of transportation and provide the Commission with reports on a consecutive 30th day of the month of each school term.

**Pf**



## Lindela: Rights to health of detainees violated - SAHRC

The South African Human Rights Commission has released its findings of an investigation into violations of access to health for detainees at the Lindela Repatriation Centre.

The Commission's investigation was in response to a complaint from non-governmental organisations, Medecins Sans Frontiers, Section 27, Lawyers for Human Rights, People Against Suffering, Oppression and Poverty, raising concerns about access to, and quality of, health for non nationals detained at Lindela.

These findings are in addition to the judgement obtained against the Department of Home Affairs for the release of persons detained in excess of 120 days at the Lindela Repatriation Centre last month.

In its recommendations the Commission requested the release of detained persons who had been extra judicially detained in excess of 120 days. Both the Department of Home Affairs and South African Police Services have also been requested to take steps to secure the protection of human rights of persons who are arrested and detained.

As part of this recent investigation, the Commission undertook a study together with the Medecins Sans Frontiers and the African Center for Migration and Society.

The investigation revealed that there was a lack of provision for TB testing and isolation of infected persons, and psychological care; availability of condoms and lack of VCT; unavailability of tetanus vaccines; overcrowding in rooms; and time intervals be-



tween the serving of the evening meal and breakfast not complying with the time-periods prescribed in the Regulations to the Immigration Act at Lindela.

The Departments of Health and Home Affairs have been issued recommendations to remedy these findings.

In addition the Commission stressed the need for Departments of Home Affairs and Department of International Relations and Cooperation to take urgent steps for the creation of an independent monitoring mecha-

nism as contained in the Optional Protocol to the Convention against Torture, to undertake frequent monitoring of places of detention over and above the Department's own duty to monitor these facilities.

In noting the critical role civil society organisations play in strengthening protection of human rights, the Commission also recommended that the Department of Home Affairs consult with civil society organisations, and provide protocols that will allow civil society organisations access to Lindela.

*Pf*

### Did you know?

On 28 August 2014, the South Gauteng High Court made a judgement in favour of the SAHRC against the Department of Home Affairs for illegal detention of migrants.

Handing down the judgement, Judge Tsoka pointed out that the actions of the Department and the Minister in detaining the migrants at the Lindela Repatriation Centre are unlawful and unconstitutional.



# Heritage day Special

Head Office recently held Heritage day and *Pfanelo* was there to give you the low down in pictures. Congratulations to our very own Alucia sekgathume for winning the best dressed prize, and the Xhosa group for best performance.





## Heritage day Special

# Restoring Dignity with Identity

By Siyasanga Thulani Giyose

As I sit to reflect and write, it is Heritage Day. It reminds us of who we are and where we come from. Most importantly, it dignifies our forward paths and instills respect in our exchanges with the world. While inspired by the existence of our being,

my only hesitancy is the words I use, as they are supposed to resemble the character of our heritage. Language is the cornerstone of cultural heritage, as all related practices are defined and make more sense within its context. Yet language seems to be a quandary for the majority of South Africans. We are consequently presented with language barriers and thus unworkable options throughout some of the milestones of our lives.

### Introducing our being

As we are introduced to life, our most prevalent exchange with the world is defining who we are. As adorable toddlers, to get

through to us, all admiring adults most certainly ask, 'what is your name?'. As we grow older, our first interaction with others is introducing ourselves. Our manner of introduction is inherently linked to the language we use to do so, as determined by our cultural upbringing. From a cultural perspective, our introduction is an expression of who we are and where we come from. It gives weight to recognition of our

existence and presence. Depending on the language used, the depth of our introduction can either be reduced to a mere name, or enriched to the detail of our anthropological existence. While we have an option to use the latter, language barriers



often confine us to the former, which diminishes the appreciation of our being. Resultantly, many a 'born free' African child forget where they come from.

This has severe social consequences as it tends to distort traditional forms of belief in ways that deeply affect our lives. Families may be divided and destroyed through distorted beliefs and loss of links with the ances-

try. Some of these may be restored and translated through dreams, for those of us who are gifted in this regard. However, as dreams are described in language form, the use of the English language at the expense of our own becomes a barrier to our understanding and reconnection with our beliefs and spiritual lives.

### The schooling system

The other milestone in shaping our lives is school education. While our government policies support the use of indigenous languages in schools, there are limited initiatives to entrench this, especially in previously advantaged schools, even though the school population demographics are changing. A Television programme once alluded to a study proving the improvement of learner performance based on language use, and how English is a barrier for many African learners. The quandary is extended and more pronounced in this milestone of our lives. As parents, and perhaps authorities, we

seem to be comfortable and receptive of English as a medium of instruction generally and the language of everyday use. This creates value for the English language at the expense of the rest. It alienates other languages and heightens the deficiencies aggravated by their low usage. We then become trapped into believing that there is no value for

## We have become trapped into believing that there is no value for our children learning in their mother tongue

our children learning in their mother tongue. We seem to blindly accept this assertion without proactively seeking to practically create the value that our mother tongue deserves. This may be linked to an exploration by Fayiso Liyang Stevens (2011), cit-

own freedom. A case in point being the Wilgehof Primary School in the Free State, where the South African Human Rights Commission had intervened and found 81% of the children interviewed indicating that they had informed their parents about rac-



ing language deficiencies as contributory to the notion of the 'African Philosophy of Self-Destruction'.

While policies exist in support of language use and development, our inaction limits our freedom to choose the languages of our choice. We, especially parents, need to do more to ensure practical application of the language policies in our own local spaces. We should learn from the experiences of our counterparts, how lack of parental participation and involvement can suppress our

ist incidents taking place. However, their parents remained silent and did not act. It is such cases that take away from us the dignity and respect that we deserve. An inference drawn from this case is that even progressive policies need the active involvement and participation of intended beneficiaries, whether to promote racial integration and tolerance, or indigenous language development and diversity.

That is why I am particularly impressed by a mother in Gauteng who,

realising that her own children were struggling to speak her own home language, started a crèche in the affluent suburbs of Gauteng, teaching an African language to pre-scholars. It is such initiatives that give life to the progressive policies of our government and will ultimately earn us the cultural dignity and respect, which we appear to have lost through historical atrocities that undermined our heritage. In the Executive Brief, (Skyways, September 2014), it is asserted that,

*"the benefits of teaching our children both English and our home language include improved emotional development as well as greater academic success. But in a diverse nation such as ours, neither of those seems to be the most important".*

### Our professional world

As we leave the schooling system and enter into the professional realm, our majority starts off as potential employees seeking employment. The deficiency of our indigenous languages becomes more prominent. Job interviews are mostly conducted in English, as workplace or institutional internal operations, processes and systems are configured as such. One of the disadvantages for those whom English is not a first language, and even for the employer, is that fluency in an interview may overshadow substance and thus competence. Interestingly though, as also cited in Executive Brief, (Skyways, September 2014), the census 2011 indicates that, *"although English is the most spoken language in the workplace, when asked what people's home language is, English only comes in fourth place.....with less than 10% home language speakers in South Africa"*.

Be that as it may, one is yet to find an institution that promotes or conducts interviews in languages other than English, especially indigenous African languages, despite the existence of 11 spoken official languages. This applies even to the extent where

*"Transforming Society, Securing Rights, Restoring Dignity"*





interviews for indigenous language teachers are conducted in English, or where the job requires fluency and understanding of an African language.

### Enhancing language development

It is clear that legislation and policy, while providing a necessary basis, is inadequate to entrench societal norms and values or practices. There is a strong need to extend and translate them to practical initiatives through institutionalization of systems and processes. Some of the proposals I have come across in this regard include:

- a) Encouraging and promoting integration of languages in previously affluent areas and Model C schools
- b) Calls by the Jozi Book Fair for:
  - i. promotion of publications in languages other than English
  - ii. Translation of books into indigenous languages
  - iii. Support of varied language writing by big publishers, in spite of commercial viability
- c) Promotion of adequate use of indigenous languages in formal and

professional settings (I listened with interest as this was also lamented by a Parliamentary Portfolio Committee Member during a joint sitting of the Portfolio Committee on Justice and Correctional Services, and the Portfolio Committee on Women, in August 2014.)

d) Stevens' (2011) suggestion of "more incisive definitions along with attempts to encourage regular use", as well as, "developing programmes to teach children [useful and professional] concepts at an early age... [such as efficiency, effectiveness, strategy, etc]"

On the same day of celebrating heritage, I watched and listened on TV, expressions of 'exiled children' on how they struggled to integrate into cultural settings and expectations – reading and writing in mother tongue, understanding cultural practices and rituals, etc. I thought to myself that the adequacy of professional formal institutions that are practically supportive to cultural heritage would enhance ease of integration. As things currently stand, while we have social practices based on our cultural heritage, we are professionally and struc-

turally restrained as society, with vast differences in the restoration of culture between City and rural settings.

### Conclusion

In conclusion, our continued disregard for our own heritage, particularly in the area of language, gives rise to disregard of our being, by others, and thus disrespect. During the national electoral process of 2014, I encountered a presiding official of the Independent Electoral Commission, who demanded that I speak in English to his colleague, who could understand the African language I was speaking. While I challenged and dealt with the official's demand, as I knew this was not IEC policy, it further dawned on me that self respect begets respect by others. We cannot expect and demand respect of our languages by others, if we ourselves do not respect and regard them. True heritage cannot be defined by appearance and blood alone, it has to be embedded in our behavior and practice. That is the one way through which our dignity and respect can be restored.

Pf



# Heritage day Special



**Ugandan**



**Afrikaans**



**Nigerian**



**Sesotho**



**Tshivenda**



**Indian**

## Heritage day Special

### UBUNTU BETHU!

Ngu Siyasanga Thulani Giyose

Ukusukela embo phaya emandulo,  
Emantla, eMpumalanga, ukuya emazantsi elizwekazi lase Afrika,  
lilanga liggats' ubhobhoyi ezintabeni, litshis' imilambo.

U makad' enetha uNguni ebheshuza ngeemfele zokubila kwebunzi lakhe,  
Wenjenjeya ukulityhutyha ejingis' uZulu,  
Owayengeyedwa belekelana nabanta'kwabo uSwazi, uNdebele no Xhosa.  
Naba beezintlanga zamazantsi welizwekazi lobutyebi nodumo ehlabathini.  
Bathi bakuzinza abantakwabo kwezabo iingingqi,  
Wath' uXhosa yena akazunxapha engekangqubi 'mpelazwe,  
Waqhubek' ukwehlela ewela yonk' imilambo,  
De waya kuthi xhaxhe ngonxweme lweMpuma Koloni.  
Kulapho ke akhulis' uHintsa, uNgqika no Phalo,  
Ababezingca ngobukhosi, amasiko nezithethe zobuntu babo.

Naku nanamhlanje emva kwamakhulu-khulu eminyaka,  
Ubukhosi nezithethe zabo zithethis' oorhulumente nezizwe,  
Bathe nqa bazam' ukuqonda nzulu nabanzi ngentsusa,  
Yobukhosi, ubugqi, ukuthwala, ukuthomba, nolwaluko,  
Ukanti abanye bazibuza ngeendlela zokuxhela.

Kazi athini amathambo alel' ukuthula ookhokho bethu,  
Xa namhlanje amasiko nezithethe zethu egxojwa-gxojwa,  
Okweehagu ziziqika-qika zixoveka edakeni,  
Zizikrelemnqa neentswela mbeko ezibuchopho buncinci,  
Zigxobha ubulumnko beenkcuba buchopho zamasiko obuntu bethu.

**NCINCILILI!**



# Heritage day Special



**Setswana**



**Coloured**



**Free State**



**KwaZulu-Natal**



**Mpumalanga**





## Opinion: How are you contributing to making SA better?



**Kebothhale Motseothata,  
Visiting student**

Waking up in South Africa means waking up with hope, for our peace dissolves with every negative news bulletin and every frustrating article we read. Far too often we forget about the good things that are happening around us and we choose to focus on the bad. We live in a country that is full of potential, yet all we do is complain. We would rather release reports on crime than statements on the progress of peace. We would rather invest all our energy on probing selfish leaders than coming up with ways to keep the spirit of Ubuntu alive.

Waking up in South Africa means waking up with the realisation that life must go on. But that does not mean that we should not revisit the mistakes of the past to rectify the confusion of the present. We walk around with suppressed anxiety, not having a clue where it comes from. We are terrified of walking around freely, we lock ourselves up

in high end estates, running away from people we have never really taken the time to get to know. They come to our houses to clean and look after our children, to make our gardens neat and our cars shiny. They contribute to the success of our businesses and handle life for us while we sit and dine at Nelson Mandela square, eased by the presence of the great man's statue, a bit of sunshine and a view of a waterfall. And when we are done eating, we walk past their sons and look at them like they are criminals. Most times our body language says, "Don't come near me, because I'm not sure if you want my cellphone or my kindness. So, I'll just grin at you and give you my smile for peace sake. But if you come near my car, I'll quickly close the window because your existence threatens my safety." Who can blame us? The crime in the country is unbearable and we all know who mostly commits it. The politics are a circus and the economy is up and down, and every frustration comes with immense road rage. So we try our best to live stress free lives.

Waking up in South Africa means understanding that the very same people who received maximum torment and torture are the ones who remain the most optimistic. Come see us at the taxi rank early in the morning, rushing to go to work, patiently waiting in lines for taxis to fill up. We just want to get to school and work on time. All we want are better lives, respect for our dignity and better futures for our children. All we want is bet-

ter treatment in our workplaces, raises and courtesy. For we have spent more than 300 years of our lives living in anguish. These 20 years of freedom are all we have to make sure future generations do not relive half of our struggles. We are neither bitter nor angry, through Ubuntu, we have forgiven and all we want are better opportunities. We do not want wars, we do not want trouble. Some of our daily struggles and the after effects of extreme separation have taken a toll on the psychology of our children. They refuse to go to school and some of our extreme living conditions have resorted them to a life of crime. We just need help in building programs that can help them. We just wish the country had faith in us.

Waking up in South Africa should mean more than the constant creation of contrasts between two worlds. For how can one land host so much diversity yet have inadequate unity amongst its people when our country is a haven for Ubuntu? Our past has shown us what the evils of separation are capable of and now is not the time to be divided. Our country has potential of creating platforms for new ways of livelihood. Where people can truly build each other and work towards creating a peaceful society where equal opportunities and wealth are evenly distributed amongst all people. We can no longer live as if we do not need each other. For if our leaders have failed us and society works towards failing itself, then what will be of future generations?



# Rights Abroad

## ICC Newsletter

The ICC Chairperson, Adv Mabelde Lourence Mushwana recently concluded a successful mission to Geneva, Switzerland. From 14 to 18 September 2014 and accompanied by the International & Legislative Specialist, Ms Judith Cohen, the ICC Chairperson held a series of high level meetings including with the recently appointed High Commissioner for Human Rights, His Excellency Prince Zeid Ra'ad Zeid al-Husseini of Jordan, who replaced Navi Pillay upon the completion of her term at the end of August 2014. He also met with the President of the Human Rights Council (HRC), His Excellency Baudelaire Ndong Ella and representatives of several Permanent Missions in Geneva to advocate for further recognition of the role of national human rights institutions (NHRIs) within the UN human rights processes and importantly sought support for the Australian sponsored HRC resolution on NHRIs.

The ICC Chairperson also attended several sessions of the current Human Rights Council session which will conclude on 26 September 2014. The ICC Chairperson delivered an ICC statement on the rights of indigenous people. Several other ICC or NHRI statements were presented including the joint NHRI statement on sexual orientation and gender identity. The statements will be made available of the ICC webpage <http://nhri.ohchr.org>

For further updates on the 27th Human Rights Council session please

visit <http://www.ohchr.org/en/hrbodies/hrc/pages/hrcindex.aspx> The Geneva Mission also afforded the ICC Chairperson the opportunity to attend to ICC organisational matters in particular sourcing a new accountant for the ICC in order to enhance its capacity to effectively manage its administrative processes.

The outcome of these interviews will be shared in the forthcoming ICC Bureau Meeting scheduled to be held in Johannesburg from 16 to 17 October 2014. The ICC chairperson also formally welcomed the newly appointed Assistant ICC Geneva Representative, Ms Agnes Gracia who will support the ICC Geneva Office until July 2015.

### *Eye on South Africa at the UN*

To track South Africa's voting patterns on resolutions and position with regards to statements at both the General Assembly and Human Rights Council please refer to the link developed and updated by Human Rights Watch <http://votescount.hrw.org/page/South%20Africa>

### *Upcoming events*

- 16-30 September-69th session of the UN General Assembly <http://www.un.org/en/ga/meetings/>
- 25 September-Inaugural meeting between the Committee on the Rights of Persons with Disabilities and NHRIs in Geneva co-organised by the Committee and the ICC. The

session will also be webcast

- 16-17 October-ICC Bureau Meeting in Johannesburg
- 27-30 November- 2nd World Human Rights Forum, Marrakech, Morocco [www.whrforum.org](http://www.whrforum.org)

## Statement by ICC Chair, Adv Mushwana

The International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) welcomes the reports of the Secretary General on national institutions for the promotion and protection of human rights (A/HRC/27/39) and on the ICC accreditation process (A/HRC/27/40).

In his report on national institutions for the promotion and protection of human rights (NHRIs), the Secretary General provides a detailed account of how the Office of the High Commissioner for Human Rights (OHCHR) implements its institutional mandate to support and strengthen NHRIs in all regions of the world.

At a time where NHRIs have been facing violence and civil unrest, natural disasters, and severe economic pressure, and where expectations placed on NHRIs continue to grow, the support and protection they receive from the international community is critical.



**The strengthening of the ICC accreditation process remains one of the strategic priorities**

of NHRIs, the ICC looks forward to working with OHCHR, to develop and deliver efficient and high-quality assistance to NHRIs and their regional networks, in order that NHRIs may have greater impact on the ground.

The ICC supports the Secretary General’s call on member states that appropriate means to this end must be ensured.

The ICC welcomes the Secretary General’s support of the ICC accreditation process as it helps strengthen NHRIs in their effectiveness and independence.

The strengthening of the ICC accreditation process remains one of the strategic priorities of the ICC.

The ICC supports the Secretary General’s call on NHRIs, members states and other stakeholders follow up on accreditation recommendations and ensure their implementation.

Finally, the ICC welcomes the Secretary General’s support for NHRIs’ independent participation in UN bodies and will continue to advocate, as recommended by the Secretary General, for recognition of NHRIs’ status UN system-wide.



The South African Human Rights Commission is hosting Provincial Business and Human Rights dialogues, below are picture highlights from the Northern Cape and KwaZulu-Natal

### Northern Cape



### KwaZulu-Natal



## FROM THE STRATEGY DESK: A MIDYEAR VIEW

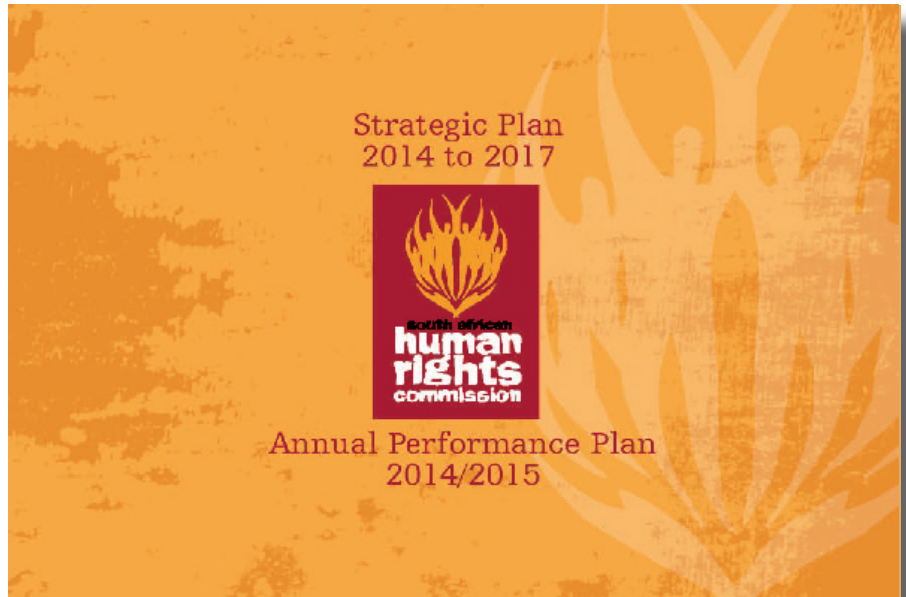
**Siyasanga Thulani Giyose,  
Strategic Support and Governance**

### Introduction

It is the first semester of our current 3 year strategic planning cycle of 2014 to 2017. Although nothing can be expected in terms of realisation of strategic goals and outcomes at this point, we should have an indication whether the required basics are in place, for successful implementation. In order to reap satisfactory results from a review of the 3 year cycle, we must get the basics right now.

As with implementation, planning requires concerted effort and teamwork from all involved. The October month marks the time for reflection on our midyear performance so as to appropriately inform the planning into the remaining period, and particularly the next financial year's Annual Performance Plan (APP). The first draft of the revised 2014 to 2017 Strategic Plan and 2015/16 APP were submitted to the National Treasury by the end of August 2014. Henceforth, we will be working on our 2nd draft due by the end of November 2014. In doing so, we urge all business units within the Commission to conduct planning sessions, encouraging participation and input from all staff so as to sustain understanding and ownership of the institutional plans.

A strategic planning process plan was shared with all staff during July 2014. The process plan indicates the beginning of October as the follow up round of planning sessions involving all staff. The input from these sessions will be consolidated into a draft organisational plan and incorporated into the Commissioners' strategic planning session scheduled for the end of October 2014. While the



business unit draft plans will provide input for the Commissioners' consideration, the Commissioners' sessions will give impetus to the strategic direction set out in the 2014 to 2017 Strategic Plan.

Considering this is only the first semester of the 3 year planning cycle, the basic assessment of our performance during this period will include reflections on the relevance of the targeted outputs and activities for each strategic objective, as well as indications of effectiveness and progress towards annual achievement.

### **Strategic objective 1: Promote compliance with international and regional obligations**

Our activities towards promoting compliance with international and regional obligations continue to be relevant to influencing the human rights landscape in South Africa. It is encouraging that the Portfolio Committee on Justice and Correctional Services has expressed interest in the state of compliance within the country and, in September 2014, invited

the SAHRC to share its assessment in this regard. The SAHRC will continue to monitor compliance and report to Parliament, as well as engage relevant stakeholders with respect to ratification, domestication and country reporting on international and regional instruments with human rights implications.

The first six months of 2014/15 indicate satisfactory progress towards achievement of targeted activities and outputs, with exceeded contribution due to the Chairperson's role as Chairperson of the International Coordinating Committee of National Human Rights Institutions (ICC).

Part of the focus for the rest of the period will be on ensuring implementation of resolutions arising from the international and regional activities, from an organisational point of view.

### **Strategic objective 2: Position the Commission as the focal point for human rights in South Africa**

#### **Stakeholder engagements**

The Commission engages with various stakeholders at international, national



## The Commission also enjoys international publicity

and provincial levels to encourage debate and ascertain its positions on selected human rights topics and across the Commissioners' strategic focus areas. In the first half of 2014/15, the institution has already conducted 91 engagements, amounting to 84% of the targeted engagements for the year.

### Annual theme: Business and human rights

All provincial offices conducted roundtable discussions on the annual theme of 'Business and Human Rights', with a view to:

- Establish common understanding of the United Nations Guidelines for Business and Human Rights;
- Reach consensus on key priority areas of concern; and
- Propose possible interventions to address the concerns.

These engagements were paving way for the Commission led business and

human rights interventions, focusing on some of the identified priority areas, with a view to create a human rights-based business environment across the country. Actual interventions are planned for the latter half of the financial year.

### Communications and media relations

In terms of positioning through public communications and media relations, the Commission has, in the past year between September 2013 and September 2014, managed to:

- Reduce turnaround response times to media queries to a maximum of 1 day
- Attract a generally positive image of the Commission based on public perception from social media, (with recent tweets commending the Commission for its involvement in transformation at Universities)
- A Facebook survey indicated 70% (of 100 respondents) positive feedback about the work and image of the Commission
- Social media coverage has increased, over the last year, by a follow-



ing of more than 3 000 for Facebook and in excess of 9 000 for Twitter e) Our media monitoring service indicates, at a national level:

- Potential newspaper readership of above 30 million
- Potential radio listenership of above 35 million
- Potential TV viewership of approximately 66 million

f) The Commission also enjoys international publicity:

- Potential newspaper readership of above 400 million
- Potential radio listenership of above 7 million
- Potential TV viewership of approximately 199 million

Further indicators of improved publicity and positive image are evident in the increased media requests for opinion pieces, as well as queries, on various human rights topics and current issues.

## Strategic objective 3: Enhance and deepen the understanding of human rights and promote a human rights culture

### Advocacy report

While stakeholder engagements are conducted to position the Commission as a focal point for human rights, they also serve as advocacy vehicles to enhance understanding and promote a human rights culture in South Africa. As such the outcomes and lessons from the engagements are continuously recorded for consolidation into an advocacy report towards the end of the financial year. This report and documented experiences will also serve to inform ongoing advocacy work throughout the strategic plan period.



Chairperson Mbedle Mushwana participating in the many interviews held

## Several human rights events are planned as build up towards human rights month in March 2015

### Advocacy and communications strategy

Most importantly, the 2014 to 2017 period has been strategically earmarked to strengthen the promotion mandate of the Commission, following a focus on the protection mandate during the previous planning cycle of 2011 to 2014. To this end, the Commission has completed an Advocacy and Communications Strategy, entailing key advocacy tools and outcomes including:

- Information dissemination and campaigns to create human rights awareness;
- Educational sessions to promote human rights sensitisation;
- Public and community dialogues to build public confidence in institutional processes;
- Lobbying and advocacy to influence behavior change and framework for reform towards an increasingly human rights based society.

Several human rights events across provinces and at national level are planned for the second semester of the year, to serve as build up towards human rights month in March 2015.

### Strategic objective 4: Advance the realisation of human rights

#### Economic and social rights

The Commission monitors the state of human rights in the country and makes recommendations for interventions to improve status quo and advance the realisation of hu-

man rights. In this first semester, the 2013/14 Economic and Social Rights Report was completed, reflecting on the state of economic and social rights in South Africa. To enhance its function in this regard, the Commission has been working on a matrix of indicators for the monitoring of economic and social rights, which will be concluded during this strategic planning period.

All staff members are encouraged to consider and reflect on the Commission's research reports for a better understanding of the state of human rights in South Africa. Such understanding enables all of us to make comparative analysis of the state over time, so that we may evaluate if any progress has been made, especially during the current planning period. It will inform an introspective review of our performance and impact assessment.

#### Implementation of recommendations

One of the key focuses this financial year is the establishment of a mechanism to monitor implementation of

recommendations by relevant stakeholders, arising from the Commission's report findings. The mechanism will enhance assessment of the effectiveness and potential impact of our institutional human rights protective and promotional efforts on society. In the first half of the financial year the core operations units have consolidated findings and recommendations from the previous 3 years, and will package them for engagement with relevant stakeholders.

#### Finalisation of cases and complaints analysis

The finalisation of cases has progressed very well thus far, with indications of surpassing the 85% annual target. Current performance is at 78% finalisation of all cases received.

For the first time, the Commission has completed a detailed Annual Complaints Trends Analysis Report covering the previous strategic planning period of 2011 to 2014, focusing on profiling the complaints; nature



**Commission holds hearings to address Economic and Social Rights challenges**



## First semester of our 2014 to 2017 Strategic Plan, has set the tone for implementation of identified goals and objectives

of complaints received; the top 5 complaints; Litigation matters; Conciliation cases; Appeals; and National Hearings. The Trends Report will enhance the Commission's planning and management of complaints with informed strategies and focus areas into the future.

### High Court rulings

Some of the key highlights, during this first semester, indicating the Commission's commitment and effectiveness in advancing the realisation of human rights are two High Court rulings that were handed over in favour and alignment with the Commission's findings. These include:

1. A ruling on the unconstitutional detention of immigrants at the Lindela Repatriation Center, against the Department of Home Affairs; as well as
2. A ruling on the delivery of school learning materials and/or textbooks, against the Department of Basic Education.

The Commission will continuously engage with key policy makers to advocate for implementation of its recommendations and monitor compliance levels and evaluate impact over time.

### Strategic objective 5: Use and project a broader constitutional and legislative mandate

#### Promotion of Access to Information Act

The Promotion of Access to Information Act (PAIA) Annual Report was

completed and submitted to Parliament at the end of September 2014. It reflects on the national state of compliance with the PAIA and makes recommendations for improvements. Similarly, implementation of the recommendations will be assessed through the identified mechanisms for monitoring these across the human rights focus areas.

Training sessions were conducted for public and private sector institutions by the Commission as part of the PAIA strategy and annual plan, whose implementation is at 93% by this mid-year performance period.

The Commission is also considering the implications of the Information Regulator that is to be established to undertake the PAIA functions. It is deliberating on the implications of this establishment and how to rearrange its operations and plans into the future.

### Strategic objective 6: Improve the effectiveness and efficiency of the Commission to support delivery on the mandate

The functionality of the organisation is, amongst others, indicated by its ability to perform against targets and adhere to legislative and compliance requirements:



- a) Satisfactory attainment of midyear performance targets;
- b) Quarterly performance reporting and submission to National Treasury and Parliament;
- c) Annual Report submission to Parliament, the National Treasury and Auditor-General;
- d) Submission of 1st Draft Revised Strategic Plan 2014 to 2017 and Annual Performance Plan 2015/16 to National Treasury;
- e) 92% compliance with all relevant legislative, regulatory and policy requirements, including the Public Finance Management Act; and
- f) Medium Term Expenditure Framework submissions to National Treasury.

### Conclusion

Overall, the first semester of our 3 year Strategic Plan, 2014 to 2017, has set the appropriate platform for implementation to realise identified goals and objectives. The concerted efforts of team SAHRC are what contributed to the essentially satisfactory beginnings into the performance period, and that is highly appreciated. All Commission staff are invited and encouraged to continuously participate in all performance planning, implementation and assessment processes, with a view to identify opportunities for improvements, as we increasingly deliver on our constitutional mandate.

## Strategic Planning Process Plan

Key planning processes scheduled in the institutional Governance Calendar and Strategic Planning Process Plan are as follows:

Session	Date
1. Business Unit planning sessions (involving all staff)	01 to 10 October 2014
2. Commissioners' strategic planning session	29 to 31 October 2014
3. Senior management strategic planning session	17 to 19 November 2014
4. Launch of operational planning processes	20 November 2014
5. Submission of 2nd draft Strategic Plan	28 November 2014
6. Submission of final Strategic Plan	31 January 2015

# In the Seat



with Witness Ndala  
*Personal Assistant to the CFO*



7) when we were first taught in Afrikaans in 1976. It was so frustrating and very difficult for all of us to understand. Firstly we did not understand the language and the teachers, worst part of it the teachers could not understand what they were teaching; I hated school because of that.

After matric I went to the business college, Kelly Greenoaks College. I did Administration and Secretarial Diploma. I started to work at Operation Hunger in 1988 as a Junior Secretary where I was retrenched in 1994. I worked for Kunene Incorporated Attorneys before joining the SAHRC in 2000 as a Legal Secretary.

*Describe your position at the Commission and explain what it means to you holding that position?*

In 2004 I was appointed in Finance as a Secretary. Now I am a Personal Assistant (PA) to the Chief Financial Officer (CFO). The office of the CFO is a very important and busy office and as a PA you need to be on the ball as you are managing the office. You need to know all documents that come through and you need to know if they were approved or not, and know the reasons why. As a PA you need to play a role of being a manager, managing the daily routine and meetings of the CFO. This position needs a person who can take control and arrange all activities of the office without being supervised.

*Day outside office?*

I am married and blessed with three boys. At home I am a mother, and a wife. My two sons are

*Tell us about Witness in a nutshell?*

Thembelihle Witness Ndala is a very shy and kind person. She is a good listener, a hard worker and reliable.

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

I was born in Soweto, in a small location called Zondi; I was born July 6th, 1962. I am the elder of four children: three sisters and a brother.

I have started to be responsible at a very early age taking care of my siblings when my parents were gone to work. I was only relieved when my grandmother decided to retire and came to stay with the family.

*Education background*

I started primary school when I was seven years, at Ikhwezi Primary School and matriculated in Forte High School in Dobsonville 1983. I was in Standard 5 (grade





independent now; the elder one is an Electrical Engineer, The second son is a Mechanical Engineer and my last son is studying Public Relations. It was very hard to raise these children but with the Grace of God they came out to be what any parent would wish to have as their children. They are very humble and respectful.

### What motivates and inspires you?

When I grow up I was motivated by my granny, she taught me to stand up and fight for what is right for me and taught me how to respect as a woman. I was always inspired by mama Ellen Khuzwayo (a politician and struggle veteran), I have learned that you do not get old to get where you want to be.

### Favourite activities?

I like knitting and cooking. I enjoy cooking for my family and watch soccer during spare time.

### Any interesting thing that people don't know about you?

I am a person who likes to do things perfectly, when I am assigned to a task I commit myself fully and always want to explore and try other methods. I like to work with people. I was once a teacher (Part time teacher) for three years and I was told that I am a good teacher (born to be teacher). I could not pursue teaching as I had a child to look after and during that time you were supposed to go and stay at the college.



Witness Ndala at the recently held Heritage Day celebrations



Witness at the Admin & Supply Chain teambuilding exercise

## Did you know?

At home Witness is known as Ntombentsha

Her favourite team is Orlando Pirates



## Snippets

### 2014 Steve Biko Lecture by Judge Navi Pillay

As many of you know, I retired as UN High Commissioner for Human Rights eleven days ago (on 31 August 2014). This is the first public engagement I have undertaken, even before I unpacked my bags. I do so for the opportunity to honour Steve Biko.

Thank you, Mr. Nkosinathi Biko SBF CEO, and Ms. Y. Obenewa Ampon-sah, SBF Director, for your kind invitation to deliver this lecture.

You have invited me to reflect on my tenure as UN High Commissioner for Human Rights and share my insights as to what we as citizens can do to advance human rights in South Africa, on our continent and the International community.

Before I do so, I wish to add my voice to the worldwide acclaim for Steve Biko and his courageous contribution to the liberation of South Africa. I was a very young lawyer in the seventies and defended many members of SASO and BCM in the courts. I had started my law practice in 1967 and after three years, was qualified to take on candidate attorneys. The first of them were Gaby Pillay, my husband and Ben Langa, a close comrade of Steve Biko.

Together we provided free legal services to a stream of BCM colleagues, who refused to collaborate with laws that oppressed us. Their bravery and principled stand

made a lasting impression on me. From these early lessons learned from Steve Biko and BCM, I have remained consistent in calling on all individuals to stand up for your rights.

A life cut short and yet a life that not only contributed to the dismantling of apartheid in South Africa, but also informed international human rights norms and standards. Amongst these was the decision by the UN Security Council to ban arms sales to South Africa in November 1977 and his death also served as a catalyst towards finalisation of the UN Convention against Torture and Other Cruel and Inhuman or Degrading Treatment or Punishment.

The action that each of us can and should take against human rights violations wherever they occur is as Biko himself urged: not to be a spectator but a participant. Just as individuals around the world cared about anti-apartheid activists and human rights defenders, like Biko, and demanded that their Governments support our struggle for freedom, so we should watch out for the safety and freedom of human rights defenders, journalists and NGOs who are facing arrests, detention and even death for their critical work.

It is moving to be amongst so many friends today, in order to commemorate the 37th anniversary of Biko's murder and to celebrate his life. Advances in human rights protection in National and International arenas is largely due to the push by civil society actors. Twenty years ago, 7000 participants gathered for the World Conference on Human

Rights, in Vienna. It was June 1993, shortly before we achieved democracy.

For the first time, many South African NGOs were able to participate in a UN conference. I was amongst them, angling out in the basement, little knowing that I will one day fill the post of High Commissioner for Human Rights, a post that was the outcome of Vienna.

Western countries favoured civil and political rights; the Eastern bloc and many developing countries argued that economic, social and cultural rights, and the right to development, had priority. In addition, a sizeable group of states were vigorously arguing that the Universal Declaration of Human Rights was the product of a specifically western culture, and that in reality; human rights should be considered relative to the characteristics and traditions of different cultures.

Yet, as discussions unfurled, a consensus emerged. The key to this is the notion of universality, indivisibility and interrelatedness of all human rights. You see, a number of States had been resisting the entire concept of economic and social rights—because they saw them as aspirations rather than rights intrinsic to human dignity and freedom.

The vision of an inter-related and inter-dependent constellation of human rights allowed for economic and social rights to be on board, as well as the right to development.

**Full lecture is available at <http://sbf.org.za>**

*“Transforming Society, Securing Rights, Restoring Dignity”*



## South Africa votes 'Yes' for Global LGBT Equality

posted by Luiz DeBarros | September 29, 2014 | In HEADLINES

*The South African government has stuck to its constitutional commitments and voted in favour of another ground-breaking resolution on sexual orientation and gender identity at the UN Human Rights Council (UNHRC).*

On Friday afternoon, the country was the only African nation in Geneva to say "yes" to resolution A/HRC/27/L.27/Rev.1, condemning violence and discrimination on the basis of sexual orientation and gender identity.

The resolution, which was sponsored by Brazil, Chile, Colombia and Uruguay, also asks the High Commissioner for Human Rights to update a 2012 report on violence and discrimination on the basis of sexual orientation and gender identity. It further states that the new report should aim to share "good practices and ways to overcome violence and discrimination."

The original 2012 report came about after South Africa co-sponsored the first ever landmark resolution passed by the council on discrimination on the basis of sexual orientation and gender identity in 2011.

There had been fears that this time round South Africa would either abstain during Friday's vote or support proposed amendments by anti-gay countries during the vote to weaken the resolution.

Thankfully, it did neither and instead was among the 25 nations

that voted in favour of the resolution. There were 14 that voted against it and 7 abstained.

Ambassador Abdul Samad Minty from South Africa told the UNHRC that "no person should fear for their safety or be deprived of their dignity because of their sexual orientation or gender identity." He explained that the country's vote was "guided by the principle of supremacy of the South African Constitution and the rule of law" that enjoins the government "to promote and respect the rights of all people without distinction of any kind."

Minty said that, "The South African government believes that we as a country will benefit from a best practice report as called for in the resolution." He also acknowledged that, "despite our enabling laws, people in our country are still subjected to discrimination and violence based on their sexual orientation and gender identity. The essence of this resolution is to help us all understand that we can do better to protect the lives and dignity of all our citizens."

In the run up to the vote, progressive countries, including South Africa, were able to successfully fend off seven proposed hostile amendments, introduced by Egypt, that sought to remove all references to sexual orientation and gender identity from the resolution. **Source: mambaonline.com**

## Parliament calls on Government to implement the SA-HRC's recommendations on Lindela

The Portfolio Committee on Home Affairs has noted the findings of the South African Human Rights Commission into violation of access to healthcare at the Lindela Repatriation Centre. The findings follow a South Gauteng High Court judgment that the detention practices at the centre were illegal and unconstitutional.

The committee is concerned that the centre is turning into a place of human rights abuses which cannot be condoned. These two findings seem to further suggest that the overall practices at the centre are questionable and undermine the mainstay of South Africa's democracy, the Bill of rights, which protects everyone within the borders of the country.

While primarily, the committee will hold the Department of Home Affairs responsible for these alleged human rights abuses as the accounting department, the Department of Health must also take some responsibility because the provision of healthcare remains their territory. The committee is of the view that the two departments must work together to implement recommendations as suggested by the South African Human Rights Commission.

The committee will for its part strengthen its oversight role on the facility and will request continuous updates from the Department of Home Affairs on its response to the report and intervention mechanisms to address the findings and the South Gauteng High Court judgment.

**Issued by: Parliament of South Africa**



## We welcome new employees

Mr. Allan Tumbo – Research Associate – Research

Ms. Annabelle rivet – Research Associate – PAIA

Mr. Patrick Maluleke – Internal Auditor



# INVITATION

## NATIONAL INFORMATION OFFICERS FORUM

### HOSTED BY THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION

The South African Human Rights Commission will host its annual National Information Officers Forum and Golden Key Awards. The 2014 NIOF marks the eleventh year of this auspicious event. The Commission takes pleasure in inviting you to attend.

**Date :** 10 October 2014

**Venue :** Premier Hotels and Resorts, 573 Church Street, Arcadia Pretoria

**Theme:** Advancing Transparency in the Public Sector

**Enquiries:** Nokwanda Molefe : [molefe@sahrc.org.za](mailto:molefe@sahrc.org.za) 011 877 3694

**Twitter:** @SAHRCCommission

**Facebook:** SAhumanrightscommission

**YouTube:** SAHRC1