

Happy Heritage Day



# Iifanelo

"It's Your Right"



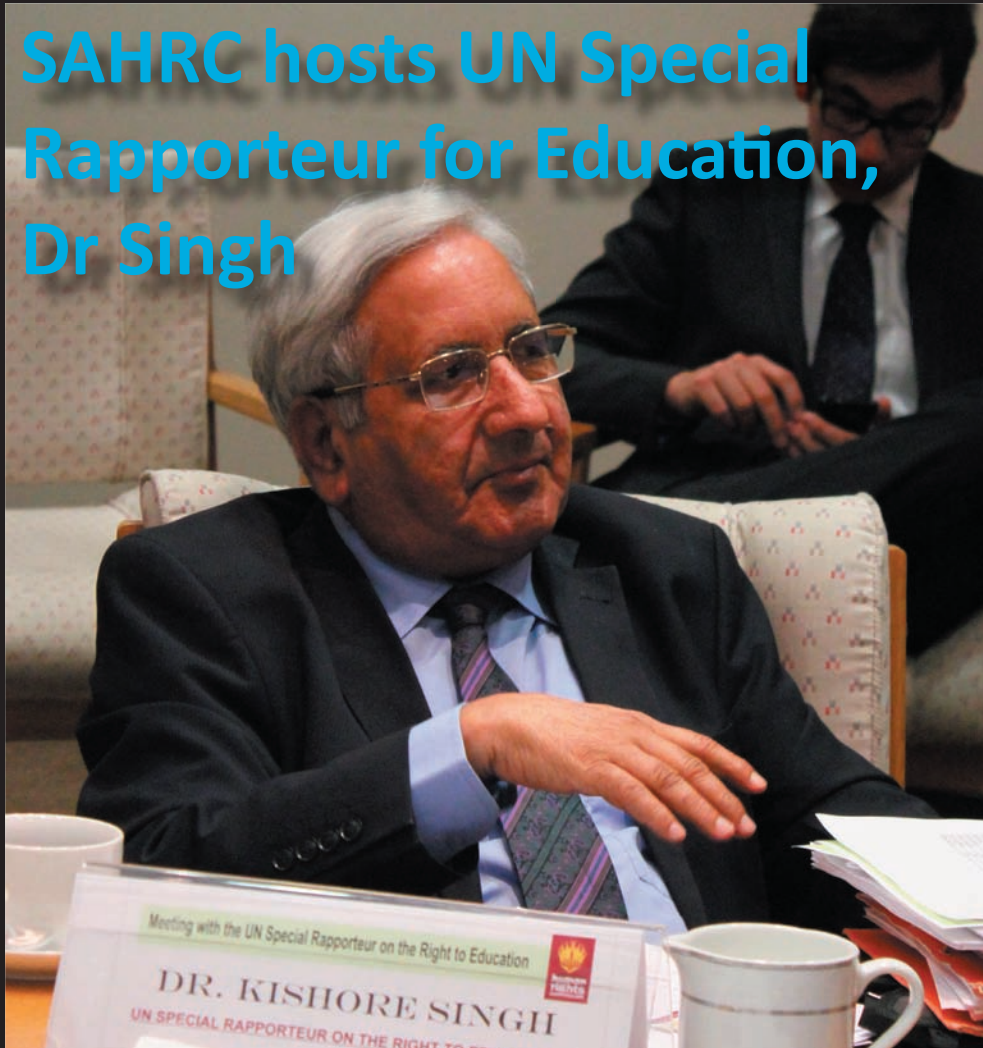
Transforming Society. Securing Rights. Restoring Dignity

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The South African Human Rights Commission Newsletter

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## SAHRC hosts UN Special Rapporteur for Education, Dr Singh



Limpopo Disability Indaba: More needs to be done to accommodate people with disabilities



Deputy Chair, Pregs Govender pays Tribute to stalwart Albertina Sisulu



**Marikana Commission:**  
SAHRC cross examines Police witnesses...still no funding for miners and families of the deceased



SAHRC adjudicates at the National Schools Moot Court Competition


## Heritage Day, 24 September


Heritage Day is one of the newly created South African public holidays. It is a day in which all are encouraged to celebrate their cultural traditions in the wider context of the great diversity of cultures, beliefs, and traditions that make up the nation of South Africa.

In KwaZulu, the 24th of September was formerly known as Shaka Day, in commemoration of the legendary Zulu king, Shaka Zulu. When the proposed Public Holidays Bill before the New South African Parliament omitted Shaka Day, Inkatha Freedom Party (IFP), a South African political party with a large Zulu membership, objected to the bill. A compromise was reached when it was decided to create a day where all South Africans could observe and celebrate their diverse cultural heritage.

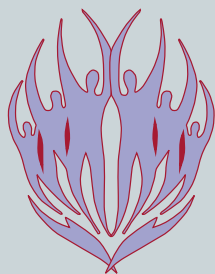
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**"We must work to rediscover and claim the African heritage, for the benefit especially of our young generations."**

**Thabo Mbeki**

## Editor in Chief

September signifies the start of Spring. It represents an opportunity for renewal and rebirth; an opportunity to shake off the chill of winter and to consider things afresh in the warmth of a new beginning. It is therefore an appropriate month for the Commission to begin thinking about its new strategic plan for 2014-2017.

The planning process will begin with consultations among various levels of the Secretariat during September. However, the process itself will be strategically led and guided by Commissioners who will decide on the future direction of the institution when they conclude their discussions in October. This planning cycle is particularly important because it will have to take into consideration the end of the first



seven year term of Commissioners, as well as the end of my five year contract. The impact of these possible changes at the Commissioner level, and the certain change of the CEO at the Secretariat level would need to be taken into consideration during this planning cycle.

In addition to September representing the start of the new planning cycle, it also represents the implementation of the audit project plan following the highly unsatisfactory conclusion of the last audit. The implementation of the project plan will also be led by my office to ensure that audit findings are properly and permanently addressed. The project plan represents a Spring-cleaning process which is needed in every organization from time-to-time.

At an individual level, Spring also represents an opportunity for personal renewal and development. I therefore look forward to learning from and working alongside Commissioners and colleagues during this Spring season and playing my part in taking the Commission forward. **Pf**



### Invitation: National Information Officers' Forum

In celebrating International Right to Know Day on 28 September 2013, the South African Human Rights Commission (SAHRC) is hosting the National Information Officers Forum aimed at increasing the capacity of various stakeholders in utilizing and enforcing the right to information under the Promotion of Access to Information Act (PAIA). This will examine the requirements of PAIA in terms of proactive disclosure of information and recent initiatives in South Africa to promote transparency across all sectors of society. **Pf**

For more information: [Fadeleke@sahrc.org.za](mailto:Fadeleke@sahrc.org.za)

### Call for Supplier Database Registration

The South African Human Rights Commission is calling for suppliers to register on our Database by completing the supplier database form. More information regarding the form and criteria is available on [www.sahrc.org.za](http://www.sahrc.org.za). **Pf**

## Limpopo disability sector: Government's 2% disability employment target not enough

**The South African Human Rights Commission's Limpopo Disability Indaba provided the much needed ear for the sector to voice concern over various challenges they continue to face despite legislation. Commissioner Malatji, SAHRC Commissioner responsible for Disability and Older Persons led the Commission to the event, which was held at Westernberg Hall outside Polokwane.**



### Geared up: The Limpopo disability sector engaged with the Commission and Government over their challenges

The Limpopo disability sector came in their numbers to pour frustrations over lack of progress towards implementation of the Convention on the Rights of Persons with Disabilities (CRPD). The South African Human Rights Commission (Commission) provided the much needed space by hosting the Disability Indaba in Westernberg, Polokwane, which assessed Government's progress towards the implementation of the (CRPD), Right to Equality and other pieces of legislation meant to protect people with disabilities.

Some of the frustrations voiced by the sector included the lack of Access to Information – the sector felt that they are not being considered or consulted when tenders meant to provide them with services are awarded.

In his address Commissioner Bokankatla Malatji, SAHRC Commissioner responsible for Disability and Older Persons raised concern that despite article 33 of the CRPD being clear that civil society and persons with disabilities should be involved when decisions are taken, the situation is contrary. "Despite the CRPD and other pieces of legislation that are meant to protect people with disabilities, majority of them continue to suffer discrimination. The Commission would like to collaborate and foster working relationships to ensure that the CRPD is implemented at various spheres of Government," he said.


Limpopo Provincial Manager, Victor Mavhidula echoed Commissioner Malatji's statement by raising concern over the unwillingness of some Government officials to comply with

legislation and put in mind the rights of the marginalised. "Our responsibility is to ensure that investigation, education and research is done in conjunction with the head office. We (the provincial office) are eyes and ears of the Commission"

Some of the complaints received by the Commission include the publicized story of a mother who chained his son for 19 years as she feared rejection by society. The Commission went to Junfurse where the kid was locked and rescued him. He is now in the care of Social Workers and investigation continues.

In response to the concerns raised, representatives from the Premier's Office concurred with the Commission and the sector that despite nine Departments achieving the 2% employment target, more needs to be done as a majority of the employees are at a junior level. "The City has gone an extra mile coming up with mechanisms to fundraise and distribute money to various NGO's".

A representative of Disabled People of South Africa acknowledged the good work that the Commission is doing regarding the attainment of rights. He urged the Commission to go to rural areas where houses are being built without proper access. "People with disabilities are marginalised in rural areas."

The Commission will use its Constitutional mandate to raise challenges with various spheres of Government and report back to the next Indaba, which is earmarked for 2014. 

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## Commissioner Mokate Appointed to Maldives Commonwealth Observer Mission



Commissioner Lindiwe Mokate from the South African Human Rights Commission has been nominated to form part of the Commonwealth Observer Mission that will monitor the forthcoming presidential elections in the Maldives.

Maldives is an island country located in the Indian Ocean, south of India’s Lakshwadeep near Sri Lanka.

The elections will be held between 7 and 14 September 2013. Commissioner Mokate, together with 16 other delegates, are expected to arrive in the Maldives on Saturday, 31 August 2013. The mission is headed by former Prime Minister of Malta, Dr Lawrence Gonzi.

The Commonwealth observer mission will be expected to independently conduct elections in line with the International Declaration of Principles, make suggestions on how to strengthen the electoral framework, and submit a 2013 report on the presidential elections to both the Commonwealth and the Maldives.

The mission is further mandated to consider all aspects of the electoral process in the Maldives by ensuring that it is held in compliance with the agreed standards for fair polling. Commissioner Mokate’s group will be joined by other observers from the European Union, and representatives from local groups and institutions.

SAHRC would like to wish Commissioner Mokate best of luck, and a safe trip to the Maldives. 

## SAHRC shares best practices with the Kenyan Law Reform Commission

*By Toerien van Wyk, Research Associate, CEOs Office*


On Wednesday 14 August 2013 the South African Human Rights Commission (SAHRC) hosted a Kenyan delegation consisting of members of the Kenyan Law Reform Commission and a representative of the Kenyan Justice Department. The Kenyan Law Reform Commission is, under the Kenyan Constitution, an organ tasked with the duty of implementation of the Constitution; the delegation therefore came to South Africa with the intention of learning more about how South African institutions have gone about implementing the South African Constitution.

As Kenya’s relatively new Constitution (promulgated August 2010) includes an elaborate Bill of Rights, which in turn includes socio-economic rights, the delegation sought to learn from the SAHRC about its role in giving “full and particular effect” to the rights in the Bill of Rights and in particular socio-economic rights. The SAHRC was able to share with the Kenyan delegation about work done by the Commission, particularly in the areas of the right to basic education and the right of access to water and sanitation. Yuri Ramkissoon, a specialist in



**CEO, Kayum Ahmed and Head of Legal Services, Pandelis Gregoriou took time to pose for Pfanelo after sharing best practices with the Kenyan Law Reform Commission**

socio-economic issues and a Senior Researcher at the Commission shared on the challenges of ensuring quality of and access to services.

The discussions were informative and parties were able to exchange thoughts and ideas on various topics, ranging from the role of a Human Rights Institution to the specific rights of minority communities such as disabled persons and the LGBTI community. 

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



In light of the ruling of 19 August 2013 by the Constitutional Court, dismissing the application of the injured and arrested miners of Marikana, the South African Human Rights Commission (SAHRC) and the Centre for Applied Legal Studies (CALS) is heartened by the clear message sent by the Constitutional Court in relation to the fairness of proceedings without funding for the injured and arrested miners.

While the Court held that it did not have a power to order the executive branch of government on how to deploy state resources, it recognised that “it would be commendable and fairer to the applicants that they be afforded legal representation at state expense in circumstances where state organs are given these privileges and where mining companies are able to afford the huge legal fees involved”. The Court went on to



**Picture: Mine workers converged at the Koppie to commemorate the August killing of miners in Marikana.**

note that “a functionary setting up a commission has to ensure an adequate opportunity to all who should be heard by it. Absent a fair opportunity, the search for truth and the purpose of the Commission may be compromised. This means that unfairness may arise when adequate legal representation is not afforded.”

The SAHRC and CALS considers that there is a real risk of unfairness, and a real risk that the purpose of the Commission will be compromised, if adequate legal representation is

not afforded to the injured and arrested miners of Marikana. With this in mind, the SAHRC and CALS remain hopeful that funding will be secured so that the Marikana Commission will resume and remain inclusive, providing a voice to some of those most affected by the tragedy at Marikana. Once again, the SAHRC and CALS call on the Commission, government and all parties to the proceedings to find a funding solution that will allow those injured and arrested at Marikana on 16 August 2012 to continue to take part in the Commission process. **Pf**

### Meanwhile...

The South African Human Rights Commission took the stand this week (26 - 29 August 2013) where they cross examined the state witnesses. North West Deputy Police Commissioner Mpembe said he was hurt by statements made by Michelle le Roux for the South African Human Rights Commission during cross-examination on Tuesday.

“Yesterday, there was an insinuation that I am very unhelpful and unco-operative,” he said.

“I respect the commission and everyone here ... this was reported all over the news last night ... I humble myself before the commission,” Mpembe said before breaking down in tears.

On Tuesday, Le Roux told the commission that information provided by police was inadequate and the commission would have to rely on one side.

**Courtesy of Mail & Guardian** **Pf**

## SAHRC adjudicates at the National Schools Moot Court Competition

By Phillip Molekoa

*Human Rights Advocacy and Research Officer*

The third Annual National Schools Moot Court Competition was held from 9 to 11 August 2013 at the University of Pretoria and Constitutional Court respectively. The finals are preceded by nine provincial rounds, which result in the four top provincial schools advance and compete at the national level, with each team consisting of two learners.

The competition is open to senior learners from all secondary schools in South Africa. To compete, learners firstly write short essays setting out opposing sides of the set fictional case. This year's fictional case dealt with a School Governing Body's exclusion policy with regards to pregnant learners. After evaluation, the best submissions are identified in the nine provinces.

The South African Human Rights Commission (the Commission) is one of the strategic partners of the initiative together with the Department of Justice and Constitutional Development, Department of Basic Education, Foundation for Human Rights and the Universities of Pretoria, Western Cape and Venda respectively. This year the Commission was represented by Commissioner Janet Love and our CEO, Kayum Ahmed, as adjudicators in the semi final oral rounds.

The finals were held at the Constitutional Court on 11 August 2013 and were presided over by the Constitutional Court Deputy Chief Justice Dikgang Moseneke, Constitutional Court Justice Edwin Cameron, Justice Johann van der Westhuizen, the Director of the Foundation for Human Rights, Yasmin Sooka, and Ann Skelton, Professor of Law and Director of the Centre for Child Law at the University of Pretoria.



Ready to tackle Human Rights Challenges: learners gave their all to impress judges at the recently held Annual National Schools Moot Court Competition

Tharin Pillay from Crawford College La Lucia High School. The best essays were received from Hoërskool Rustenburg and Sol Plaatje Secondary School, which are both in the North West province.

The competition is an excellent opportunity for sparking interest in human rights law among learners and provides a platform for them to showcase their level of awareness and dedication in promoting human rights at an early age.

The Commission is proud to be a part of this project and encourages all staff to render their support in this annual competition by actively participating in the competition in whatever capacity they can. **Pf**

The winning team receives a bursary from Juta Publishers to their first year of law studies at a local university upon admission to study law. The two provincial winning teams with the highest scores were Crawford College in La Lucia, Kwa-Zulu Natal and Redhill High School in Gauteng and competed against each other in the final round held at the Constitutional Court on 11 August. The winning team was Redhill High School, and the best oralist was

# In honour of Ma Albertina Sisulu

Deputy Chair, Pregis Govender pays tribute to women of SA



In honouring Ma Albertina Sisulu, I recall the solidarity with which she embraced us in the 1980's and in SA's first democratic Parliament, as sisters, daughters and granddaughters.

How would that solidarity express itself in present day SA? In my mind's eye Ma Albertina moves from shock to action at the brutal murder of Duduzile Zozo, sole breadwinner of nine family members (with whom she shared a shack in an informal settlement), who is killed because she is lesbian. During the Traditional Courts Bill hearings, she listens closely when rural women protest at the threat of second-class citizenship; she stands with them as they assert our Constitution's promise of full political, civil, socio-economic and cultural rights. She shakes her head in anger during a water and sanitation site inspection in an informal settlement, when a young woman explains that she crosses a busy road to public toilets. There, she leaves her wheelchair to crawl into the toilet, invisible to the mu-

nicipality and the company it contracted to provide these toilets.

What calls us to solidarity and action in 2013? The 2011 Census reveals that Black African women in Apartheid's former homelands, townships and informal settlements remain the majority of the poorest, the unemployed and those in precarious employment. Together with their daughters they bear the brunt of gender-based violence and HIV infection. In contrast to glowing national averages, disaggregated statistics more accurately reflect the lived reality of people who are poor.

Black African women still predominate in the poorest areas in wealthy metros and in Apartheid-era homeland areas in poor provinces. The Census shows for example that almost two-thirds of households in Limpopo lack access to sufficient sanitation. It also reveals that when water sources are a kilometer or more away, women and girls are almost twice as likely as men and boys to collect water.

In the run-up to the 2011 Local Government elections, (nicknamed the poo-election) the Commission received complaints against municipalities in DA-led Western Cape and ANC-led Free State. The Commission ruled that both had to enclose their 'open toilets' to uphold dignity, privacy and clean environment. The Presidency, through its Department of Performance, Monitoring and Evaluation (DPME), had to report on the systemic problem of sanitation across SA and Government's plan to address the rights of people who are poor. The Ministers of Human Settlements and Water Affairs had to report on eradicating

the bucket system.

The Commission strategy on the rights to water and sanitation resulted in women being the majority of participants in the Commission's nine provincial hearings where they clearly conveyed the gendered impact of the lack of rights. Representatives from local, provincial and national Government had to listen before responding- for many participants this was a first; "Normally they present their speech and leave".

Women described how it was to live with no piped water and toilets, sometimes despite living next to dams where they saw mining companies, tourist industries and agribusiness having unlimited access. They spoke of rapes when fetching water or using open fields as toilets; daughters who, when menstruating, stayed away from schools with unsafe or no toilets; endless battles to keep homes clean when sewage flowed in the streets and into homes. The exhaustion of caring for HIV positive family and children who got ill from water polluted by faeces or chemicals from big farms and mines. The elected representatives and bureaucrats who disrespected them, refusing important information, treating them like children and demanding sexual favours.

In site inspections we saw overflowing public toilets that were not maintained; containers of faeces and piles of refuse; dusty paths that passed for roads; crèches established with little if any state help; and clinics with long queues and a few nurses and doctors. Indigent policy was not applied in a uniform manner that upheld human rights

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## Challenges facing women: what would ma Sisulu do

across municipalities, resulting in many poor people paying for basic services. The cost to women's time and health of unequal gendered roles, responsibilities and power was crystal-clear.

UN Secretary General Ban Ki Moon notes that 'close to half of all people in developing countries suffer from health problems caused by poor water and sanitation'. Gender responsive policy should connect seemingly disparate elements revealing the indivisibility of rights. It will expose the long-term impact of short-term thinking and trade-offs.

The Universal Declaration of Human Rights asserts that 'everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized'. We are far from such an order. Instead a global patriarchal world order, in which a handful of men (and their families) own most of the world's wealth prevails. The earth's resources - mineral, natural and human - are exploited for profit, often instigating war and violence. The cost to the earth, human health and life is devastating. Globally many in leadership have been corrupted by or collude with those who own the wealth of the world. SA's infamous arms-deal is only one example.

The human rights impact of macro-economic policy choices including trade agreements and fiscal choices that operate in the interest of the privileged and powerful, can no longer escape scrutiny. FIFA, a massive global corporation, made the biggest profit it had ever made in SA, while the poor bore the cost. The recent Competition Commission ruling on the Construction Industry provides some insight into this.

Our Constitution commits to water as a human right, yet the Gen-



eral Agreement in Trade in Services treats water as a commodity. This mindset frames our priorities and shapes who pays. In a country such as ours that is water-scarce, large-scale users including mining companies and agribusiness use most of SA's water, often polluting it, with little cost or consequence.

Creating human settlements that transform the spatial Apartheid geography of our country is possible. However, gender policy rooted only in 'vulnerability' fosters charity not rights. Addressing women's rights requires the state to address the structural causes of unemployment, precarious employment and poverty that destroy women's power, drive vulnerability and entrench patriarchal culture. It requires scrutiny of who and what the state values. Women's unpaid contribution, for example, whether in subsistence farming or caring work, is presently not counted as a contribution to economic growth, yet it is work that keeps families and communities alive.


In its work on water and sanitation, the Commission undertook a rigorous process aimed at securing Government accountability. Relevant Ministers, including Water Affairs, Human Settlements, DPME and Finance received and responded to the Commission's findings and recommendations. The Commission urged the Co-operative Governance and Traditional Affairs (COGTA) "Women and Local Governance Conference" of mayors, deputy mayors, councilors and municipal

managers convened by the Minister and Deputy Minister to use their power. It convened an inter-governmental roundtable with ten departments on the recommendations. The Commission tables its final report on water and sanitation to Parliament later this year, after which Parliament will need to exercise its oversight power.

A key Commission recommendation addresses the need for political will at Cabinet level to co-ordinate often-fragmented work. Another recommendation argues for capacity to urgently be built in historically poor municipalities. They often lack the skill and power to negotiate and monitor contracts with powerful local and global companies. To date, national programs have focused mainly on wealthy metros and municipalities. A third recommendation requires indigent policy to be applied uniformly across SA, so that the poor do not continue to pay for basic services, despite the post-1994 commitment to free basic services for the poor.

We are months away from the 2014 National election. Pre-1994 women united to ensure that the negotiated transition and final Constitution reflected substantive equality, women's rights and non-sexism.

The 1999 elections were a crucial time before which to ensure Parliament enacted over 80% of women's transformative priorities. It also was the moment in which Government made a National Budget commitment to making the entire budget gender-responsive. Women are the majority and, in solidarity with the poorest, can assert an agenda that holds all party leaders, men and women, accountable.

It is time to use our individual institutional and collective power to honour all our ancestors. Beyond greed, hate and fear exists the possibility of recognizing the dignity inherent in each of us. 

## UN Education Special Rapporteur, Dr Chisore Singh, visits SAHRC to assess status of education in the country

By Commissioner Mokate's Office

**Commissioner Mokate Office is responsible of Basic Education and Child Rights**

The right to education was put under the spotlight this month, when the South African Human Rights Commission (Commission) hosted the United Nations Special Rapporteur on the Right to Education, Dr. Kishore Singh. During the course of his stay, special Rapporteur also addressed joint sitting of committees of the Pan African Parliament and convened a meeting with key stakeholders in the education sector, including the United Nations Children's Fund Department of Basic Education, Save the Children, Equal Education, Section 27, the Commission for Gender Equality, the Centre for Child law, the Legal Resources Centre and others.

A Special Rapporteur is an independent expert appointed by the Human Rights Council to examine and report back on a country situation or a specific human rights theme. This occasion thus represented a valuable opportunity for networking and sharing of experiences. This visit allowed roleplayers in the sector the opportunity to reflect on the challenges we face in achieving the right to education. Among the emerging themes were the need for adequate monitoring of the right to education, ensuring that education is of an adequate quality, ensuring that education

A Special Rapporteur is an independent expert appointed by the Human Rights Council to examine and report back on a country situation or a specific human rights theme

meets the needs of a developing economy, and maintaining the provision as a fundamental human right. Focus was placed on what stakeholders had undertaken in order to facilitate the realisation of this right, and what could be done moving forward. The following represent some of the issues raised during the course of this engagement.

Nationally and internationally, the need to monitor the realisation of human rights, particularly economic and social rights, continues to



intensify. Internationally, treaties within the United Nations system carry as a requirement that States Parties must produce country reports on the implementation of these instruments. Indeed, monitoring and evaluation is a core function of a Special Rapporteur. In the South African context instruments such as the National Development Plan and organs of state such as the Department of Performance, Monitoring and Evaluation and the Department of Women, Children

and People with Disabilities have been constituted to facilitate this.

Monitoring the realisation of the right to education is inextricably linked to the commitment to provide quality education. This was illustrated in the Special Rapporteur's 2012 Report at the 20th Session of the Human Rights Council, which expressed concern with the low quality of basic education globally. Essential to ensuring quality education is the process of analysing and addressing the disparity between law and policy on the one hand, and implementation and the reality on the other. In South Africa, despite the extensive protective mechanisms designed to realise the right to access education, this realisation is hindered by bottlenecks, and basic service delivery in this regard, remains woefully inadequate. Despite the considerable investment the South African government makes in education in terms of the national budget – approximately 60% of the total planned expenditure and 8.6% of the estimated GDP – our education outcomes are notoriously poor.

In addition, schools in the country, particularly in rural areas, are forced to function with wholly inadequate infrastructure, unqualified educators, and amid tensions between trade unions, education departments as well as failure to deliver basic materials - such as books and stationery.

There are also significant disparities in the provisioning of vocational and technical education - preventing the emergence of skilled professionals necessarily required in order for growth and development of South Africa's economy. There is thus a clear failure to visualise



## Singh talks education at the Commission

the bigger picture – that an investment in education as a system - not just in enrolment figures - will reap great rewards for the country as a whole.

Poor education outcomes are particularly worrisome in a state that has committed itself so heavily to transformation. In South Africa, the right to basic education is a constitutionally protected right unequivocally granted to all children. It is not subject to progressive realisation, or qualified by concepts such as “available resources” or “reasonable legislative measures”. Further, the right to education is a justiciable right, which means that a violation of the right can be brought before the courts for adjudication.

South Africa also has a vibrant civil society sector, committed to transforming the education system, and aligning it with international standards.

Extensive advocacy campaigns and public interest litigation have been undertaken in order to ensure that government is held accountable when they have failed to fulfil a commitment. Our Constitution also provides for Institutions Supporting Constitutional Democracy such as the South African Human Rights Commission, the Public Protector, the Commission for Gender Equality and others. These organisations will play an increasingly significant role in monitoring access to education in its entirety and ensuring that government provides educa-

tion that is of a higher quality in the future.

Propelling children’s rights to the forefront of the international agenda is an integral component of the mandate of the Special Rapporteur. It is hoped that this meeting with the Commission, partner institutions and others proved useful, and that it will assist in paving the way for further co-operation and engagement. **Pf**

“Poor education outcomes are particularly worrisome in a state that has committed itself so heavily to transformation.”

## Did you know?

\* The Constitution (1996) and the UNCRPD guarantee the right of children with disabilities to equal enjoyment of the right to education. More specifically, article 24(2)(a) of the UNCRPD guarantees their right to compulsory education.

\* The National Policy for the Equitable Provision of an Enabling School Physical Teaching and Learning Environment (2010) recognises that infrastructure is critical to quality learning and teaching and good educational outcomes, and that “[e]quity in the provision

of an enabling physical teaching and learning environment is ... a constitutional right and not just a desirable state”

\* Learners living with HIV or AIDS may not be discriminated against in terms of the current National Policy on HIV/AIDS for Learners and Educators in Public Schools.

\* The drop-out rate is higher at secondary level and the primary reason for premature cessation of studies is lack of fees.

\* In 2011, the quality of education provided in Grade R was poor. **Pf**

Source: SAHRC Charter of Children’s Basic Education Rights



# May our faith always awaken our instincts to survive

By Kebothale Motseothata, Visiting student



We usually find ourselves in darkness, and in this darkness our only source of light is that which is usually within us. We are usually in a path of enlightenment, yet there is usually a force that keeps pulling us into the depths of the darkest shades of darkness. A point where we believe there is no hope within us, a point that reeks of defeat and lack of purpose, a point of depression. This is a point where in our minds, the chances of survival are minimal and the mind clouds up with empty thoughts of non-existence and hopelessness. Our ability to wake up the next day and somehow fight to carry on is brought forth by the nature of our survival instincts.

Instincts are the reason we survive each day. The reason we have made choices that have somehow led to the betterment of our lives. Day by day we soldier on from our daily fears, regrets, self doubt and self crucifixion. We beat the odds brought about by rainy days and in defeat, we still have a little strength to get up and face the sun. We choose to survive. We often find ourselves in situations where we can barely hold on, yet we always manage to create something out of nothing, in order to stay afloat. We choose to

survive because, in those moments of defeat, no matter how much we are suffocating, our nature does not allow us to easily give up. We are created to fight for the right to live. We are created to see better, to do better and to be better. Why then do we doubt our will to survive when we find ourselves caged in darkness? Why do our thoughts become stagnant and dissolve into fear of further defeat? Fear which takes over the mind and pollutes it with poisonous realities.

Our survival instincts eradicate the existence of fear. They provide the liberty to choose the best option without weighing it out with the worst one first. Our survival instincts compel us into making the right choices. Every movement we make happens involuntarily and the results of our choices lead to authentic joy. They allow us to face our fears without feeling like we are being tested. It thus baffles me that in times of distress, we open our eyes to new days yet we allow ourselves to go to sleep drowning in our somberness. Why do we allow ourselves to disregard our survival instincts? We could be much more fulfilled with ourselves and our lives and those around us, if we lived our days with no fear, if we could trust our divine ability to survive and if we allowed our instincts to lead us to the path of contentment.

We have created technology, all kinds of marvels and life as we know it. Why then, do we struggle so much to survive with what we have allowed ourselves to live with. And if we are too displeased then why do we not trust our survival instincts to guide us into creating means of changing our situation? We ignore the signs and we often choose sadness over happi-

ness and depression over fulfillment. We are doubtful of the power that is within us and we forget that we did not attain our current positions by mistake. Why do we not learn from animals who are born into wildlife and survive its harshness and its rules effortlessly? Why do we doubt our ability to survive human nature and all that it carries? We long for change and we become impatient when it takes too long to come that we fail to recognize the magic that can create it within us. We are so divine that we have the ability to create beauty in life and manifest its glory.

Our journeys are not the same. May we refrain from allowing ourselves to engage in wars of self hate? May we trust who we are and what we are capable of? May we intertwine with nature and become one with it in order to understand ultimate survival? Amidst our confusion, may we learn to treat others with respect? May we appreciate kind and gentle souls, may we build laughter in others even when we cant find our own? May we give love and light in order to create the energies that strengthen our instincts? For we can only feel the power of intuition when our minds are at peace. May we understand the struggles of others and may our bitter souls be at ease. When faced with the challenge of residing in darkness and not knowing whether to accept defeat or survive, may our instincts lead us into remembering William (Harvey) Jett's Words: "Doubt sees the obstacles. Faith sees the way. Doubt sees the darkest night. Faith sees the day. Doubt dreads to take a step. Faith soars on high. Doubt questions "Who believes"? Faith answers "I".

Pf

# In the seat with

*Masego Phetshu, Human Rights Advocacy and Research Officer,  
Free State*



## Tell us about Masego in a nutshell?

I come from a family where most of my relatives are Educators or working in the Department of Education as Officials. I have an older sister who is also an Educator and mother who is a retired High School Principal. Masego is a witty and independent woman. Divorcee' with five (5) children in most developmental stages e.g. (puberty, adolescent and mature and working young woman). My father was a Lesotho citizen who had come to Kimberley to work in the mines. I grew up in a pre-dominantly Nguni speaking township in Kimberley although all languages were spoken. Me and my childhood friends used to assist one another with our homework and poems in all these languages and that's where we learned how to communicate with ease with each other.

**Where were you born and how was it for you growing up?** I was born in the "diamond" mining town of Kimberley (Northern Cape) in the late sixties, attended primary school there and high school at Batlhaping High

School, a boarding school in Taung (North-West). It was very nice growing up during the early seventies, although my parents were very strict due to the townships which were very "violent" at the time and "gangsters" were the order of the day.

**Educational background?** I furthered my studies at the University of Zululand (KZN), where I studied for a B.PROC Degree which I later converted to a B.UIRIS Degree (Law). I then came to the Free State, when I got married in 1991 till today. I also obtained a Post-Grad Certificate at Wits Business School on "Community Leadership Development Programme". During my career before and whilst I've been at the Commission, I have been fortunate enough to be exposed to a variety of certificates, basically in most human rights topics, e.g.: democracy education, elections, street law, bill of rights, farm-workers rights, children's rights, women's rights, rights of people with disabilities, monitoring & evaluation, standards setting, etc. I have also participated in the setting of standards of qualifications of most of the legal field (new LLB), security and the military as I was a Deputy Chairperson of the National Standards Bodies 08 of the South African Qualification Authority (SAQA) from 2000 till 2006, when these were terminated. I am also an MBA drop-out due to lack of sufficient finances.

**Describe your position at the Commission and explain what it means to you holding that position?** I am employed as a "Human Rights, Advocacy and Research Officer", since 2001 at the Free State Office. I have worked for various national NGO's like Lawyers for Human Rights, National Paralegal Association, and Democracy for All/Street Law, before I joined the Commission, in general, which also paved my path to be where I am today. I was practically part of a two man/woman team that started this office, and watched it grow to where it is today...

I was privileged when I first joined the Commission and am still proud to be part of this institution!

**In a summary can you take us through your day at the Commission?** I will focus on this particular month (women's month). I arrive just before 08:00, unlock the door and neutralize the alarm. Switch on my computer and quickly grab a cup of rooibos tea; read through my emails and respond to urgent matters; check on my weekly diary to see what needs to be done. Because during this month: its invitations to attend to; presentations to prepare; whilst at the same time, checking on final preparations for our second Quarter APP event which involves: following – up on invites, guest list confirmations, meetings with the Admin Officer on logistical arrangements, reporting to Acting PM on developments



## with Masego Phetshu

and programme, etc. Most of my time is spent doing mini-researches on the internet in preparation for my forthcoming APP events and presentations at stakeholders invites. Day outside office? I am a mother first and that takes 90% of my time. I however also visit an orphanage from time to time to talk to the young girls about life in general. I also go to church periodically when I feel like some spiritual uplifting. However, I pray a lot on my own.

**What motivates you and what inspires you?** I am motivated by people in the community who try to make something of their lives from nothing, abject poverty... and my youngest child's penchant for knowledge and books inspire me to know and do more for children with disabilities and under-privileged children.

**You have been with the Commission for a number of years, what keeps you going?** This is my 13th year to be precise! My love for working with people and seeing that the Commission is continuing to be this conduit of change in people's lives and making positive changes for that matter! Every good story of success keeps me going: whether it be of a dispossessed person or community being reinstated to their prop-


erty or land, to me having a home is very important.

**Favourite activities?** Playing novice chess with my youngest son; watching romantic movies and comedies; Reading; being immersed in cross-word puzzles; Outings with my family or children, going to soccer games especially my favourite soccer team "Bloemfontein Celtics" – Siwelele sa Masele.

**Any interesting thing that people don't know about you?** Travelled to some African Countries during the early nineties. I can sing incredibly well, sang in the school choirs. Aspired to be a Social Worker when I was young, but my mother discouraged me from that, I still don't know why? I am happy though that I instead dedicated myself to the legal profession to help redress the imbalances created by the Apartheid legacy. I saw myself not as a practicing lawyer, but using my skills to help interpret the laws for the benefit of the disadvantaged, indigent and less fortunate people. I have had the opportunity to be involved with women on the ground and from all walks of life and had assisted in the interpretation of the laws that affect them for their benefit. I would further like more women to be more involved in the constitution-reviewing and interpreting processes and to ensure that our constitutional democracy is fully entrenched. I also desire that this constitution be utilized to protect the rights of vulnerable people with disabilities. Also to ensure that laws are enforced which will promote both legal and equality for all...! Another

thing: I was part of the delegation of women who drew up the "Women's Charter for Effective Equality", for the 5th Beijing International Conference. Both in our Regional Chapter preparations in Dakar, Senegal and at the World Trade Centre, Johannesburg in South Africa, and shared insight on issues with the likes of Dr. Frene Ginwala, Commissioner Pregs Govender, and others in the mid – nineties.

**Tell us more:** My opinion is that the Commission must be given more resources to fully become society's "watchdog". The Commission should also create more opportunities for oversees training and allocate more resources for studies and invest in its employees for enhanced performance.

Lastly, I am expecting my first Granddaughter, and am excited! When I retire I wish to prepare myself for story-telling and writing of books, especially on romance. 

Did you know that Masego:

- \* Is a staunch Bloemfontein Celtic Supporter
- \* In her spare time she visits orphanages from time to time to talk to the young girls about life in general
- \* Masego is a witty and independent woman
- \* This is her 13th year at the Commission

# Welcome to Legal Services

*Pfanelo* profiles the Legal Services Programme



**Legal staff: Head of Legal Services, Pandelis Gregoriou; Paralegal, Oupa Dithejane, Legal/Admin Intern, Bonno Motseothata and Senior Legal Officer, Thandi Matthews**

## Here to protect your rights

The Legal Services Programme (LSP) discharges the protection mandate of the Commission. This protection function of the LSP is broadly achieved through the provision of legal advice and assistance, the investigation and resolution of alleged human rights complaints, seeking appropriate redress through litigation in various courts including the Equality Courts that have been established in terms of the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 ("PEPUDA") and providing information regarding complaints statistics and patterns.

The implementation of the core work and outputs of the LSP is carried out primarily by its nine Provincial Offices, while the LSP Head Office, which is based at the head

quarters in Johannesburg, plays a coordinating and supporting role vis-à-vis the Provincial Offices. In addition, LSP Head Office handles systemic, more complex and national types of complaints and also provides in-house legal support and advice to the SAHRC. Some of the events coordinated by the LSP include facilitating the initiation of a national hearing investigating the challenges in delivering primary learning materials to primary schools, and the challenges in realising the rights of older persons.



**"LSP Head Office handles systemic, more complex and national types of complaints and also provides in-house legal support and advice to the SAHRC."**

### How to lodge complaints?

Complaints can be lodged through the following channels;

\* **Website:** Online complaints can be lodged on [complaints@sahrc.org.za](mailto:complaints@sahrc.org.za)

\* **Website: Downloadable Forms** which are available on the website can be lodged through fax

\* Fax (Head Office): 011 4030684

\* Twitter: @SAHRCommission

\* Facebook: SAhumanrightscommission

Provincial contact details are available on the website: [www.sahrc.org.za](http://www.sahrc.org.za)

## ‘Beyond Theory’

**International Human Rights Exchange Intern Sibakhele Tshuma shares her experiences of working at the Commission.**



**By Sibakhele Tshuma!  
Intern**

I was over the moon that day, I remember waking up early - the thing I had never done before, taking a lengthy bath as if I had not bathed before and taking almost an hour to dress myself. Perfection and faultlessness was what I wanted to achieve, I wanted to have that striking first impression and to convince my mentor that I am indeed a girl of composure. Stepping out of my room, formally dressed, I had that ‘here I come’ sensation within me. I was astounded by the thought that I was going to be part of a well reliable organization in SA.

When I got there, the here I come sensation faded and crumbled away, I felt perturbed and the world came crushing on me. I just wondered if I was going to survive in the organization, the environment and atmosphere I could not bear. My eagerness was replaced by fear and I just felt lost, felt like I was in a new world, a world of strangers with alien people and at that moment I wished I had brought with me someone I knew. As I walked around the commission I had the perception that the people working there were the high profiled individuals who minded nothing but their selves and who would not reduce themselves to the level

of a student. To my own surprise, the people seemed so welcoming, sociable and approachable and my uneasiness was replaced by a feeling of belonging. It is indeed true that when one hopes for the worst the best happens.

Tshuma Sibakhele is my name, a Zimbabwean born second year student at Midlands State University in Zimbabwe and currently in Witwatersrand University for an international human rights exchange program preceding for six months. As it is a prerequisite of the institution that students in such a program have to do internship I happen to be one of the students interning at the South African Human Rights Commission (SAHRC)-a well reputable human rights institute in SA. We are a cluster of nine students from Witwatersrand University placed in different departments in the Commission. Seven students interning in the Commission are South Africans save for Victoria Santos who is a Brazilian and me. I am in the media and communications unit specifically dealing with external communications. Generally what I do is media monitoring, social media monitoring and media analysis. These have emerged as the key strategies employed by the Commission as means of advocating for human rights, educating the general public on their rights and they are the tools used by the Commission to trace occasions where people’s rights have been infringed.

The involvement is really going to take me mountains and the experience assimilated from this participation is going to open an array of opportunities for me I believe. The

Commission stands as a window that has offered me an opportunity to get a glimpse of what the sphere of human rights is like, how rights are advocated for, protected and promoted, it stands as a mirror that has reflected to me how one really engage with human rights. It has given me fundamental skills one has to possess to deal with human rights issues and I believe with the expertise I now possess I am going to move mountains and scale the earth in as far as human rights are concerned.

As the organization has many departments interns are thus spread, Dineo and Azra are in the Chief Operational Officer unit which is another department in the Commission. They both said that the internship is gradually improving and that they are learning new things in relation to human rights. Donovan Pentz is in the Children Rights and Basic Education unit and he conducts researches, write memorandum and plan events. He also acknowledged the fact that the Commission is adding more to the very skills he possess.

Tapiwa Gozhore is in the Gauteng Provincial office department where he does complaints reviewing, as a law student he finds it amazing and worth the while. Alisha who is in legal department highlights how hands on the Commission are as she is mandated to carry out researches and compile weekly reports.

Ziyanda Ngcobo is in the PAIA unit which deals with monitoring and the protection of the Promotion of Access to Information Act. In the department she works on case files

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# Happy Birthdays

**Cynthia Pelesa – 08 September (HO)**

**Rulani Khuvutlu – 29 September (HO)**

**Nobantu Sobekwa – 27 September (HO)**

**Nokwanda Molefe – 11 September (HO)**

**Yolokazi Mvovo – 30 September (EC)**

**Pavershree Padayachee – 21 September (KZN)**

**Brandon Ainslie - 23 September (EC)**

**Matimba Ndlovu - 23 September (HO)**

**Mahlatse Ngoveni - 19 September (HO)**

## 'Beyond Theory'

and conducts researches. Victoria Santos is in the Strategic Support and Governance Unit and she is assigned to monitoring and evaluation where she determines if all the departments in the Commission are working in accordance with the strategic objectives. Zereth Kirigeza is in the Commissioner's office (Commissioner Malatji) the department that concentrates on persons with disabilities and the elderly. She conducts researches on people with disabilities and the elderly to comprehend that their rights are tolerated.

The South African Human Rights Commission (SAHRC) is mandated to promote respect for human

rights and a culture of human rights, to promote the protection, development and attachment of human rights and to monitor and assess the observance of human rights in the Republic. It holds the powers to investigate and report the observance of human rights, take steps and secure appropriate redress where human rights have been violated and carry out research and educate.

As interns, we feel honored to be part of a well reputable human rights organization in our quest to uncover more on how human rights are protected and promoted, the advocacy methods used, the strategies employed to deal with

human rights violations and the key human rights enforcements. As it has been renowned, the Commission stands as one of the auspicious organizations that strive at promoting and protecting human rights in the Republic. It has diverse departments within it that comprehend the protection as well as the promotion of people's rights. As interns we appreciate the opportunity granted to us to work with a reputable organization in our expedition to discover and learn more in the sphere of human rights. It is my belief therefore that we are going to gain more and contribute more at the same time!!!!!!

**Pf**

## Proposed Internal Seminars Schedule

- \* 06 September 2013, CALS: Marikana
- \* 25 October 2013, Fola Adeleke: PAIA
- \* 29 November 2013, Dr Karam Singh: Research
- \* 6 December 2013, Chairperson, Adv Mushwana: HIV and AIDS and Human Rights
- \* 31 January 2014, Eastern Cape: Staff awareness on the provincial work (Complaints and education, etc.)
- \* 28 February 2014, Pandelis Gregorious: Legal cases
- \* 28 March 2014, Joyce Tlou: Advocacy Strategy of the Commission

## Human Rights Calendar Days

- 08 September - International Literacy Day (UNESCO)
- 16 September - International Day of the Prevention of the Ozone Layer

## Human Rights Advocacy Events

Province:	Date	Event	Venue	Topic
Free State	27 August	Symposium	SAHRC/ University of Free State	Accused, arrested and detained persons
Gauteng	28 August	Dialogue	Daveyton, East Rand	Law enforcement
Mpumalanga	Week of 12 Sept	Roundtable/ Dialogue	Bushbuckridge	Witchcraft
Free State	Week of 20 Sept	Workshop	Bloemfontein	Security of persons
Limpopo	Week of 30 Sept	Hearing	Polokwane/ Sekhukhune	Impact of mining activities on communities

## Pfanelo welcomes the following employees

1. Ms. Gabriella Coutinho - Research Associate ( Commissioner Titus)
2. Ms. Nonandi Diko - Legal Officer Western Cape