

The year that was

- * **14 March:** SAHRC commemorate Human Rights Month by launching the first phase of its national hearings on water and sanitation on in Cape Town
- * **19 July:** Commission launches draft Charter on Basic Education Rights
- * **23 July:** SAHRC finalises facilitates a process to resolve the matter involving former Cape Peninsula University of Technology student who were involved in posting racist comments on Facebook
- * **15 August:** SAHRC mourns the passing away of one of Commissioner Sandi Baai
- * **17 August:** SAHRC condemns the violence in Marikana, calls for an investigation.
- * **21-23 August:** SAHRC host the 10th Anniversary of the Robben Island Guidelines
- * **28 August:** SAHRC launches Provincial Hearings on water and sanitation
- * **31 August:** SAHRC and CSV hosts Roundtable on Marikana recommends collaborative efforts in addressing the underlying factors in the mines that led to the Lonmin tragedy.
- * **28 September:** SAHRC hosts National Information Officers Forum on Rights to Know Day
- * **10 October:** SAHRC receives African Commission Award for its commitment to the realisation of human rights
- * **31 October:** Report on the findings of the investigation into the killing of Free State activist, Andries Tatane. The report found that the respondent's (SAP) members, acting in pursuance of their mandate in terms of section 205 of the Constitution, neglected provisions of RGA by using excessive force resulting in the injury and/or death of one protestor
- * **09 November:** SAHRC to become chair of International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC). ICC is the international human rights body.
- * **12 November:** SAHRC halts the demolition of houses in
- * **21 November:** SAHRC launch the Equality Report
- * **23 November:** Lenasia: SAHRC registers court victory over demolitions
- * **05 December:** SAHRC retains the Paris Principles A status
- * **10 December:** SAHRC commemorates International Human Rights Day at the last Provincial Water and Sanitation Hearing in Gauteng



SAHRC Chair Adv Mushana addressing delegates during the Robben Island Guidelines



Community members came in numbers to the Water and Sanitation hearings

In the seat



with Sue King, CEOs Office



Q: Tell us about Sue in a nutshell?

A: I am the second oldest of six children. Seventh generation South African on my mother's side (1820 settler stock from Cornwall) and of Scottish decent on my father's side.

I have been married to Gregory George for

33 years and I have twin daughters of 22. My large close knit family bring me enormous pride and pleasure.

My career has taken me from a researcher position in an NGO to being part of a project team tasked with establishing a large independent statutory body within an impossibly short timeframe to spending many years in senior general management. I have also been privileged to work with many interesting and impressive people over the years.

Q: Where was Sue born and how was it for her growing up?

A: My siblings were born in exciting places like Nairobi (during the time of the Mau Mau), Lusaka and Salisbury (as it was then). I was born in Welkom but we had moved on to Zambia before I was two years old. With a civil engineer for a father, my nomadic childhood was spend wherever large dams, hydro-electric schemes or tunneling projects were underway in southern Africa. It was a wonderful way to grow up.

Q: Educational background?

A: My basic education can best be described as patchy. I attended seven different schools across Southern Africa which ranged from a temporary, prefabricated 2-classroomed affair, to a small conservative Afrikaans school in a poor Karoo town and finally on to boarding school. Inevitably, my gypsy-like childhood left me with large gaps in my formal education. The up-side is that it taught me adaptability and a high tolerance for ambiguity.

I went on to Wits University and emerged with a masters degree in industrial psychology. My research focus was on conflict resolution, ADR & industrial relations during the 1980's - an extraordinary time in this country.

"I am not very good at telling my left from my right so I wear a watch on the arm with my wedding ring on the ring finger & a collection of silver bangles on the other arm. To explain left or right when giving or receiving directions I wiggle the arm on the side of the direction shown – if it jangles it is right, if not, it must be left."

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

A: My role can be described as a "gap filler". I have had an energizing year-and-a-bit taking care of projects and tasks until members of the management team have been appointed to take over those responsibilities, then I focus on another "gap" & help fill that. I had given up full-time employment, the 9 to 5 and five days a week pattern, some six years ago and was thoroughly enjoying doing consultancy work. It was through a consultancy assignment that my relationship with the Commission began in early 2011. The timing was such that the project handover point coincided with the Commission's restructuring project being at a pretty advanced stage with a tightly stretched caretaker management team. I joined the team in a short, fixed-term capacity to help implement the organisational performance system. I soon found myself getting stuck into all sorts of other projects too and have loved every minute of it.

Q: What do you want to achieve in hours spent with the Commission?

A: I wanted to play a small part in helping the new team in the new structure coalesce into the powerful force it can be.

Q: What motivates Sue and what inspires her?

A: People who leave this world a better place than it was when they got here.

Q: Her favourite activities?

A: Simple pleasures really - time with my family; gardening (you should see my vegetable and herb garden); cooking; reading; theatre; movies; walking and looking at the night sky far from the city lights.

Q: Any interesting thing that people don't know Sue?

A: I am not very good at telling my left from my right so I wear a watch on the arm with my wedding ring on the ring finger & a collection of silver bangles on the other arm. To explain left or right when giving or receiving directions I wiggle the arm on the side of the direction shown – if it jangles it is right, if not, it must be left.

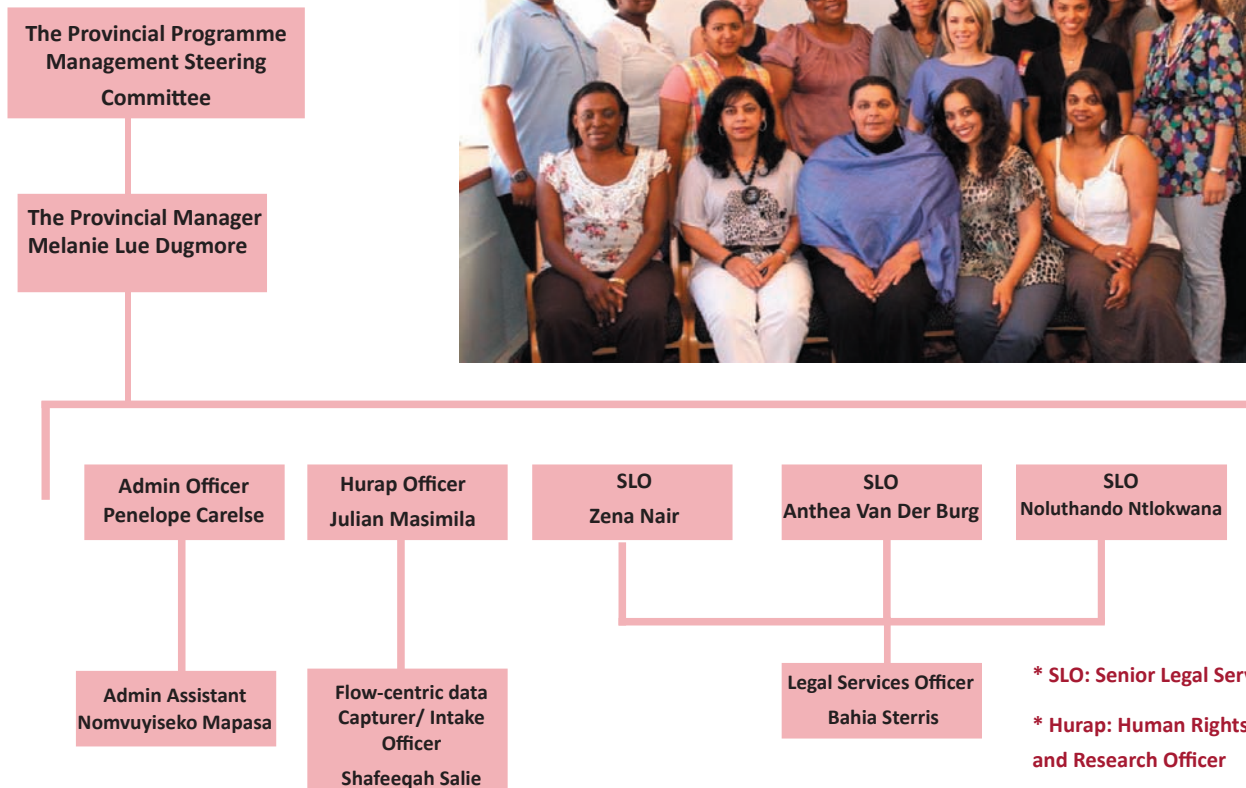
Q: Sue is very energetic, how does she do it?

Pf

A: It must be genetic.

Welcome to Western Cape Office

Meet the team



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The Internet and Human Rights: The Azerbaijan Experience

By: Fadlah Adams
Senior Researcher

Research Programme: Parliamentary & International Affairs, WC Office

Baku, Azerbaijan. Baku, Azerbaijan. A place I didn't even know existed. A place I thought sounded much like Abidjan, only the European version! Nonetheless, upon my arrival at the airport, I immediately realise how disability unfriendly the terminal is. A staircase, without a ramp, leading towards the immigration and visa area. I am shocked at the thought that someone in a wheelchair may very well have to be carried down these steps. How dehumanising. The immigration and visa officers are cold but do their job. I notice three people in traditional African wear and feel sense of relief-

they literally stick out in the crowd. I make small talk with them and discover that they too are attending the Internet Governance Forum (IGF 2012) from 6 to 9 November 2012. Together we proceed to collect our bags. However, given the long time it took to process the visa, my flight does not show up on the carousel monitors. I search on the other carousels for my bag and cannot find it! Everyone else has theirs! Panic. Kicks in. I try to explain my situation to a designated IGF assistant based at the airport and she automatically assumes my luggage is lost. I realise she is lost in translation! I am escorted to a

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Office **Interventions**

ROUNDTABLE DISCUSSION ON THE RIGHT TO PROTEST, 9 November 2012



Participants during discussion on Older Persons and Access to Justice, 24 October



Community member raising concerns regarding lack of access to Water in Zwelethemba during Water and sanitation Hearing, 26 November



Gender Rights are Human Rights : Sexual Harassment in the workplace

By Noluthando Ntlokwana, Senior Legal Officer

International instruments now exist to promote and defend women’s rights, but gender inequalities are persistent in a wide range of areas. Violence against women, gendered poverty, women’s exclusion from decision-making in political and economic life, these are just examples of issues which must be resolved if gender equality is to be achieved. Overcoming these inequalities requires profound transformations in social structures and relations between men and women. During the 16 days of activism on violence against women and children the Commission looked at sexual harassment as it is some form of gender based violence that hinder achievement of gender equality in the workplace.

Sexual Harassment is defined in the Employment Equity Act (The Act) as unfair discrimination and is prohibited on any one, or a combination of grounds of unfair discrimination. The Act provides that no person may unfairly discriminate, directly or indirectly, against an employee, in any employment policy or practice, on one or more grounds, including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language and birth. Sexual Harassment is as bad as any other kind of discrimination, e.g. racism in the workplace. In 2005 the Department of Labour introduced the Code of Good Practice on the Handling of Sexual Harassment. The code also defines sexual harassment as a form of unfair discrimination and is prohibited on the grounds of sex and/or gender and/or sexual orientation.

Sexual harassment is not only directed to women or even limited to behaviour between members of the opposite sex. Female employees are however, far more exposed to harassment than their male colleagues mainly because of horizontal segregation, which refers to the clustering of working women in a small number of job categories that are traditionally associated with women such as nurses, teachers and secretaries. Vertical stratification means that women tend to be employed in low ranking positions and are dependent upon the approval and goodwill of males for hiring, retention and advancement.

The social and human costs of sexual harassment can be very high. In the worst cases women have committed suicide and in all cases it makes victims’ lives impossible. Women who are harassed are always made to feel at fault, and if they complain they may be dismissed, or lose promotion prospects, or have to resign. Sexual harassment also has a detrimental effect on the workplace itself. As it affects workers’ morale it makes them less efficient.



The Azerbaijan Experience with Fadlah continues

room called 'special services', though I wonder what it really implies. After an explanation from the assistant, the airport official proceeds to speak to me in the local tongue of Azeri. I explain that I speak English and he apologises. "Where from?", he asks. "South Africa... Cape Town" I reply. "Aaah Australia" he remarks, 'NO errr Africa...SOUTH AFRICA' I say. He nods but may never have heard of it before. I know what he feels like. After a series of paperwork, and promises that I may receive my bag on the next flight, I leave the airport and spot a lonely bag on a carousel. I am elated and somewhat embarrassed. I thank the assistant and the special services officer. They smirk and exchange remarks in their local tongue.

In the shuttle on the way to the hotel I meet different nationalities all destined for different hotels. There is a designated IGF volunteer who assists in translation and explains the hotel addresses to the driver. I am one of the unlucky ones whose hotel they cannot find. In fact, they have never heard of it before! Just great. After dropping off all the other participants, it is only a Nigerian and I that remain. The lost ones. With aimless driving around, the volunteer tries to pacify us with small talk about our countries. I discover that he has an Arab name, Aziz although he is Jewish. We both laugh at the irony. He is young, friendly and tells me that he has never met so many different nationalities- especially from Africa. We eventually find my hotel in a dingy side road on the outskirts of town. It looks much like it does on google maps only more hidden. Again, it is disability unfriendly with a stairway leading up to the hotel. The Reception staff are not very friendly, I have to take carry my own luggage and the lift is small. Luckily, I am on the second floor. I am grateful for South African hospitality and small luxury felt in hotels back home.

A world wide web indeed...

The Baku Expo Centre, where the IGF is being held, is a 30 minutes by car from the hotel. On the drive I observe the flat, brown landscape with a slight stench of smog in the air. The result of the rich oil fields recently discovered and exploited in the country. I'm surprised at all the old Lada stationwagons on the road and the ubiquitous Mercedes Benz. An anachronism in part, with old meeting new. The remnants of soviet communism meeting the new capitalism.

The IGF is a large conglomeration of people under one roof. Approximately 1500 people all meeting to discuss internet governance for sustainable economic,

social and human development. The central theme of the Forum is human rights.

In the days that ensue and listening to a number of dialogues, I find myself wondering, 'is there really anything that could be called, 'internet rights' or is it a fancy concept created by 'netizens'- citizens of the net'? What is the role of a NHRI in the broader concept of internet rights? Do we really need to talk about the internet when people do not have a toilet or running water? (Though it dawns on me that it is more likely that people have access to a mobile phone with internet than they do a toilet!)

What is human rights on the internet and does it exist?

In a landmark resolution in June 2012, the UN Human Rights council adopted a Resolution declaring that rights that apply in the offline (physical) world extend to the online world. Although not technically binding, South Africa is part of the international community of nations and as such should take heed of the Resolution. Once an outcast state due to Apartheid, South Africa has fought long and hard for the realisation of rights and today it still struggles with ensuring that the most basic human rights are fulfilled and protected. Our country has its own unique past with racial dynamics that still exist. These are evident in the number of racism-based complaints received by the Commission. These were normally dealt with in accordance with the complaints handling manual, the Constitution, Human Rights Commission Act, PEPUA and other legislation. However, in 2012, the Commission was faced with complaints which prima facie, appear to be clear cut cases of discrimination and or/hate speech challenged with the right to freedom of expression. However, it occurred in a different realm. A territory uncharted by the Commission and new threat to our young democracy. The 'Online World'.

The Online World

This is a world without borders, without a constitution, without courts, without a human rights oversight body. Utterances on social networks and blogs have awakened the Commission into this new phenomenon of human rights abuse on the net. Discriminatory postings, comments, blogs, sites etc abound on the internet and pose the question, 'where does freedom of expression end and hate speech begin?'

Whilst South Africa does not have specific hate speech legislation, our Constitution protects the right to freedom of expression insofar that it does not advocate

hatred based on race, ethnicity, gender or religion or incites harm. PEPUDA arguably goes further prohibiting hate speech on one or more of the prohibited grounds. It is in fact broader than the Constitution in its provisions! PEPUDA also allows for the Equality courts to adjudicate over the allegations of hate speech. However, how does one prove a prima facie case when alleged violations occur online? In the offline world tone, context and depth of a statement could be inferred. In the online world this is not as clear, making it more difficult to prove whether something was said with the intent to cause harm. Who is then ultimately responsible for the 'publication' of hate speech online? Is the internet service provider, the social networking site (e.g. facebook / twitter) or the individual who posted? These are some of the challenges our courts will have to face.

Our role as a Commission

In listening to the series of workshops at the IGF, I find points of interest for each of our Commissioners. Children's rights, protection, cyber-bullying- Commissioner Mokate. Accessibility of internet for persons with disability- Commissioner Malatji. Hate speech, discrimination, xenophobia and racism- Chairperson Mushwana. Access to information, protection of personal information, privacy- Commissioner Govender. Violence, right to association, freedom of expression- Commissioner Titus. Right to development, rural access, minimising the digital divide which proliferates inequality- Commissioner Love.

I am dumbfounded by initiatives of civil society and other intergovernmental organisations such as UNICEF, UNESCO, the European Commission on Human Rights, the OSCE, NGO's and governments who are striving to champion rights in these areas. When I try to contextualise it all in an African context, I realise that there is gap! NHRIs are completely absent in the process! I raise this in the main human rights roundtable, posing a question to a panel as food for thought. They admit that they have never thought of the role NHRI's could play. Many did not understand an NHRI at all. I feel proud to be affiliated with the South African Human Rights Commission as I explained the role of a NHRI in democracy and the appointment of our Chair to the NANHRI and now the ICC. The room acquiesces that there is something missing and perhaps it is national institutions. Civil society has long been carrying the flame, advocating and lobbying governments and the private sector. As is often the nature with civil society, they are fighters for the cause. However, government is often unresponsive, disinterested in civil society and trying to engage Ministers, parliamentarians is a near hopeless task. This is why the NHRI is so crucial. Operating in the special space which is neither government nor civil society but can reach out to both

sides.

The internet is undoubtedly an enabler of human rights and a median through which rights can be exercised. Perhaps it is time the Commission explores the reality of the online technological world and the cyber platforms that exist. Together with our research, human rights advocacy and legal programmes, initiatives could be introduced which educate not only staff but society about responsible online activity and respect for human rights. We could be pioneering a new frontier in human rights protection and education!

Interesting facts and Developments:

- On 30 November 2012, the Western Cape provincial office hosted a roundtable on, 'Hate Speech and offensive commentary via the Internet and cellphone platforms'. Participants included academia, internet service providers, Google and Mxit. The Research Programme participated in the discussion and presented a powerpoint on, 'is there a role for NHRI's in the Information, Communication Technology (ICT) Sector?' Minutes of the roundtable are available from the provincial office. (Full report on the IGF attendance available from Research)
- In July 2012, the High Court Rules of South Africa were amended allowing parties to serve documents or notices on each other via facsimile or email. Before this change, documents had to be served on the other party's physical address or the physical address of the party's appointed attorneys.
- On 3 August 2012, Durban High Court Judge, Esther Steyn, allowed a legal court notice to be served using Facebook. Judge Steyn stated that, 'it was no unreasonable for the law to recognize changes in communication technology and to accommodate them'. See CMC Woodworking Machinery (pty) Ltd v Peter Odendaal Kitchens (JOL 290203) KZD.
- The United Committee of the Rights of the Child is in the process of drafting the General Comment on Child Rights and the Business Sector. This could potentially imply that large businesses such as Facebook, will have a greater responsibility to ensure that its business practices protect children. In addition, the UN planning to host a general day of discussion in 2013 on, 'The future of social media and children'. (See also UNICEF's report on South Africa's Mobile Generation)

Festive Messages



Isaac Mangena, Pfanelo Editor, Head of Communications

As many of you colleagues and comrades are winding down for the year, I and the rest of the Communications Unit would like to wish you the best over the holidays. A special thanks to all those that have made our 2012 endeavours successful and worthwhile. Thanks for the love and support. In you we have not only colleagues, but friends, broth-

ers, sisters, indeed a family. Looking forward to building on current relationships and successes at the Commission, and creating new ones in the new year.

May you enjoy the time spent with loved ones during this time of joy and may 2013 bring you, your family and friends and colleagues much success, more joy, prosperity and strength for the challenges that lie ahead. Have an awesome safe festive season.

**Gregory Paulse
Chief Audit Executive**



As 2012 is coming to a close and most of us prepare for their well deserved break during the festive season I would like to wish you and your loved ones peace, health, happiness and a blessed festive season as well as a prosperous New Year.

**Alice Price
Head: Supply Chain**



Sending warmest wishes to you and your families during the holiday season. It feels so good to work with such amazing people. You all are so supportive and enjoyable. It is time to enjoy on the festivity of Christmas. Merry Christmas to you and a very prosperous 2013.



**Naomi Webster
Head of commissioners Programme**

My message is as follows; Wishing colleagues an opportunity to rest (your body), refresh (your soul) and rejuvenate (your heart).



**Joyce Tlou
Head of Human Rights and advocacy**

"Safe, peaceful and happy holidays to you all. May we continue to be pillars of strength and support to each other in the coming year"

**Karam Singh
Head of Research**



From the Research team, we just want to wish all staff and their families a blessed and joyous festive season and happy new year. For those traveling around the country on the road, please be safe and cautious. May we all return to the Commission in January safely, well-rested and invigorated for 2013!



**Siyasanga Thulani Giyose
Head of Strategic Support and Governance**

Wising all staff a happiest festive season and new year. Merry Christmas to those who celebrate Christmas.



Fola Adeleke, PAIA

Hope you enjoy every bit of the end of year festive celebrations. I wish you all good health and safety in whatever you do and much needed rest for the new year.

HUMAN RIGHTS WORLD IN SNIPPETS

**Amnesty International:
5 December 2012**

South Africa: Further information: Government responds to shop raids concern

Following an Urgent Action in October 2012, the South African government has met with Amnesty International and committed to investigate our concerns about forcible closures of asylum-seekers and refugees' shops in South Africa's Limpopo province.

**SABC:
10 December 2012**

South Africans believe media freedom is a basic human right

Research findings from a poll conducted by Ipsos shows that more than 6 out of 10 (64%) agree with the statement that access to information and a free media are basic human rights and almost half (47%) of adult South Africans believe that the proposed information bill or "secrecy bill" will limit media freedom. The "Pulse of the People" poll of 3 563 people

was conducted between October and November, 2012.

**By SAPA
December 5 2012 at 07:34pm**

SAHRC re-accredited

The SA Human Rights Commission (SAHRC) has been re-accredited with an "A" status by an international rights body.

"Factors taken into consideration for this recommendation include, among others, the transparent and consultative way in which members of the SAHRC are appointed," the commission said on Wednesday.

The role it played in encouraging the government to ratify and accede to international human rights instruments was also taken into consideration.

Happy Birthdays



*** Nthabiseng Kwaza - 23 January**

Muzi Ngwenya - 01 January

Proposed Internal Seminar Schedule

- * 25 January 2013, Commissioner Titus: Law Enforcement (27 January is International Day of Victims of the Holocaust)
- * 22 February 2013, Chairperson: South Africa's role in International relations: Monitoring Case for ICC Chairpersonship
 - * 29 March 2013, Deputy Chairperson: Human Rights and International Women's Day
- * 26 April 2013, Commissioner Love: (4 April is International Day for Mine Awareness and Assistance in Mine Action)
 - * 31 May 2013, Dr Kgamadi Kotmeso: Research: Racism
- * 28 June 2013, Commissioner Mokate: (Children's Week & Youth Month)
 - * 4 June is International Day of Innocent Children Victims of Aggression)
- * 26 July 2013, Northern Cape: World Population Day (Nelson Mandela Day)
- * 30 August 2013, Commissioners Programme: (Exploring a Vision for Chapter 9 House)
 - * 25 October 2013, Fola Adeleke: PAIA
 - * 29 November 2013, Dr Karam Singh:

Calendar of Events

Launch of Charter on Basic Education Rights

- 31 January, SAHRC Head Office, Second Floor Training Centre

