



Volume 15

Fanelo

"It's Your Right"

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



01-31 December 2013

Adv Mushwana in Mpumalanga to assess Human Rights violations

- The SAHRC intervenes in Piet Retief farm
eviction

- SAHRC hosts Indaba on Equality and
Racial Discrimination in Nelspruit



Management
on Strategic
Plan Session

Does the Universal
Declaration of Human
Rights have universal
validity?

Cabinet adopt new
SAHRC Bill

SAHRC releases
International and
ESR reports

International Human Rights Day, 10 December

The UN General Assembly proclaimed 10 December as Human Rights Day in 1950, to bring to the attention 'of the peoples of the world' the Universal Declaration of Human Rights as the common standard of achievement for all peoples and all nations.

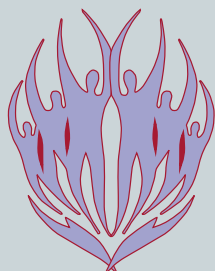
In 2013, the Office of the UN High Commissioner for Human Rights marks 20 years since its establishment.

The United Nations General Assembly created the mandate of High Commissioner for the promotion and protection of all human rights in December 1993. The General Assembly was acting on a recommendation from delegates to the World Conference on Human Rights held in Vienna earlier the same year.

The Vienna Declaration and Programme of Action, adopted by the World Conference, marked the beginning of a renewed effort in the protection and promotion of human rights and is regarded as one of the most significant human rights documents of the past quarter century.

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Editor's Note



Kayum Ahmed
CEO, Editor in Chief

Staff meetings are generally dreadful affairs where colleagues are reluctant to participate in any meaningful discussion. A few people – usually the same people

– ask a few questions and then we go our separate ways.

However, the staff meeting held on 26 November was different. There was excellent engagement on the agenda items from several colleagues, many of whom had never spoken before. I left the meeting feeling deeply impressed by the robust and thoughtful contributions from colleagues.

I thought that I should single out the contribution made by Tawana at the start of our meeting. Having never spoken at a staff meeting before, she eloquently raised her concerns and also made positive inputs into the strategic planning process. We need more colleagues to raise critical issues and

to say what's on their mind.

As we mature at an institutional level, I hope that staff meetings will become platforms for debate and dialogue and that colleagues will feel free to articulate their points of view. While we will never be able to do away with 'corridor talk' I sincerely hope that we will be able to utilize the fora available to us to raise concerns and to make positive contributions.

"We need more colleagues to raise critical issues and to say what's on their mind." Pf

Events calendar

World Aids Day Commemoration - 02 December
End-of-year function - 13 December

Right to Food Campaign

North West - 12 December
Limpopo - 04 & 05 December
Free State - 10 December
Western Cape - 04 December

More information on the Right to Food Campaign is available on www.sahrc.org.za.

The Commission will be on recess from 20 December 2013 - 02 January 2014. Contingency measures will be communicated in the next issue.

Other events

1. Human Rights Colloquium with OHCHR and partners at Constitutional Hill on **Mon 9 Dec**
2. Screening of film "Youth Cypher" for youths from Hillbrow and Inner City and discussion, in partnership with Constitution Hill Education Project on **Monday 9 Dec at 16h00 and Tues 10 Dec at 18h00**
3. Workshop on constitutional literacy for paralegals in partnership with civil society "Know Your Constitution campaign" on **Tues 10 Dec at 09h00**
4. World Moot Court competition at Centre for Human Rights, University of Pretoria, OHCHR, Department of Justice & Constitutional Development, and Dept of Higher Education on **Tues 10 Dec at 09h00**.

National Assembly adopts new SAHRC Bill

PMG MONITOR
Oct/Nov 2013



The South African Human Rights Commission Bill, repealing the current SAHRC Act, was adopted by the National Assembly (NA). It provides for eight commissioners, tightens the procedures for appointment, on the recommendation of the NA, and retains provisions on search and seizure. New provisions were included that organisations must consider the recommendations, and advise whether they intend to act on them, within 60 days.

Extracts from the Bill

Seat of Commission

3. (1) The seat of the Commission must be determined by the President.

(2) The Commission may establish such offices as it may consider necessary to enable it to exercise its powers and to perform its functions conferred on or assigned to it by the Constitution, this Act or any other law.

Independence and impartiality

4. (1) (a) The Commission is independent.

(b) A member as well as a member of staff—

(i) must serve impartially and independently and exercise or perform his or her

powers and functions in good faith and without fear, favour, bias or prejudice

and subject only to the Constitution and the law;

(ii) may not use the position or privileges of a member or a member of staff for private gain or to benefit

another person improperly; and

(iii) may not act in any manner that compromises the credibility, impartiality, independence or integrity of the Commission.

(2) All organs of state must afford the Commission such assistance as may be reasonably required for the protection of the independence, impartiality and dignity of the Commission and in pursuit of its objects.

(3) No organ of state and no member or employee of an organ of state nor any other person may interfere with, hinder or obstruct the Commission, any member, a member of staff or a person appointed under section 11(1) or 20(7) in the exercise or performance of its or his or her powers and functions.

(4) No member or member of staff may conduct an investigation or render assistance with regard thereto in respect of a matter in which he or she has any pecuniary or any other interest which might preclude him or her from exercising or performing his or her powers and functions in a fair, unbiased and proper manner.

(5) If any member or member of staff fails to disclose an interest contemplated in subsection (4) and conducts or renders assistance with regard to an investigation, while having an interest so contemplated in the matter being investigated, the Commission may take such steps as it deems necessary to ensure a fair, unbiased and proper investigation.

(6) A member or a member of staff who contravenes or fails to comply with subsection (1)(b) or (4) is guilty of misconduct.

Composition of Commission

5. (1) The Commission consists of 11

members, who must—

(a) be South African citizens and fit and proper persons to hold office of the Commission, as contemplated in section 193(1) of the Constitution;

(b) have a record of commitment to the promotion of respect for human rights and a culture of human rights;

(c) be persons with applicable knowledge or experience with regard to matters connected with the objects of the Commission; and

(d) be appointed by the President in accordance with section 193(4) and (5) of the Constitution.

(2) (a) The members referred to in subsection (1) may be appointed as full-time or part-time members and hold office for such fixed term as the President may determine at the time of such appointment, but not exceeding seven years: Provided that not less than seven members are appointed on a full-time basis.

(b) The term of office of the full-time members may not expire simultaneously.

(3) The President may, in consultation with the Commission, appoint a part-time member as a full-time member for the unexpired portion of that part-time member's term of office.

(4) Any person whose term of office as a member has expired, may be re-appointed for one additional term.

(5) Whenever a member is absent or for any reason unable to perform his or her functions, or if a vacancy among the members arises, and the members so recommend, the President may, in consultation with the members, appoint any person qualified in terms of subsection (1) as an acting member for the period of absence or inability of the member concerned or until the vacancy is filled.

Pf

SAHRC Chair visits Mpumalanga to tackle Human Rights challenges, hosts Indaba on Equality

Racism continues to affect a majority of voiceless people especially those who are working in farms. The statement from Samson Sibanda of Malelane, a former farm worker once lodged a racism complaint with the South African Human Rights Commission (SAHRC) was echoed by stakeholders who attended the SAHRC's Indaba on Equality and Race Discrimination: Convention on the Elimination of Racial Discrimination at the Bundu Lodge outside Nelspruit, Mpumalanga.

The Indaba was held on 21 November 2013 as part of the SAHRC Chairperson, Adv Mushwana's visit to Mpumalanga.

Sibanda provided a perspective on how he was vindicated for standing up against an employer who used to racially abuse him in the farming sector. "I decided to lodge a complaint with the Commission as I felt that my right to dignity was violated."

Subsequent to receiving the complaint, the SAHRC assessed and took the matter to the Equality Court, which found in favour of the complainant and ordered financial compensation for him.

However, Sibanda's life turned out for the worst as the employer used work related tactics to fire him for not properly carrying out his duties. "I was left devastated that I had no job and had to make ends meet for my three



Samson Sibanda listens to SAHRC Chairperson responding to the ordeal he faced for lodging a complaint of racism with the Commission.

children. I was unemployed for two years and life was tough", he said.

Despite the financial challenges Sibanda soldiered on until he found a job early this year. Sibanda says "Even when I was unemployed I never regretted the decision to take the mat-

ter to the Commission. Due to their intervention, my right to dignity was realised", he indicated.

In response to Sibanda's ordeal, Adv Mushwana indicated that the SAHRC needs to do more monitoring to ensure that people are not vindicated for standing up for their rights. "In instances like one similar to Sibanda's, employers would use work related incidents to fire people. We need to do more."

Sibanda challenged the Commission to visit farms as he believes that more human rights violations go unpunished and perpetrators continue to degrade the dignity of workers. *Pf*



SAHRC Chairperson, Adv Mushwana at the Equality and Discrimination Indaba in Nelspruit

SAHRC to act on family eviction case

By Lucas Ledwaba

Advocate Mushwana, South African Human Rights Commission Chairperson said they could intervene as a friend of the court in a matter involving a family of more than 28 people who were evicted from a farm near Piet Retief in Mpumalanga. Last month Sowetan reported that the Hadebe had been squatting in inhumane conditions at the Ntombe Community Hall for the past year since their eviction.

The Hadebes were evicted in October last year from a farm where they had lived for more than three generations following the awarding of a court order.

The Land Claims Court in Randburg ordered that the Department of Rural Development and Land Affairs provide alternative land for the family resettlement.

However, the family want to be resettled to the land where their ancestors are buried. On Friday 22 November 2013 Mushwana told Sowetan during a visit to Ntombe community hall that he would send a team from his Mpumalanga office to further probe the matter. He said the purpose of the visit there was "to get the full story". "We read the story in the Sowetan and wanted to get first-hand information from the people". He said the biggest problem in the matter is that the Hadebe's were denying they were part of the court order. Mushwana said he had asked a team from the Mpumalanga provincial office of the SAHRC to "come back and get more details".



SAHRC Chair with Miziaifani Hadebe: Dogs allegedly shot by the farmer during eviction.



No Privacy: 28 members of the Hadebe family have been living in a community hall for a year since their eviction.

He said the Commission might consider applying for the court order to be rescinded.

"Our main aim as the Commission is to look at whether we can act as amicus curiae (friend of the court) to ensure that they get back to the land.

Asked of his impression of the conditions under which the Hadebes were living, a shocked Mushwana said, "That is bad. I do not know how you can explain that. That is

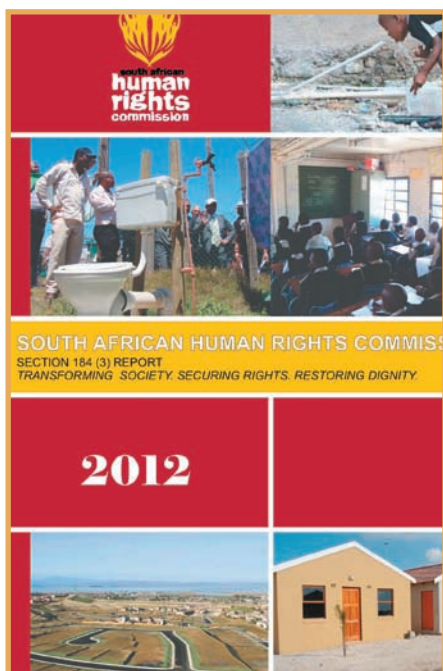
terrible."

The Hadebes' Lawyer Sidwell Mtshoku, filed papers in the Land Claims Court last month in a bid to force the Minister of Rural Development and Land Affairs Gugile Nkwinti to comply with an earlier order to find the family alternative suitable land. The department has indicated it will challenge the court action.

Article from Sowetan Newspaper, 25 November 2013

Summary of the Economic and Social Rights report

By Yuri Ramkisoan, Senior Researcher



Section 184(3) of the Constitution states that “each year, the Human Rights Commission must require relevant organs of state to provide the Commission with information on the measures that they have taken towards the realisation of the rights in the Bill of Rights concerning housing, health care, food, water, social security, education and the environment.”

On Friday, 8 November 2013, the Commission tabled its 2012-2013 Section 184(3) report with Parliament. The Commission’s 9th such report aims to assess the validity and effectiveness of steps taken by government departments to realise economic and social rights. The report was based mainly on the findings from the responses to questionnaires that were sent to the departments of human settlements, basic education, environmental affairs, agriculture, forestry and fisheries, health, social development and water affairs on the specific right dealt with by that de-

partment (i.e. housing, education, environment, food, health, social security and water and sanitation respectively).

Specific Findings

On the specific rights, the Commission made inter alia the following findings:

Housing

In relation to the provision of adequate housing, it was found that there is a lack of coordination and oversight in the management and delivery of housing and water and sanitation services in housing settlements. The Presidency, through the Department for Performance Monitoring and Evaluation (DPME), has indicated that it will engage with existing government multi-department structures that deal with water and sanitation on this perceived lack of coordination. Solutions to these problems must be communicated to the Commission and progress reports submitted. Concerning is that the housing backlog has not decreased at all in some provinces, despite attempts by the DoHS to eradicate the backlog. The provinces of Gauteng, Eastern Cape, KwaZulu-Natal and the North West were the worst off. The Commission will liaise with the DoHS further on targeted interventions for these provinces.

Education

The Department of Basic Education (DoBE) agreed that the system of selecting “no-fee” schools based on geographic location as opposed to poverty level was flawed and it

is considering revising this system. This would ensure that poor students in wealthier schools are also exempt from the payment of school fees. The Commission’s investigations into the delivery of resources to schools indicated that not all schools in the country have access to learning materials. Despite this assessment, the DoBE indicated that 100% of schools had access to the above resources. The Commission will follow up on these assertions via the forthcoming S184(3) study and direct collaboration with the DoBE.

Environment

In relation to the right to a healthy environment, the Commission found that although the Department of Environmental Affairs (DEA) and Department of Mineral Resources (DMR) had reached an agreement on the amendment of the relevant mining and environmental laws, the decision-making authority for mining remains with the DMR, which is concerning for the environment and communities situated around mines. Commission studies indicated that the environmental and social impacts of mining are poorly regulated and monitored, if at all, with dire consequences on the natural environment and communities surrounding mines.

Food

The Commission found that problems with access to food are most dire in the North West and Northern Cape, where just under one-third of residents have access to inadequate food supply. Furthermore, a National Food Consumption Sur-



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vey conducted by the Department of Health (DoH) in 2005 indicated that child hunger had increased significantly in urban areas since 1999 and that in 2005, 18% of South African children were stunted. Stunting was higher in formal rural areas than tribal areas or informal urban areas, and decreased with age. Reasons for poor food security includes unemployment, migration, high food prices, limited dietary diversity and poor agricultural production. The Commission will be focusing on the right to food in 2013-2014 financial year and hopes to recommend solutions to the problems of a lack of access to food for citizens, particularly in poorer provinces and for vulnerable groups.

Health

The primary purpose of the National Health Insurance (NHI) is to improve services for all South Africans, including disadvantaged individuals and groups and to improve the accessibility of quality health services. The Commission remains concerned, however, about the quality of health care and the ability of the public sector to attract and retain skills to ensure sufficient access to health care. While the Commission supports the NHI in principle, it believes that there are various management issues that must be dealt with before its implementation.

Social Security

The Department of Social Development (DSD) agreed with the Commission that a social security roadmap is necessary and explained that a comprehensive social security paper had been prepared and submitted to Cabinet by the Inter-Ministerial Committee on Social Security. In this regard, the Commission will be monitoring developments.

Water and Sanitation

According to 2011 Census, 46.3% of households in South Africa have access to piped water and just over 85% have access to water that is of a RDP-acceptable level. The census also shows that just over 60% of households have access to sanitation via a flush toilet, while just over 70% of households have access to sanitation that is of an RDP-acceptable level. Findings from this study and water and sanitation hearings across the country indicate that access to water and sanitation is very poor in the poorest communities in the country. And even when services have been provided, the infrastructure is often dysfunctional or in disrepair, limiting access to services. The Commission continues to liaise with various government departments including the Departments of Water Affairs and Cooperative Governance and Traditional Affairs to raise awareness of these issues and hold local government to account for non delivery.

General Findings

While departments endeavoured to increase awareness and education around their services and interventions, most of these were directed at urban populations with access to the internet. This is concerning as people in rural and outlying areas, that do not necessarily have access to computers, require specific education and awareness interventions.

Although there is a general awareness of the need for a rights-based approach to service delivery at a national level, this does not translate to a provincial and municipal level. The Commission must work more closely with government departments to inculcate a human rights culture in all policies and service provision at all spheres of government.

Importantly, the Commission remains concerned about the lack of responsiveness by government departments to requests for information by the Commission. Despite a Constitutional mandate, government departments do not respond to questionnaires requiring information on the realisation of economic and social rights. Some departments respond only after the deadline has passed, while some only respond when threatened with legal action.

It is hoped that in the coming years, government departments will become more aware of the role of the Commission and more responsive to requests for information. To this end, the Commission plans to meet with individual departments to discuss the need for mutual cooperation. It is hoped that these meetings will lay the foundation for a free and candid exchange of information on the realisation of rights.

Conclusion

While the findings of the 2012-2013 S184(3) report indicate progress by the various departments on the realisation of economic and social rights, the poor response rate by department remains concerning and it is hoped that departments become more receptive to this process in the future. The Commission, along with government departments, will also have to develop creative ways of ensuring that all government officials, including those at provincial and local levels, are aware of the need of a human rights-based approach to service delivery, which will benefit communities and ensure sustainability in the future.

Pf

The full report is available on SAHRC website. www.sahrc.org.za



SAHRC releases International Human Rights Report

By Fadlah Adams
Senior Researcher

In 1948, the United Nations adopted the Universal Declaration of Human Rights (UDHR), which has since become the foundational document for the global understanding of human rights. Since then, various treaties have been drafted, signed and ratified, which deal with numerous aspects of human rights, from the rights of children to the rights of migrant workers. Each treaty has a treaty committee made up of independent experts who monitor states' compliance to the treaty through the periodic submission of state reports. The various chapters of the International Report 2012 deal with each separate human rights treaty and its treaty body, looking at significant developments in 2012, and reflecting on South Africa's progress in light of the treaty's respected rights group.

As part of the newly set up United Nations Human Rights Council (the Council), in 2006, a mechanism was developed called the Universal Periodic Review (UPR). This mechanism applies to all UN states parties and facilitates a process whereby the human rights record of each state is reviewed by the Council every four years. 2012 saw South Africa appear before the UPR for the second time. Chapter 12 of the International Report 2012 deals specifically with the UPR and South Africa's 2012 review.

The role of NHRIs, such as the South African Human Rights Commission (SAHRC), at the UN is continually developing. NHRIs have to date played an important role in relation to treaty bodies in their submission of independent reports to committees and participation in hearings. Furthermore, NHRIs hold the function of submitting independent reports to the UPR to be considered by the troika (3 country representatives)

tasked with the overall review of a specific country – see Chapter 12 of the International Report 2012 for further details. This report gives details of relevant activities undertaken by the SAHRC in relation to the treaty bodies.

This report also considers the African human rights system of the African Union (AU). South Africa aims to be a leader on the African continent with regards to human rights and so plays a significant role within the AU. The International Report 2012 looks at the two AU human rights charters: the African Charter on Human and People's Rights and the African Charter on the Rights and Welfare of the Child, as well as the mechanisms in place for review of state compliance with these charters and for human rights redress. The Report further considers South Africa's achievements for the period under review in light of these charters and AU review mechanisms.

2012 has been a significant catalyst for South Africa with regards to human rights awareness and compliance with international and regional human rights mechanisms. South Africa's appearance before the UPR in September 2012 brought about national and international awareness of the major human rights issues the country is experiencing. South Africa is therefore at an important time. Awareness particularly on international human rights obligations is strong and growing. To this end, the International Report 2012 recommends that the government expeditiously seek to bring international treaty body reporting up to date, specifically with regards to the International Covenant on Civil and Political Rights (ICCPR) which is yet to receive its initial report from South Africa, the Convention on the Elimination of Racial Discrimination (CERD) and the Convention on the Rights of the Child (CRC). It is furthermore recommended in the report that the South

African government look to ratify the International Covenant on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW), the International Convention for the Protection of All Persons from Enforced Disappearances (ICPED), and the Optional Protocol to the Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT). Additionally, the Report calls for the urgent ratification of the International Convention on Economic, Social and Cultural Rights (ICESCR) in 2013 as had been proposed by Cabinet.

The International Report 2012 endeavours to provide an overview of the international and regional mechanisms for human rights, reflecting both on the 2012 year in general and particular developments as regard to South Africa. It looks at some of the major human rights events of 2012 for South Africa and analysed their relationship to international and regional human rights mechanisms. Of particular note, were the tragic deaths of the miners at Marikana in August 2012. It is hoped that this tragedy, amongst others, will serve as a catalyst to expedite ratification of outstanding treaty bodies, such as ICESCR and OP-CAT.

The SAHRC has played, and will continue to play, a significant role for South Africa with regards to its treaty body commitments. The International Report 2012 hopes to bring about greater awareness of these commitments and the steps that still need to be taken to ensure that South Africa fully complies and encourages a positive human rights culture both within its borders and across the African continent. Going forward both legislative commitments and full compliance with treaty obligations, including the drafting and submission of country reports will help to go some way towards deepening South Africa's human rights resolve.

Pf

HUMAN RIGHTS DEFENDERS: The role of the youth



By Adv Mushwana
SAHRC Chair

Next year, 2014, will mark twenty years of democracy in South Africa. For many young people, twenty years must seem like a long time, if not a lifetime. However, twenty years have passed quickly and I know that there is still much that needs to be done in South Africa and across the globe in order to ensure that human rights are enjoyed by everyone. I take particular pleasure in speaking to the youth about the past and the enormous responsibility that they carry in order to ensure that we live in a world in which human rights are respected; promoted and protected.

“It is important to me that the youth of today are made aware of the past struggles of their parents and that they can take up the baton as we move into the future.”

It is important to me that the youth of today are made aware of the past struggles of their parents and that they can take up the baton as we move into the future. There have been significant points throughout history where the youth have stepped forward and ensured that change has occurred that promotes human rights.

In South Africa change came as a direct result of youth action: For instance, the African National Congress (ANC), which was one of the primary movements that fought apartheid, was revolutionized by its youth leaders such as Nelson Mandela and Oliver Tambo during the 1940s. The role of the youth in bringing about democracy is recognized and in South Africa we observe an annual Youth Day each year on 16 June. This day commemorates the Soweto Uprising which took place on 16 June 1976 when the youth began a series of protests against being taught the language Afrikaans in their schools. The peaceful marchers were fired on by police and it is estimated that a few hundred youth were killed in the riots and violence that ensued throughout the country.

In the context of the 16 Days of Activism Campaign and on the eve of World AIDS Day, an example of youth activism, in South Africa is that of the remarkable Nkosi Johnson who took the story of the plight of children and mothers infected with HIV to the world. His activism from the tender age of eight up until his death at age 12 in 2001 led to the adoption of HIV/AIDS policies in schools that guaranteed that a

child would not be denied access to education because of his or her HIV status.

It also led to a groundswell of activism, which ultimately led to access to anti-retroviral therapy for pregnant mothers in order to prevent the transmission of AIDS from mother to child.

Across the globe today we see similar examples of youth stepping forward and speaking out against injustice. We are all familiar with Malala Yousafzai of Pakistan who was shot in the head by the Taliban for defying a decree that prohibited girls from going to school. In July this year she addressed the United Nations General Assembly and spoke of her belief in the right of all children to an education and to equality, no matter the realities they faced. The youth have been central to the Arab Spring with its call for the end of dictatorship and the democratization of Arab countries.

The use of social media by the youth has changed the way in which human rights atrocities are highlighted and broadcast to the world to see, creating greater accountability and fighting impunity.

The youth are often the catalyst for change because of their commitment to the cause which they are fighting for.

I call on all young leaders within the Commission to take up the challenge to be Human Rights Defenders in their communities. **Pf**

My reflections: on 20 years of democracy



By: Kebothhale Motseothata,
Visiting student

As we head towards the end of the year, I look to my solitude in order to know the highest truths. With the help of the divine, I found stillness in order to reflect on the events of the year and as I observed my personal transformation, I found that I still have a long way to go. There is a lot I need to learn, a lot I need to understand. I have grown to realise that the world does not function the way I imagine it in my mind. There are challenges and tests along the way that require patience in order to be overcome. However, to my contentment, I realised that being human means that I am naturally prone to adjustments. Whatever life throws at me, I react, adjust, accept and proceed. The lessons that come with every hardship make me stronger and wiser. I am learning what the world is all about and that the most important trait to have is patience. Patience with oneself and patience with the world. Through patience a seed becomes a stem and a stem grows into a tree. I understand that nature allows for this process to take place in that manner for a reason. In order to mature, we have to be patient with the lessons that come with growth.

With that being said, I could write a thousand words indicating my understanding of a trait ever so vital for the fundamental development of oneself. A trait that I have to adopt and practice in order for psychologi-

cal advancements to take place for me to be deemed a responsible, comprehensive member of society. I could write a million more words and none would ever explain the frustrations I feel due to being mentally torn between being conscious of patience and feeling impatient. I cannot find the simplest way to express this internal war. How could there be peace when each heartbeat that centers the vessel of my soul reflects struggle.

This struggle is brought forth by the discontentment I feel whenever I see the struggles of my people. I am becoming more and more impatient as I feel as though I can no longer witness their pain. We have come a long way as a country and in this 20 years of democracy I would like to know what it is that has truly been done to psychologically erase the aftermath of that evil regime. I do not want to come off as being stuck in the past. I am only focusing on the results of a system that required maximum strength and effort to overthrow. Many people risked their lives to carve the South Africa we have today into a sculpture worthy of recognition. I commend every soul that fought and contributed to our democracy. I understand that there are a lot more opportunities, a lot more liberty of expression and we all have equal rights that stand to be protected. However, I am displeased with the people's current poor living conditions, poor education, poor health and the masses' lack of information.

I know that many are tirelessly striving towards remedying most of these problems. But I am impatient, it has been 20 years, we need dramatic change. We need more psychological empowerment. We need leaders that are going to forget about money, power and reputation and strive towards bettering the lives of those who are disad-

vantaged. We need institutions that are going to strive towards being whistleblowers to those who do not do what is necessary for the people. There is too much drama going on in the country, there is too much division and confusion. Our politics have become similar to an entertainment program, with each cast member's controversies displayed for show. Our leaders are in a war of their own and the mission is no longer to liberate the minds of those who were enslaved by the actions of our past. I am impatient, I cannot adjust to how unjust things have become. I cannot accept that the people in Alexandra and many other impoverished areas live the way they do. When we truly look into ourselves for reflection, I ask if we are truly doing enough to change these violations of human rights. Do we all wake up and live through each day passionately striving to liberate every disadvantaged soul the best way we can? When we walk into the commission, is it to work towards paying the bills or do we have the true willingness in our hearts to risk everything and strive towards mobilising and empowering the masses into fully knowing and protecting their rights for the betterment of our democracy?

In this time of political turmoil, the Human Rights Commission is the people's source of solace. An agony aunt whose duty is to ensure that human rights are not just a theory in the constitution, but a practice to live by. An aunt who is supposed to be known by everyone in South Africa, from the little children, to the elders. I turn to all the leaders and workers in the commission and ask for dramatic change. I ask for more awareness to be built on the HRC. I understand that there is a lot I need to learn and procedures I need to understand, but I know in my heart that more needs to be done. Our people remain mentally enslaved, we need psychological empowerment and more knowledge of our rights in order to be progressive.



Torture officially a crime in SA



By: Gabby Coutinho
Research Associate - Policing and Human Rights

After nearly 20 years of democracy and for the first time in South Africa's history, torture is officially a crime. The Prevention of Combating and Torture of Persons Act (Torture Act) was enacted in July 2013. The Torture Act is an important achievement for South Africa, especially as the country participated in the 10th anniversary of the Robben Island Guidelines, which was co-hosted by the African Commission for Human and Peoples Rights and the South African Human Rights Commission, in August 2012.

Torture by definition in the Act is similar to the definition provided in the United Nations (UN) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) of which South Africa is a signatory. The Torture Act was enacted to uphold the obligations of South Africa in terms of CAT and to finally implement one of the recommendations made by the Committee on CAT after the submission of South Africa's first country report on implementation of CAT.

Torture is defined as any 'act' by which severe pain or suffering is inflicted on persons which can be either physical and mental. This 'act' is committed by the instigation of or with the consent or acquiescence of any person acting in an official capacity, including public officials. The one limitation of the definition is that any pain or suffering not arising from, inherit or incidental to lawful sanctions is not included as torture.

Torture is committed on persons for the following reasons:

- to obtain information or a confession from them or any other persons;
- to punish the person for an act they or any other person has committed, is suspected of committing or is planning to commit;
- to intimidate or coerce them or any other person to do or to refrain from doing anything; and
- for any reason based on discrimination of any kind.

To show the gravity of the offence of torture, a punishment of maximum life imprisonment has been prescribed by the Act.

The Torture Act also contains a provision that no person might be returned, expelled or extradited to their home State, if there is a possibility that they will be tortured. This will be decided by South Africa with regards to any previous gross, flagrant or mass violation of human rights in relation to the State the person is to be returned to. The South African government

makes it applicable that they are responsible in promoting awareness of the prohibition against torture. The State must set up programmes to conduct education and awareness on the crime of Torture in South Africa. This includes the education of all public officials involved in the custody, interrogation or treatment or any form of arrest, detention or imprisonments of persons. The government also has a right to provide assistance and advice to any person who wants to lodge a complaint.

In South Africa there are several approaches a person can take to lodge a complaint of torture. If the complaint has a link to the South African Police Service, then a complaint of torture can be made at the Independent Police Investigative Directorate (IPID). If the complaint is linked to the Department of Correctional Services then the attention of the Judicial Inspectorate for Correctional Services (JICS) is required. All complaints of torture from the police service, correctional services and any other place of detention can be brought to the attention of the South African Human Rights Commission through the complaints mechanism at any provincial office for further investigation. Pf

"Torture is defined as any 'act' by which severe pain or suffering is inflicted on persons which can be either physical and mental"

Does the Universal Declaration of Human Rights (UDHR) have universal validity?

-Kayum Ahmed, CEO

Introduction

Described by Von Bernstorff as, ‘the old ornamental bone china a quarrelsome family gets out to set the dinner table on a festive occasion,’ the Universal Declaration of Human Rights (UDHR or Declaration) remains a useful reference point in international human rights discourse. Created shortly after the Second World War and adopted on 10 December 1948, the Declaration was constructed in a particular historical and political context. In its Preamble, the UDHR refers to itself as a ‘pledge’ (denoting its non-legally binding status) setting out a list of rights which serve as a ‘common standard of achievement for all peoples and all nations...’ However, the reference to a ‘common standard’ or universal validity of the UDHR has been questioned at different periods during the Declaration’s existence.

Consequently, questions must be asked about what criteria constitute universal validity and whether the UDHR has met these criteria. At the same time, does meeting the criteria for universality automatically result in such validity or must other factors also be taken into account?

Criteria for Universal Validity

Universality is understood in a variety of ways according to Constantines. These include:

- i. formal acceptance and adherence
- ii. historical origin
- iii. applicability and all-inclusiveness
- iv. legitimacy

This paper was developed by Kayum, in his capacity as an accredited Network of African National Human Rights Institutions (NANHRI) peace and security expert. NANHRI is in the process of developing training manuals for NHRIs on peace and security, business and human rights, gender and torture prevention.

- v. anthropological and philosophical acceptance
- vi. norm creation

From a formal acceptance and adherence perspective, ‘the UDHR lacked the formal authority of a treaty that binds its parties under international law’. If however, we consider acceptance and adherence in terms of Article 18(2) of the United Nations (UN) Charter, a two-thirds majority is required for the General Assembly to agree on ‘important questions’. The UDHR was adopted by 48 out of 56 members, with 8 abstentions.

Consequently, one could argue that the UDHR has universal validity because it was adopted by more than two thirds of the UN in 1948. Currently however, 129 out of 193 members are required to

adopt a UN resolution. At the time the Declaration was adopted, UN membership was limited, most African and Asian countries were not members, and colonialism was an accepted practise among member states. Universal validity based on formal acceptance and adherence, may therefore be difficult to establish given the historical origin of the UDHR.

Despite its historical roots, Alston and Goodman argue that the Declaration served as a ‘springboard’ to the development of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic Social and Cultural Rights (ICESCR), which received the requisite number of ratifications necessary to enter into force in 1976. If one therefore considers universality from an applica-



UDHR validity?

bility and all-inclusiveness perspective, arguments could be made that the UDHR has been given expression through the ICCPR and ICESCR, which are considered to be universally applicable and binding.

The principles enshrined in the Declaration are given further expression in international conventions prohibiting racial and gender discrimination, and protecting children’s rights among others. As a collective, the principles enshrined in the UDHR which manifest in international covenants and conventions can be considered to have achieved legitimacy.

This view is further supported by participants at the UN International Conference on Human Rights, which held that the Declaration provides ‘a common understanding’ of rights and ‘constitutes an obligation’ on states. The Vienna Declaration also refers to the UDHR as a ‘common standard’ thereby reinforcing the universal validity of the Declaration.

Constantinides disputes this approach to ‘international legal universality’ arguing that the reliance on the position of states is an insufficient basis for establishing universal validity. Instead he adopts an anthropological and philosophical acceptance perspective to universality suggesting that, ‘Genuine participation of the major cultures, religions, ideologies, and political systems in the development of the human rights regime is indispensable if universality of human rights is to have any meaningfulness’.

These concerns had previously been raised by the American Anthropological Association in 1947 and more recently by Makau Matua who submits that the universal norms created by the UDHR are

nothing more than an extension of Western norms and culture.

Depending on the criteria used to determine universality, one could come up with different responses to whether the UDHR has universal validity. Given that the UDHR is not legally binding and was adopted by the UN at a time when membership was limited, one could argue that it has no legal or historical validity. These arguments can however be

ferent cultural interpretations of human rights as opposed to a single universally applicable understanding of rights.

UN Secretary General Ban Ki-moon recently stated that laws against homosexuality violate the UDHR. The Secretary General’s universalist approach to gay rights can be sharply contrasted with the view expressed by several African countries that gay rights are ‘un-African.’ The pro-



mitigated by the UDHR’s progressive universal acceptance since its adoption. This is evidenced in a study conducted by the World Bank in which the majority of 60,000 poor people interviewed, supported the principles enshrined in the UDHR. Furthermore, statements made by senior UN officials, suggest a growing - almost unquestioning - acceptance of the UDHR’s universal validity.

Cultural Relativism vs Universal Validity

Arguments by cultural relativists pose an important challenge to the universality of the UDHR. Cultural relativists argue that there are dif-

ferent cultural interpretations of human rights as opposed to a single universally applicable understanding of rights.

The major challenge with this approach is that it assumes firstly, that African countries form a homogenous group and secondly, that culture is static. The reality is that there are several sub-groups within the larger group. South Africa, for instance, fully protects gay rights refuting the notion that these rights are un-African. Furthermore, cultures evolve over time. What may



UDHR validity?

have been regarded as un-African one hundred years ago, may be completely acceptable in African societies today.

Third, Freeman argues that universality may be confused with uniformity. Instead, he suggests that universality of human rights is compatible with cultural diversity and in fact, protects cultural freedom by promoting diversity.

“...it has been argued that certain human rights principles are inherently universal.”

Fourth, it has been argued that certain human rights principles are inherently universal. These include the right to life, the prohibition of racism, genocide and slavery, and the right to human dignity. The way in which these rights are interpreted may vary, but the acceptance of (some) universal human rights limit the arguments put forward by relativists.

Fifth, authors such as Xanthaki and Nussbaum believe that victims of human rights violations who support the culture that legitimizes their victimhood, cannot be considered as ‘morally decisive.’ Xanthaki argues that, ‘Wearing the burqa... may be a different matter [compared to wearing a headscarf] ...such a practice cannot really be justified in the name of any culture, as it seems to be violating the core of women’s rights and to be insulting human dignity’. So even if individuals choose to have their rights restricted, this ‘choice’ should not be considered as ‘morally decisive’. Lastly, critics of the UDHR contend that 22 Articles are devoted to civil and political rights while only five deal with socio-economic rights suggesting a bias toward Western

concerns. While Western powers were initially hesitant about the inclusion of these rights, Beitz argues that, ‘There was never any chance that economic and social rights would not be part of the declaration’. By incorporating socio-economic rights, the UDHR’s universal validity is further enhanced since it takes into consideration human rights principles generally considered to be critical for developing countries.

Consequently, while cultural relativism can be useful in ensuring that universalists consider the impact of history and culture in the interpretation of human rights principles, relativism does not provide a sufficient basis to negate the universally valid principles contained in the UDHR. Instead, the UDHR promotes cultural diversity, acknowledging that the promotion of diversity may have limitations.

Alternative Views on Human Rights and Universality

Amartya Sen argues convincingly that human rights are not principally legal but primarily ethical demands: ‘Even though human rights can and do inspire legislation, this is a further fact, as opposed to a constitutive characteristic of human rights’. Sen goes on to argue that, ‘The implementation of human rights can go well beyond the implementation of legislation, and a theory of human rights cannot be sensibly confined within the juridical model in which it is frequently incarcerated’.

Hoover also proposes an alternative to the legalistic approach to human rights in the form of an agonistic understanding of rights. This approach provides a view of human rights ‘that focuses on the use of rights as contentious political claims that demand social transformation’. An agonistic approach therefore consid-


ers the UDHR as part of an ongoing debate about rights in terms of two key issues, namely, the meaning of human dignity, and the transformation of world politics.

Furthermore, Hoover argues that, ‘An agonistic account of rights rejects the idea that we can achieve an apolitical moral consensus on the meaning or significance of human nature...’ This argument is supported by Marks who believes that human nature common to societies for millennia such as gender stereotyping, discrimination and violence, are consistently challenged through human rights principles. Consequently, Marks concludes that ‘it is not an exaggeration to consider that [human rights] seek to reverse the course of human nature.’

Read from these alternative perspectives, the UDHR can be seen as part of a larger, ongoing project to reconsider human rights as ethical demands for transformation at a societal level, and behaviour change at an individual level.

Conclusion

While arguments can be made for and against the UDHRs universal validity based on the criteria for universality, it is submitted that the human rights principles contained in the UDHR has progressively gained sufficient universal acceptance. Despite the historical context in which the Declaration was developed and the challenges by cultural relativists, the UDHR has formed the basis of several international human rights instruments, its principles are proven to be accepted by the majority of people surveyed by the World Bank, and it remains broad enough to accommodate cultural diversity.

While the UDHR was not ‘born universal’, it has over time, achieved the status of universal validity. 

Rights Abroad

Development of position paper on national human rights institutions: Committee on Enforced Disappearances

Video Statement by ICC Chair person Lawrence M. Mushwana delivered at the Human Rights Council in Geneva, on 14 November 2013.

Presented by video-statement

President of the Committee, distinguished Committee members,

The ICC greatly values the opportunity to meet with you today, to discuss the development of a Committee position paper on national human rights institutions. I regret not being able to attend this important meeting in person but warmly welcome the opportunity to address you from South Africa by video-statement.

The ICC and its members recognise and value the unique role of treaty bodies in promoting and monitoring the effective implementation of universal human rights standards at national level.

As the United Nations Secretary General Ban Ki-Moon eloquently highlighted in his Foreword to the High Commissioner's report on the treaty body strengthening process, "the treaty bodies are at the heart of the international human rights protection system as engines translating universal norms into social justice and individual well being."



Adv Mushwana recording the ICC video statement

The ICC recognises the treaty bodies' invaluable contributions not least because of the treaty bodies' legal mandates to monitor the effective implementation of universal human rights standards at the national level.

In as much as treaty bodies are indispensable for the national human rights protection system, national human rights institutions in turn can be key partners to the treaty body system.

As independent institutions with a constitutional or legislative mandate to protect and promote human rights, national human rights institutions work to bridge the gap between international and national human rights systems, with a view to strengthening human rights on the ground.

Independent, Paris Principles compliant national human rights

institutions are a trusted source of independent and authoritative information on national situations.

National human rights institutions can, and are, following up on treaty bodies' recommendations, including by: disseminating such recommendations largely within all sectors of society, advising the State on implementation, and monitoring and reporting on progress therein.

National human rights institutions have a distinct role to play in monitoring the implementation of treaty body recommendations at national level and reporting thereon, given that they are nationally established, but operate on the basis of international guidelines, that is, the Paris Principles.

Critically, research shows that States with an independent and effective Paris Principles' compliant national human rights institution are more likely to ratify international human treaties and meet reporting obligations.

Consequently, the ICC warmly welcomes the Committee on Enforced Disappearances commitment to cooperate with national human rights institutions.

In this regard, the ICC appreciates

ICC CED statement

the reference to national human rights institutions in the Committee's rules of procedures, inviting national human rights institutions to 'submit to reports, other information or documentation and oral and written statements, as appropriate, relevant to the Committee's activities under the Convention', which will form an important basis for cooperation between the Committee and national human rights institutions.

Further, the ICC is delighted that the Committee is developing a paper on cooperation with national human rights institutions, and welcomes today's opportunity to contribute to this process. The ICC would like to offer the following suggestions for the Committee's consideration.

First, the ICC would welcome if the paper would take into account the unique role of national human rights institutions within both the treaty body system and the domestic infrastructure.

This role is grounded in the national human rights institutions' mandates under the Paris Principles, and it is distinct, yet complementary, to the ones of states and civil society.

Secondly, the paper should aim at ensuring national human rights institutions' most effective participation at all stages of the Committee's work and processes. Specific opportunities for national human rights institutions to contribute to, and support the Committee's work would include: reporting; review; and follow up; as well as national human rights institutions' support to the procedure under article 30, the com-

munications procedure and to the Committee's country visits.

Best practices of cooperation with national human rights institutions, such as those already established by the Committee on the Elimination of All Forms of Racism and Racial Discrimination and by the Committee Against Torture, as well as the recent paper on cooperation with national human rights institutions adopted by the Human Rights Committee, may further inform the development of the Committee's position paper and working methods as they relate to national human rights institutions.

Thirdly, and finally, the ICC supports efforts by all treaty bodies aimed at increasing accessibility of the system to national-level actors, including human rights defenders, non-governmental organisations and national human rights institutions, including through increased information-sharing and the use of new technologies such as video conferencing.

Distinguished Committee members, the Convention on Enforced Disappearances is a landmark treaty that brings new hope to the victims of enforced disappearances and their families.

In South Africa, part of the reconciliation process at the end of the apartheid era required dealing with cases of enforced disappearances. However many families in South Africa still remain with unanswered questions about the whereabouts of their family members who disappeared during apartheid.

Our history places South Africa in the position to take a lead in

advocating for the support for the Convention and the work of the Committee. It is imperative that national human rights institutions in accordance with their mandates take appropriate steps to ensure State accountability including through promotion of the ratification and domestication of the Convention.

Being a new Convention, and a newly established Committee, the ICC looks forward to the opportunity of developing training for national human rights institutions, including with OHCHR, to ensure that the Convention and its relevance to national situations across the globe is well understood, as are the opportunities for national human rights institutions to engage with the Committee.

In conclusion, the ICC is grateful for the opportunity to present this statement and states its commitment on behalf of its members to effectively cooperate with the Committee.

I wish you fruitful deliberations.

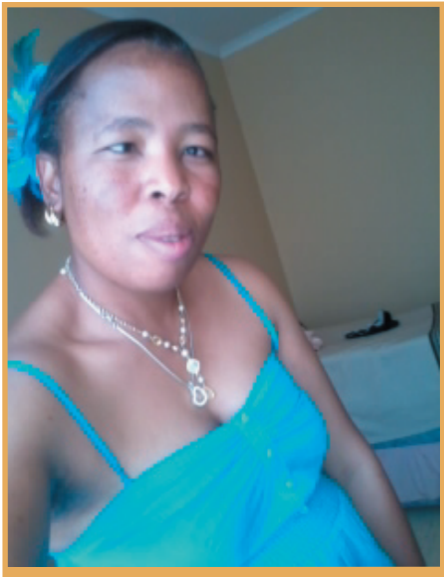
Meanwhile

Adv Mushwana, in his capacity as the International Co-ordinating Committee (ICC) of National Institutions for the Promotion and Protection of Human Rights (ICC) Chairperson successfully advocated for the inclusion of ICC's perspectives in the UN General Assembly's (UNGA) Resolution on National Human Rights Institutions (NHRIs). The NHRI resolution is adopted every two years by the UNGA and was for the first time adopted by consensus on 21 November 2013. This was a landmark achievement and will lay further ground for the ICC advocacy campaign for UN system-wide participation of NHRIs.

In the seat with



Mankwate Makwana, Brailist



Tell us about Mankwate in a nutshell?

Hellen is a proudly South African God fearing partially sighted woman. The name Hellen is a Greek word meaning truth and light. I was born blind and never allowed it to stop me from getting what I wanted which is formal education. I always hated seeing my fellow blind people bagging in the streets which encouraged me to achieve academically and live a better life. I'm a very simple person who hates changing who I really am and look like. This means I'm a natural somebody. May be a bit shy, but get used to me, you'll see a different story. Always willing to impart knowledge to other people, watch them master the skill and enjoy it most when they teach me back. I believe we are all lifelong learners and teachers. Integrity is my maiden name. I'm that kind of a person who is sometimes scared to ask for help even though I need it, especially and only if it is a situation where I need to use my eyes, because people are rude sometimes. I'd rather postpone it for next time knowing that I'll do it alone in my spare time when I'm relaxed.

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

I was born in a place called Magnet Heights (Jane Furse) in Limpopo Province. I didn't know I was blind until one day as I was playing with other kids. They were forcing me to see a chicken which was about 2 kilos away from me. As a kid I was really confused and couldn't understand what was actually going on. That was before I went to school for formal education. My childhood life was full of questions I couldn't get answers to, e.g. Why am I a Chinese girl? (Other kids and even adults used to tease me about my small eyes) Why am I not going to the same school as my two sisters? Why do I not sleep at home every day? (I attended a boarding school since my then sub A)

Educational background

Like I've already mentioned above, I went to a primary boarding school for the blind and deaf called Bosele which was about 85 Kilos away from home. As a child, life was tough there. We were ill treated by the educators, the senior student and caretakers, beaten every day. Having completed standard 5, I went to Philadelphia secondary school situated in Soshanguve. My life changed for better. Detention was used to correct behavior and corporal punishment forbidden. That's when I realized there was more to life than having a disability. Philadelphia is a School that accommodates blinds, deaf and physically handicapped students from different cultures. Educators there saw us as potential individuals not disabled. This is the reason why I did so well in my matricula-

tion. Then I went to University of Pretoria (Tukkies). I must be honest, white students and personnel were more understanding and always willing to help me where possible. I coped though until I finished my honours degree in 2000. One day some students asked me "how do you see your mouth when you eat because you say you are blind?" I just laughed. The very same day in the evening as we were relaxed, eating ice cream, I switched off the lights complaining it was hot. The eating didn't stop. That's where I got them and asked them why they didn't put the ice cream in their noses because it was dark. I gave them the answer in a funny way.

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

Although I am partially blind, I used Braille all my life. When I got a call that I was appointed, I was very excited and the first thing that came to my mind was a Brailled South African Constitution because I've never seen one in Braille. Totally blind people are denied the right to access of information which is in the bill of rights section 32. I believe that gap will be bridged. This is a completely new environment for me and I believe there's a lot to learn. (no more schedules, scripts, mark sheets etc) which is what I was doing before.

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

First thing I do when I get into my office is to pray. I believe The Guy above is the reason why I am here. Log on to outlook to check the emails, respond where needs be. Then the ball rolls. I haven't yet started with other projects due to the necessary devices and software we are waiting for. The brailing goes on even though not in the pace it should as I already mentioned the awaiting of obliga-





tory devices. I must say I am very glad to have a kind boss that I have here. One who is always willing to give people a chance to learn and encourage them to achieve at their best and acquire new skills. A leader rather than a boss.

Day outside office?

My life out of the office isn't that much busy. I usually go to the malls, relax at home. I'm an indoor person but spend most of the time engaged in the word of God.

What motivates you and what inspires you?

What motivates me most is to see people prosper especially those with disabilities. It removes the stigma that people with disabilities are a burden to the society and the country as a whole. I get motivated extrinsically.

Favourite activities

Travelling, shopping, embark in church activities, poetry evenings; I love anything to do with technology that makes my life easier. E.g. new cell phones on the market, I just wish to have. According to my wish, I'd love to have a new model every year. I just love technology but unfortunately my eyes prevent me to get where I want.

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

One thing that is so interesting about me is that I can sometimes read other people's mood. I can anticipate someone's emotions or reactions towards certain situations but remain quiet. E.g. when I walk into someone's office (stranger or not), before saying a word my extra sense would have given me an idea of the kind of mood you are in, which will help me act accordingly. It worked many times. So as a woman you can tell that my sixth sense (intuition) does work. **Pf**

If anyone has any question about my disability or how I manage my daily life, they must feel free to ask me. I am more than willing to share my experience. Don't treat me in a super special way. Just assist where needs be.

Corporate Services Division re-energises at the division's Strategic Planning Session

The Corporate Services Division (CSD) went for their strategic planning and team building at Indaba Hotel from 14h00 on 7 November to 15h00 on 8 November 2013. In addition, the Division looked at their service charter, SWOT analysis and changes to their Operational Plans for 2014-2015.

The meeting was held to review the 2014/15 Strategic planning, review of the Operational Plan for 2014-15, review of the proposed APP – 2014-15; and review of the draft service charter.

A SWOT analysis was undertaken to evaluate the business units' strengths, weaknesses, opportunities and threats.

The unit agreed on the following undertakings:

- * To hold monthly workshops on Policies and Procedures

- * Monthly workshops on policies and procedures to sensitise staff on issues of internal controls and risk management to be addressed in monthly workshops to deal with awareness.

- * Operational Policies and Procedures to be reviewed to ensure compliance to relevant legislation and strengthen the internal controls.

- * Roll out of the CSD service charter – Q1

- * Roll out of helpdesk service for non IT related matters – Q1

- * Service satisfaction survey Q1 & Q3

- * Conduct Employee satisfaction survey Q1

- * Identify key strategic posts and identify shadowing, mentoring, coaching mechanisms Implement

- * Back to Basics – succession planning. **Pf**

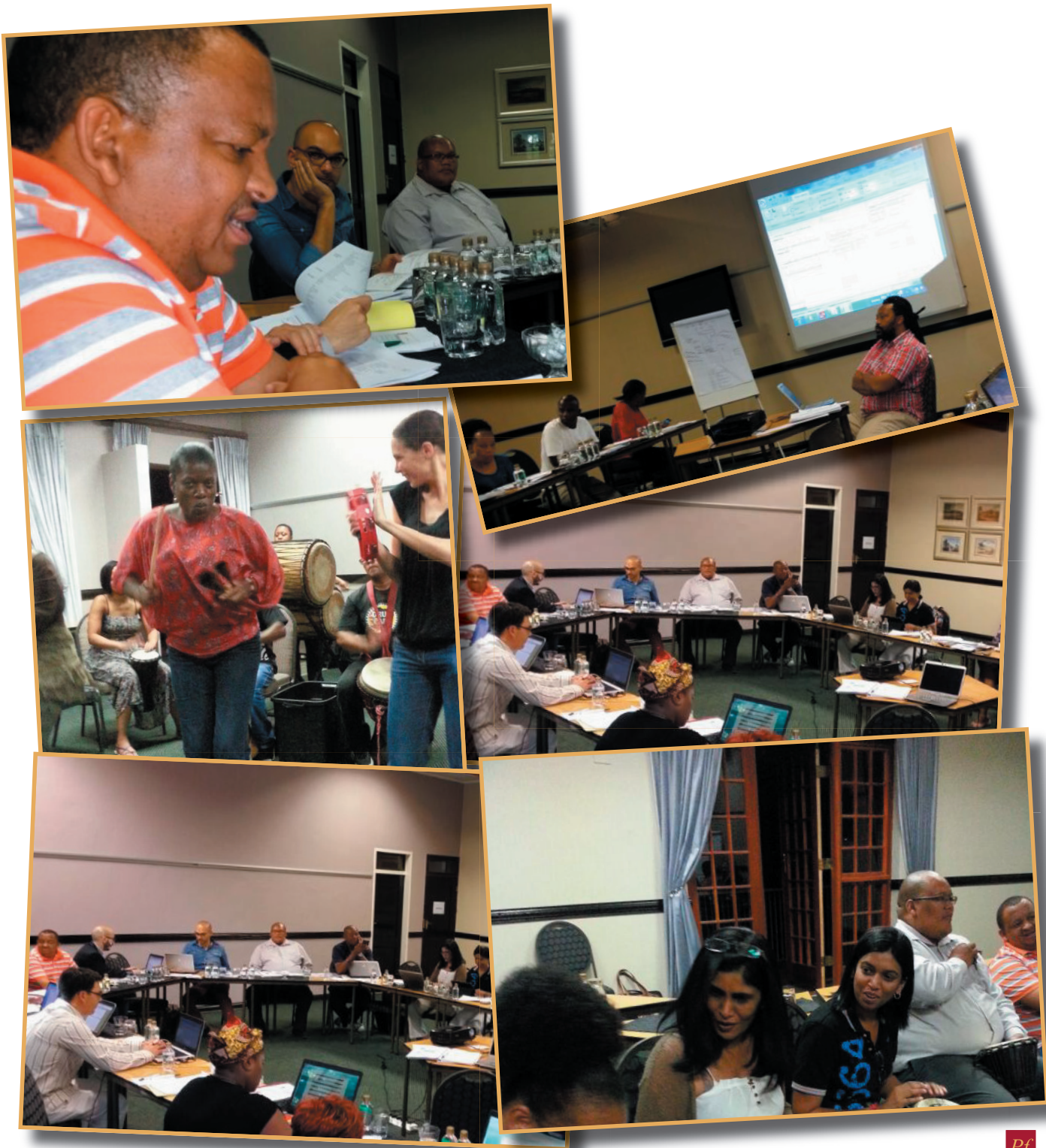


The Strategic Plan brought the much needed opportunity for staff to re-energise and interact beyond working hours

Organisational Strategic Planning Session

in pictures

Senior Managers embarked on the Strategic Review Session from 18 - 20 November 2013 to draft the three year Strategic Plan for 2014 - 2017. *Pfanelo* gives you the lowdown in pictures.



Human Rights Snippets

Zuma signs Personal Information Bill

November 27 2013 at 06:33pm
By SAPA

Pretoria - President Jacob Zuma signed the Protection of Personal Information Bill into law on Wednesday, the presidency said.

“The act will give effect to the right to privacy, by introducing measures to ensure that the personal information of an individual is safeguarded when it is processed by responsible parties,” spokesman Mac Maharaj said in a statement.

It sought to balance the right to privacy against other rights, particularly the right of access to information, and to protect the free flow of information within and across the country’s borders.

SAHRC welcomes South Africa’s appointment to UNHRC

13 November 2013

The South African Human Rights Commission (SAHRC) welcomes the appointment of South Africa to serve on the United Nations Human Rights Council.

The United Nation’s General Assembly voted on Tuesday to elect 14 new members of the 47-seat council. South Africa was elected to a three-year term alongside Namibia, Algeria, Morocco, the Maldives, Britain, France, Vietnam, China, Cuba and

Mexico among others.

The appointment of South Africa is significant as it comes in the same year when the SAHRC was appointed to head up the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), the first time that Africa heads such office.

The appointment of South Africa to serve on the Human Rights Council, and the SAHRC to the ICC, marks a symbolic point in South Africa’s legacy of human rights, having transitioned from Apartheid to a peaceful democracy where human rights are constitutionally promoted and recognized.

It is however important to note that the position will attract international attention to South Africa. There will be increased attention given to the country’s human rights track record and its compliance with international human rights obligations.

This will, however, create opportunities for the country as a whole to showcase its human rights successes, and to share and seek solutions to current challenges.

The SAHRC looks forward to working with government and supporting its work to advance the promotion and protection of human rights for all.

Cop who drew up Marikana plan must be held accountable: SAHRC lawyer

Friday, 01 November 2013 06:31

The compiler of a police plan to curb labour unrest at Marikana last year should be held accountable, the Farlam Commission of Inquiry heard on Thursday. Michelle le Roux, for the SA Human Rights Commission (SAHRC), said public order policing expert Gary White had criticised the implementation of the police plan engineered by Lt-Col Duncan Scott. Le Roux was cross-examining Scott regarding the strategy. White’s criticism related to the planning, leadership and execution of the operation, which was described as haphazard, rushed, negligent, and inadequate. Le Roux indicated that the SAHRC would make submissions to the commission that Scott should be held accountable for those failures. Scott responded that White did not have a full comprehension of the SA context and the scenario which prevailed at Marikana in August last year. The Farlam Commission is probing the deaths of 44 persons during strike-related violence at Lonmin’s Marikana mine in August last year.

Khulumani Participates in the SAHRC Seminar on Human Rights and Law Enforcement, 20 November 2013

Written by khulumani.net

Khulumani participated in the SAHRC seminar on Human Rights and Law Enforcement, 20 November 2013, against the background of its organising of a commemoration of International Day in Support of Survivors of Torture on 26 June 2013 with a focus on police brutality against the Clay Oven community in April this year.

Condolences: passing away of Mr Moodlier



Mogam Moodlier was a political activist and a lawyer who handled political cases in Durban. His long history of uncompromising political activism led to his own detention. He assisted various legal colleagues during Apartheid when they had difficulty acquiring premises under the Group Areas Act. He was seventy four

years old. He is deeply mourned by all the staff at the Foundation for Human Rights. He is survived by his wife, Rookumani Moodliar, two daughters, Sayuri and Yoshira, his son Roushal and two grandchildren. He passed away on 04 November 2013 in Greece. *Pf*

Happy Birthdays

Sonto Nxumalo - 05 Dec (HO)

Ntombentsha Lubelwana - 14 Dec (HO)

Penny Carelse - 10 Dec (WC)

Joyce Tlou - 26 Dec (HO)

Pamella Pango - 03 Dec (HO)

Kgosi Monyela - 12 Dec (HO)

Nomvuyiseko Mapasa - 26 Dec (HO)

Motshabi Moemise - 25 Dec (HO)

Hlamalani Ngobeni - 23 Dec (HO)

Dineo Pushuli - 01 Dec (HO)

Bahia Sterris - 27 Dec (WC)

Thabang Kheswa - 07 Dec

Charmaine Leso - 20 Dec (NW)

Nokuthula Ntantiso - 21 Dec (GP)

How to lodge a complaint

Visit one of our offices: more info on www.sahrc.org.za
Complete the online form and send to complaints@sahrc.org.za
Twitter: SAHRCommission
Facebook: SAhumanrightscommission

Human Rights Calendar Days

01 December - World AIDS Day
10 December - International Human Rights Day
02 December - International Day of Abolition of Slavery
03 December - International Day of Disabled persons
18 December - International Migrants Day



Pfanelo wishes well to the following employees
who are leaving the Commission

Angeline Ntuli - Records Manager
Kgosi Monyela - Accounts Clerk
Lindelwa Nonjaduka - Strategy & Performance Specialist
Anu Nepal - Legal Officer
Ayanda Mdletshe - Senior Legal Officer

Pfanelo welcomes the following employee

Sizakele Ntoyi - Administrative Assistant (Legal Services)