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the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA



STAND TOGETHER FOR RIGHTS

Juayela i Justice

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Editorial.



Luyanda Makapela | Editor

As the country is getting abuzz with numerous activities in celebrating and commemorating Women's Month (August), the department continues to try its best to introduce pieces of legislation in ensuring the elimination of various forms of abuse and victimisation.

In this edition, you will read more of the Protection from Harassment Act, which came into effect on the Freedom Day, 27 April 2013. This Act aims to afford protection to all persons who are victims of harassing behaviour and whose rights are infringed by harassment. This Act will go a long way in protecting and enhancing basic human rights as enshrined in the Bill of Rights, particularly the vulnerability of women and children.

Human trafficking, on the other hand, has become prevalent in our country which also targets mostly the exposed sectors of our population. Readers will have a preview of the tireless efforts undertaken by the department with regards to human trafficking to ensure safety and well-being of those affected. As part of taking government to the people, Minister Jeff Radebe recently visited the Klerksdorp community in the

North West to interact and address critical issues directly affecting the youth on a daily basis. This initiative is another step that government is taking in ensuring that information is disseminated to all sectors of society while capacitating the youth with knowledge so that they are able to make their own informed decisions.

As mandated by Parliament, the Truth and Reconciliation Commission's (TRC) is on course with reparations and tracing of the families of victims of apartheid atrocities. Our readers will have an in depth knowledge of the good work done by the department's TRC Unit and the National Prosecuting Authority's (NPA) Missing Person's Task Team in tracing the affected families and trying to bring closure to them. To unwind, we continually encourage our readers to participate in our crossword puzzle.

Till then, Enjoy! 📖

Luyanda Makapela

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**JUSTICE TIGHTENS LEGISLATION
ON HARASSMENT.**

Benson Ntlatleng



Due to the prevalence of various forms of harassment in society, the Department of Justice and Constitutional Development has introduced the Protection from Harassment Act.

The Act, which was adopted in 2011 and subsequently signed by President Jacob Zuma at the end of 2011, has been enacted into law on Freedom Day, 27 April 2013.

“The objective of this Act is primarily to address the harassment with a court order, in terms of which, the harasser is prohibited from continuing to harass the victim,” explained Advocate Lawrence Bassett, Chief Director responsible for Legislative Development in the department.

order to ascertain the name and address of a harasser whose particulars are not known by the complainant.

The police may, in certain circumstances, also investigate a complaint of harassment made directly to the SAPS to ascertain the identity and address of the harasser.

Advocate Bassett said the Act emanates from an investigation by the South African Law Reform Commission (SALRC) into stalking behaviour. According to SALRC, the existing civil and criminal law framework may not provide adequate recourse to victims of stalking who are not in a domestic relationship. “The SALRC was therefore of the view that legislation should be enacted to act against stalking

who are being harassed by cyber stalkers and persons who are subjected to sexual harassment.”

If a person is being harassed, the victim may apply for a protection order against such conduct at a magistrate’s court. The procedure for applying for a protection order is straight-forward and inexpensive.

Legal representation is not necessary and any person including a child, or a person on behalf of a child, may apply to the court for protection order. “Any person who contravenes such an order will be found guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding five years,” said Advocate Bassett.

“The objective of this Act is primarily to address the harassment with a court order, in terms of which, the harasser is prohibited from continuing to harass the victim.”

Harassment is defined, in the Act, as “any unreasonable conduct which the perpetrator knows or ought to know will cause harm or inspire the reasonable belief that harm may be caused to a complainant or a related person. The harm caused is not limited to physical harm but is defined to include any mental, psychological or even economic harm.”

The Protection from Harassment Act provides for the granting of a protection order against the harasser. In terms of the Act, a court may order electronic communication service providers to provide a court with the name and address of a person who harasses another person in cyber space, and the South African Police Service (SAPS) to investigate instances of harassment in

as this infringes various rights of a person,” remarked Advocate Bassett.

He added that a similar approach has been adopted in a number of countries as well, such as the United Kingdom, United States of America, Canada and Australia.

The Protection from Harassment Act aims to afford protection to all persons who are the victims of harassing behaviour and whose rights are being infringed by harassment. Specific categories of persons who may benefit from the Act are the poor who are unable to afford expensive legal representation.

Advocate Bassett further explained: “The Act also protects children who are subject to bullying in schools, persons

While the Protection from Harassment Act puts more emphasis on harassing act and behaviour, it will go a long way in protecting and enhancing basic human rights as enshrined in the Bill of Rights. According to Advocate Bassett, Section 10 of the Constitution states that everyone has inherent dignity and has the right to have their dignity respected and protected.

By implementing the Protection from Harassment Act, government is upholding the requirements of Section 7(2) which stipulates that the state must respect, protect, promote and fulfil the rights contained in the Bill of Rights by putting in place a mechanism to address harassment or stalking.



DEPARTMENT INTENSIFIES FIGHT AGAINST HUMAN TRAFFICKING.

Glory Msungwa

A misconception exists that Trafficking in Persons (TIP) only exists outside the borders of the country, due to the silence or lack of a legislation that clearly articulates, identifies and punishes perpetrators of this crime. Most cases that involve human trafficking are often referred to courts as merely kidnapping cases that involve organised crime or other contraventions of other pieces of legislations.

Human trafficking is a form of modern day slavery and it has been practised for centuries with people being captured from Africa to other continents. This is a worldwide trade where men, women and children are being trafficked into a variety of exploitable situations domestically and internationally.

The Department of Justice and Constitutional Development embarked on a study of human trafficking related cases that were dealt with before and after the implementation of Sexual Offences Amendment Act and the Children's Act.

According to Mr Steve Sekwele, Project Manager for the Victim Support and Specialised Services, a study aimed at collecting data demonstrated the prevalence of human trafficking in the country between the years 2006-2012. Participants, through focus group sessions, presented their statistics and shared their most horrific incidents of human trafficking cases that occurred within their regions.

"Human trafficking happens in this country daily, we have victims housed within the city blocks and private homes. It rests with concerned citizens to blow the whistle. Credit must be given to the study conducted for bringing forth the reality of human trafficking in the country," commented Mr Sekwele.

He indicated that there are criminal court cases currently under prosecution mostly in KwaZulu Natal (KZN) and Mpumalanga, and there are discussions with the National Prosecuting Authority (NPA) to strengthen and empower other regions to perform like the KZN and Mpumalanga regions.

Human trafficking offences were dealt with through various laws which did not provide a comprehensive adjudication mechanism to all trafficking offences. For instance, the Children's Act punishes trafficking in children and the Criminal Law (Sexual Offences and Related Matters) Amendment Act focuses on trafficking in persons for sexual purposes. Other legislations currently used are the Criminal Procedure Act, Prevention of Organised Crime Act, Immigration Act, etc.

As of 30 July 2013, President Jacob Zuma has signed into law the Prevention and Combating of Trafficking in Persons Bill which will see a maximum penalty of R100m or life imprisonment or both in the case of conviction.

It's purpose is, amongst others, is to give effect to the country's obligation concerning trafficking in persons in terms of the international agreement thereby providing offence of trafficking in persons, penalties to be imposed in respect of the offence, measures to protect and assist victims of trafficking as well as preventing and combating trafficking within and across borders.

In terms of Trafficking in Persons Bill, any person who:

- delivers, recruits, transports, transfers, sells and/or exchanges,
- leases or receives another person within or across the borders of the republic, by means of a threat to harm, or use of force, fraud, deception, abduction, kidnapping, abuse of power.
- Giving or receiving money or benefits directly or indirectly to obtain the consent of a person having control over another person aimed at enticing that person for purposes of any form or manner of exploitation, shall be punished by the law for crimes of human trafficking.

"Credit must be given to the study conducted for bringing forth the reality of human trafficking in the country."

Research conducted by one of the biggest Non-Governmental Organisation (NGO) in Cape Town, Molo Songololo, stated that trafficking in children affects a large number of children globally, especially girls between the ages of 12-16 which are the most vulnerable. They are mainly abducted in broad daylight at malls, shopping centres, taxi ranks and schools. The girls are often drugged and forced into prostitution with most rapes filmed and sold as pornography or posted on the internet.

The South African Law Reform Commission (SALRC) conducted an investigation which revealed that South Africa is in fact a country of origin, transit and destination for victims of trafficking and the trade is mainly focused, but not limited, to women and children. The victims are innocent and unsuspecting individuals who are then subjected to a number of traumatic ordeals which become deadly. Trafficking activities are either intercity or cross-border and victim's rights are violated without care by the perpetrators who in some instances are known to the victim.

To further educate the public about trafficking in persons, the department in partnership with NGOs is continuously engaging on outreach and awareness campaigns on human trafficking.

JUSTICE ON COURSE IN IMPLEMENTING TRC RECOMMENDATIONS.

Benson Ntlatleng

Following a transition from the apartheid system to the dawn of democracy in South Africa, amongst other things, is the establishment of the Truth and Reconciliation Commission (TRC) under the Promotion of National Unity Act. No 34 of 1995, which did commendable work in this area.

The TRC was tasked with the responsibility of investigating and documenting gross human rights violations committed within and outside South Africa in the period between 1960 to 1994.

The Justice Department's Chief Operations Officer, Dr Khotso De Wee, explained that the work of the commission was accomplished through three committees, namely the Human Rights Violation Committee, which investigated acts of human rights abuse between 1960 and 1994, the Reparation and Rehabilitation Committee, which looked at restoring victim's dignity and formulated proposals to assist with rehabilitation, as well as the Amnesty Committee which considered applications from individuals who applied for amnesty in accordance with the Promotion of National Unity Act.

"These programmes will assist victims and survivors of gross human rights violations to access local treatment centres that are intended to address their physical and emotional needs."

A Joint Parliamentary Committee identified key recommendations, namely, final reparations (once-off individual grant of R30 000), medical benefits and other forms of social assistance. Other recommendations approved by Parliament in June 2003 included community rehabilitation, symbols and monuments.

The TRC Unit was established within the Department of Justice and Constitutional Development in 2005. "The primary objective of this unit is to monitor, coordinate and implement the approved recommendations of the TRC," said Dr De Wee. He added that various initiatives have been undertaken to implement the approved recommendations relating to reparations of victims.

Dr De Wee further mentioned that part of reparations is tracing of individuals and families who came forward during the TRC hearings but could not be paid their once-off grant of R30 000, mainly due to death and relocation of beneficiaries. Having exhausted the services of other agencies to trace beneficiaries, the TRC Unit commenced with their own method of tracing the remainder of 390 unpaid beneficiaries in August 2012.

About 16 837 beneficiaries applied for reparations directly to the TRC. "However, other individuals were declared as victims of Gross Human Rights Violation (GHRV) and therefore qualified for reparation by the commission and submitted applications to the President's Fund post the TRC," he explained, adding that the process itself brought a total number of applicants to 17 370.

The TRC Unit, in collaboration with the National Prosecuting Authority's (NPA) Missing Persons Task Team, have since been involved in a process of identifying victims who were killed and buried by apartheid security forces. The victim's remains are exhumed, taken through

DNA tests and eventually handed over to families for re-burial.

The task of exhuming the remains and handing them over to families and, at times, the spiritual repatriation of victims whose remains could not be found is a coordinated effort between the TRC Unit within the Department of Justice and Constitutional Development and the Missing Persons Task Team within the NPA.

In May 2012, the team handed over the remains of Mr Xolile Sam to his family for a re-burial after positive identification and DNA tests. In another case, Mr Oupa Ronald Madondo's remains could not be found and therefore a spiritual repatriation had to be performed.

The ceremony was held near Jozini Dam in KwaZulu-Natal where he was bombed by apartheid security forces. The proceedings then continued to Freedom Park, Pretoria where a symbolic burial was conducted.

Dr De Wee pointed out that despite numerous challenges that the unit encountered, it has made tremendous strides in implementing recommendations. "We have recently embarked on a consultation process for community rehabilitation and the finalisation of regulations as part of the TRC process," he said.

A number of communities were identified and a needs assessment criteria was used to select and prioritise particular communities. According to Dr De Wee, aspects that were considered and weighed included locality, number of people living in poverty, number of incidents per province, nature of atrocity and the severity of such atrocities.

It was then recommended that two communities would be selected in each province in a phased approach. Eighteen communities are set to benefit for rehabilitation during the 2013/14 financial year. The programme has already commenced in two communities in Gauteng's Alexander and Mamelodi Townships.

Dr De Wee indicated that public comments have been received with regard to draft regulations on basic and higher education and training, medical benefits and other forms of social assistance. "These comments necessitated conducting additional research, obtaining legal opinions and further extensive consultations with all stakeholders, including relevant NGOs and government departments," he explained.

The draft regulations were subsequently submitted to the Ministers of Basic Education, Higher Education and Training, Health and Finance for comments. "These programmes will assist victims and survivors of gross human rights violations to access local treatment centres that are intended to address their physical and emotional needs," concluded Dr De Wee, adding that some of the projects to be implemented will even benefit future generations. ■



TRC TRACING UNIT MAKES STRIDES AGAINST THE ODDS.

Mokgethwa Ngoepe and Sinenhlanhla Mkhwanazi

A total number of 16 837 individuals applied for reparations during the Truth and Reconciliation Commission (TRC) consultations. To date, 16 814 individuals have been granted their compensation which is a one-off individual grant of R30 000 and currently, the TRC Unit is busy tracing the remaining applicants. *Justice Today* team joined the TRC Unit tracing team in its journey to search for the outstanding applicants.

As the sun rose, Cape Town weather looked favourable for the TRC Unit's tracing team to begin with their first visit in the densely populated Mitchell's Plain Township in Cape Town.

The Western Cape Region was given a list of 40 TRC identified beneficiaries by the National Office to trace. The regional office managed to trace 28 beneficiaries, however a further 12 needed to be traced. Mr Donald Van Der Merwe, of Mitchell's Plain, was one of the first residents to be traced by the team. On arrival, at what used to be Mr Van Der Merwe's home, in a setting that resembled a television documentary, the team stopped near the colourful block of flats, asking residents whether they knew Mr Van Der Merwe's residential address.

Few minutes later, the team managed to find the address - just a few metres away from the block of flats. Upon arrival, the team learnt that Mr Van Der Merwe passed away a few years back. "In this case we have to find the beneficiaries that the applicant had nominated," explained Mr Thapelo Mokushane, Acting Director for Victim Support within the TRC Unit. In the application form, Mr van Der Merwe had nominated Ms

Delmaine Coetzee and Mr Ramon Don as his beneficiaries. After numerous attempts, the tracing team finally got contact details of the beneficiaries and arranged for a meeting so that the necessary documentation for payment could be carried out.

Surprised, Ms Coetzee couldn't hold her joy. "I am honoured to learn that Mr Van Der Merwe had nominated me to be the beneficiary. He was a good man. Both Ms Coetzee and Mr Don have one plan in mind: "We really want to erect a tombstone in memory of this man," said Mr Don.

After spending two weeks in the Western Cape, the TRC Unit tracing team successfully traced nine (9) cases out of 12 which were outstanding. Of these, four (4) have already been paid reparations, three (3) passed away and their next of kin are being traced, while documentation is awaited in respect of others.

At the time of going to print, Mr Mokushane said they were finalising all the outstanding cases so that the team concludes the tracing process in the Western Cape. Only two (2) beneficiaries were not yet traced in the Western Cape due to non-permanent and multiple addresses. This should be concluded soon.

In KwaZulu Natal, a similar search was carried out and the rainy weather did not deter the team from their search of outstanding applicants in the province. Three teams were dispatched in various parts of the province covering inland, Midlands and North Coast. Other officials who were involved in the tracing of the TRC identified beneficiaries are Petros Mtoti, Makhado Makatu, Ngwako Ramphadi and Sidwell Sibiya.

One of the teams found a homeless applicant who lived in the bushes in Pietermaritzburg. The beneficiary did not have a bank account and needed a registered residential address to open an account so that the beneficiaries' dues could be paid. "We had to find a local municipal office to organise a temporary proof of residence for the applicant," explained Mr Mokushane.

The teams are adamant in finding all applicants despite challenges of finding correct residential addresses, migrations, poor road conditions which are cited as challenges during tracing. "We had a case in one informal settlement where we were looking for a victim, the address he provided was no longer valid because all the shacks in that area were burned down," explained Mr Linduyise Gasela from the KZN Regional Office, who also assisted with tracing in the Western Cape.

During the tracing process, the TRC Unit worked hand in hand with the department's Regional Offices, the Department of

Home Affairs and the Department of Social Development, South African Social Security Agency (SASSA) and local municipalities as well as other relevant helpful structures.

The Department of Home Affairs provides details of beneficiaries or rightful next-of-kin in the Population and Death Register. It also assists with death notices of beneficiaries who are deceased – and that contains personal details of the relatives who placed death notices of the beneficiaries concerned.

SASSA's database, on the other hand, provides personal information on beneficiaries who are registered for social grants, residential addresses, and names of pay points where beneficiaries receive their grants and contact numbers where applicable.

The search for the outstanding identified beneficiaries was intensified in 2011 by the department after it emerged that more than 800 beneficiaries of the 16 837 could not be found. Regional Offices across the country were roped in to assist with the tracing. They responded by appointing dedicated teams of justice officials who were dispatched to various parts of the country. The number of outstanding beneficiaries was subsequently reduced to less than 400. At this stage the TRC Unit and President's Fund officials have since been dispatched to assist with the tracing of remaining beneficiaries. ■



Mitchell's Plain Township in Cape Town



MORE MILITARY VETERANS' FAMILIES GET CLOSURE.

Glory Msungwa



Losing a family member is the hardest experience any family can go through, especially when a family finds no closure about how their loved one disappeared or passed on. The Department of Justice and Constitutional Development's Truth and Reconciliation Commission (TRC) and the National Prosecuting Authority's (NPA)'s Missing Persons Task Team (MPTT) helped ten bereaved families to get answers on what happened to their family members during the apartheid regime.

At a ceremony held at the Freedom Park in Pretoria in July, Former Deputy Minister of Justice and Constitutional Development, Mr Andries Nel handed over the exhumed remains of the ten deceased to their families. In an emotional ceremony Mr Nel said the handover ceremony was important "as the truth about a real struggle in which real patriots made the ultimate sacrifice is told."

"Through this event, we are narrating and giving human faces to the brutality inflicted on our people over 350 years of colonialism and four decades of the apartheid oppression. "By telling these stories, we are giving actual names and describing their heroic deeds that will enable those who were born long after apartheid to understand the past and to accurately map out their future and that of this nation," the former deputy minister explained.

Families of Daniel Nkabinde, Oupa Willie Lukhele, Abraham Moroe, Siphon Nkosi and Reuben Letsela were handed the incorrect remains in 1998, through DNA tests, the MPTT recovered the

correct remains of the former three (3) who were killed on 28 March 1988 at Mutale River near Thohoyandou. Reuben Letsela and Matthews Mmutlane died in the same year between 12- 15 September in Limpopo.

Nceba Snuma, Caswell Khumalo and Richard Ngwenya who were known as the 'Mofolo Three' were handed bombs that were about to explode, by soldiers working for the apartheid government posing as Mkhonto weSizwe (MK) members.

Nceba Snuma died on the same day on 27 July 1989 in Soweto. His remains were identified by the MPTT. The remaining two survived the explosion but were later shot, their bodies were burnt and dumped near Rustenburg. Their bodies were first exhumed by the South African Police Services (SAPS) in 1996. However, certain body parts are missing and during the ceremony the families were handed over the remaining parts.

Snuma's sister, Millicent Nhlapho, described her brother as a hero and a peace maker. "Our mother passed away with sadness, she was buried two weeks before we were handed my brothers remains. I am proud to have had a brother like him. At least we will now know where his remains are, the chapter is now closed, we will have closure and this marks the beginning of a healing process for us," expressed Ms Nhlapho.

The former deputy minister conveyed his gratitude to the families for their patience and cooperation, as the department is working hard to uncover the truth and to restore the dignity of their loved ones through proper and fitting burials. **11**



Justice and Constitutional Development Minister Jeff Radebe, while addressing Klerksdorp community members and surrounding areas in the North West

MINISTER LISTENS TO COMMUNITY CHALLENGES DURING IMBIZO.

Mokgethwa Ngoepe



“Listening to day-to-day challenges faced by communities help to improve our work as per the Batho Pele principles. It also helps us to deeply understand the communities’ needs and devise means on how we can try our level best to address such needs,” remarked Justice and Constitutional Development Minister Jeff Radebe, while addressing Klerksdorp community members and surrounding areas in the North West recently.

More than one thousand community members from Klerksdorp

and the surrounding areas within the Matlosana Local Municipality packed the Alabama Community Hall to capacity to listen to Minister Radebe addressing them during an Imbizo Focus Week.

The main purpose of the Imbizo was to interact with the youth and attend to critical issues that confront young people in the area. “The issue of drugs is a problem in this country and we are focusing our energies on measures our government is taking in making sure that we discourage our youth from taking drugs,” remarked Minister Radebe.



Listening attentively: Community members listening to speakers during the Imbizo in Klerksdorp recently.

He also applauded the child justice system which deals with young people in a different manner than adult criminals. "As the department, we are of the strong view that all this information needs to be disseminated as widely as possible so that the youth of this country can feel confident to attend to challenges for the future of our nation. Therefore education is of paramount importance for the youth," he explained.

Imbizo is a forum for enhancing dialogue and interaction between government and the people. It provides an opportunity for government to communicate its Programme of Action (PoA) and the update on the progress made. Imbizo further helps to promote public participation in government programmes with the aim of continuously improving people's lives. It also provides an opportunity for the members of the public to share concerns, grievances and offer advices on how government can improve its day-to-day operations.

One of the youth, Morere Moremogolo (24), of Khuma Township, who was sentenced to a correctional supervision, was brave to confess in full view of the audience, that he had committed lot of crimes which included house breaking, drugs, theft and rape at a very young age. He now has regrets for what he did which he mainly attributes to peer pressure.

"I really have regrets for what I did, I feel I have wasted my time. I dropped out of school at a very young age because of drugs. I have always been praying to be given another chance, which I got, it's all thanks to the Bosasa Youth Development Centre which has taught me how to write and prepare for public speaking. I am proud to inform you that I am now a motivational speaker," said Moremogolo to a cheering crowd. He appealed to stakeholders present to assist him as he still seeks more advice and financial support to further his career.

Moremogolo was one of the 25 young people who were taken to the Bosasa Youth Development Centre (BYDC) in Klerksdorp for rehabilitation. He had since learned a lot of things about life and how to live better with the community.

He urged other young people to learn from him. "It's very important to choose friends as they can easily lead you to do wrong things. It is vital to have friends who are focused because stealing is not a solution. The long arm of the law will catch up with you and there will be no place to hide," warned Moremogolo.

Minister Radebe concluded responding to the challenges and issues raised by the community. He further thanked and applauded Moremogolo for his confession and his bravery to speak about his previous life in public. "If we can have youth of his calibre, we will certainly have a country that is free from drugs and violence. This really shows that the child justice system is indeed working," he said.

"The issue of drugs is a problem in this country and we are focusing our energies on measures our government is taking in making sure that we discourage our youth from taking drugs."

The minister urged the youth to emulate the youth of 1976 and the young lions of 1980's. "We are proud, as the department, to say we have One Stop Child Justice Centres all over the country which we give R28 million annually to make sure that they are operating optimally to deal with issues affecting the vulnerable people within our communities," concluded Minister Radebe.



Advocate Pregaluxmi Govender, South African Human Rights Commissioner

HUMAN RIGHTS: A BEACON OF HOPE FOR ALL SA CITIZENS.

Mokgethwa Ngoepe

In an ideal state, citizens are meant to respect each other's rights and honour the country's Constitution. However, this is often not the case. The South African Human Rights Commission (SAHRC) is tasked with ensuring that people are treated fairly and their rights are not infringed.

The work of the Commission is often misunderstood or only seen as being relevant during Human Rights Month in March. In this edition, we asked Advocate Pregaluxmi Govender, who is affectionately known as Pregs, to share information on the continuous efforts of the Commission.

JT: Briefly share with us a general perspective of human rights and what does it mean to an ordinary citizen?

PG: Human rights are the foundation of our democracy. Our Constitution and all our laws are based on human rights. These rights are enshrined in the Bill of Rights, Chapter Two of the South African Constitution, the supreme law in our country. The Constitution was adopted to heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights. The Constitution recognises the dignity and the rights of every human being. No

matter who you are in South Africa, you are entitled to just and equal treatment.

JT: Is the SAHRC doing enough in protecting, promoting and upholding human rights?

PG: The commission, as the independent national human rights institution, is created to support constitutional democracy through promoting, protecting and monitoring the attainment of everyone's human rights in South Africa without fear, favour or prejudice. Human rights violations are so widespread that

we need to move beyond strategic litigation in an attempt to address them. The SAHRC has included advocacy and human rights education in our attempts to develop consciousness amongst communities around economic and social rights as well as civil and political rights.

JT: What are the major highlights achieved by the SAHRC in terms of its mandate, to date?

PG: Amongst the numerous highlights, one of the most recent achievements is that from August to November 2012, the commission used its mandate to conduct public hearings on the rights to water and sanitation in every province. These hearings were held in some of the poorest areas. We invited local, provincial and national government representatives to attend, listen and respond to people's experiences of the failure to provide access to the rights to water and sanitation.

Many communities said this was their first experience of direct engagement with government. The hearings illustrated the interconnection, indivisibility and interdependence of human rights. The provincial hearings were a run up to the national hearing which was held in March 2013. The Commission invited government ministers and their departments to attend the national hearing on 19 March, at the Pan African Parliament. They were given a copy of the commission's findings and recommendations from our provincial hearings.

JT: Any challenges encountered?

PG: The biggest obstacle identified is the lack of adequate planning. This hinders co-ordination and co-operation within and between departments and spheres of government. It has a negative impact on policy and budget development, preventing the implementation of policies that could shift this reality. Another challenge is corruption within government and the capacity to regulate businesses contracted to provide and maintain intended services. The result is a widespread perception that government does not care. There is still much that government needs to do to ensure that women and girls live in violence-free homes and communities.

JT: Are there any awareness campaigns that the commission is doing with regards to human rights?

PG: The SAHRC developed an explicit focus on women's rights as human rights through our strategy on socio-economic rights, in the commission's water and sanitation strategy. In 2012, the commission held a similar International Women's Day roundtable discussions in Cape Town. This ensured that the voices of women were heard at the 2012 national and provincial hearings, articulating the impact and indivisibility of all rights including the rights to water and sanitation.

JT: Recently, SA experienced lot of women and children, gays and lesbians, being subjected to rape and murder, what is the role in rectifying the situation?

PG: Our Constitution, with its far-reaching Bill of Rights, does serve those who experience the brutality of poverty and violence. The fact that there were over 64 000 rapes and attempted rape cases reported in South Africa in 2012 is a major cause for concern.

Relevant government bodies, non-profit organisations, South African Police Service, judicial system and the civil society need to do some introspection and unite to address this national crisis as a matter of urgency. 

JT: What message would you give to other women still trapped in the mentality that men are superior?

PG: South African women still face serious challenges in realising their human rights as enshrined in the Constitution. Women bear the brunt of gender based violence, poor service delivery, HIV/AIDS and poverty. The Case of Anene Booysen, earlier this year, challenged many human rights institutions and government to make a concerted effort to empower women on women's rights.

The commission will take practical steps to ensure that the high rape statistics in South Africa are significantly curbed. It will engage with the relevant stakeholders to ensure that the rights of women and children which are enshrined in our Constitution are experienced by all women and girls in our country. The message to women would be that we are all equal and that the rights enshrined in our Constitution are meant to protect all citizens, both men and women.





WORLD CLASS NTUZUMA COURT ENHANCES JUSTICE SERVICES.

Mokgethwa Ngoepe

The prayers of people of Inanda, Ntuzuma and Kwamashu (INK) and the surrounding areas of having an up-to-standard court were finally answered when Justice and Constitutional Development Minister Jeff Radebe officially declared the Ntuzuma Magistrate's Court opened.

As part of increasing and improving access to justice services, efforts of building new courts specifically in the townships and rural areas help the majority of people who were previously disadvantaged. "People will no longer go far to access the services which we provide," remarked the minister, while delivering a keynote address at the official opening of the state-of-the-art Ntuzuma Magistrate's Court in KwaZulu-Natal.

Designed with the image of a tree which depicts the bygone era of rural community courts, the R200 million worth Ntuzuma Magistrate's Court boasts six (6) floors comprising of courtrooms and offices. Approximately 1.5 million people will benefit from the services at the court.

Court users, unlike before, will no longer travel long distances to the Verulam Magistrate's Court to access justice services as regional court matters are also heard at the Ntuzuma Magistrate's Court.

Excited community member, Mr Bernard Moteoli from Ward 7, KwaMashu said the opening of the new court has been long overdue. "We have been waiting in anticipation for the opening

of this court as we experienced challenges at the old court and I am so delighted that our prayers have finally been answered. The services will improve a lot, cases will be finalised timely and without delays," commented Mr Moteoli.

Another resident, Ms Nomvuyo Silange, of Ward 47, KwaMashu said: "I really appreciate the good job done by the Department of Justice and Constitutional Development for us as residents, this will go a long way in making sure that services are improved and we are so grateful for that." She also appealed to officials working at the court to work hard to deliver justice services to the communities they serve. During the event, Minister Radebe officially received a key which symbolises an official handover of the building from the Department of Public Works Minister Thulas Nxesi. "This is a job well done, this project commenced in 2010 and we are proud that it has been completed within a set timeframe," said Minister Nxesi.

Ntuzuma Court has been a branch court of the Verulam Magistrate's Court since the 1970's and only dealt with criminal matters. Family court matters were introduced later.

The services, in respect of the civil and small claims court matters, were only made available at the old Ntuzuma Magistrate's Court from October 2011, after Minister Radebe proclaimed Ntuzuma as a self-standing court.

The court faced challenges of insufficient court rooms and communities had to travel long distances to access justice services. Due to the appalling conditions at the old court premises, the department had to intervene to improve the situation.

Ms Jane Naidoo, a Senior Administration Officer at the court shared some of the experiences the officials endured while working at the old court building. "We only had one telephone line that we all shared. One needed to walk and make a booking to use the phone and our main resource in the maintenance office is a telephone. We needed to communicate with sheriffs and the police regularly and that was impossible", said Ms Naidoo. The court also had no access to drinking water for the public and no waiting rooms, as a result, on rainy days it became disastrous, according to Ms Naidoo.

The new court comprises of four regional courts; including two sexual offences courts; six district criminal courts; two civil courts; four family courts; an equality court; a domestic violence court; a juvenile offenders court; 24 offices for prosecutors and 21 offices for magistrates.

"The notorious criminals and all perpetrators who use drugs and commit serious crimes will have nowhere to hide. Officials in this court will ensure that justice is served."

Lack of space and resources is a thing of the past as all courts have appropriate waiting rooms for the public and witnesses; consulting rooms for legal representatives, assessor's offices; intermediaries' offices; offices for maintenance and court clerks as well as stenographer's offices.

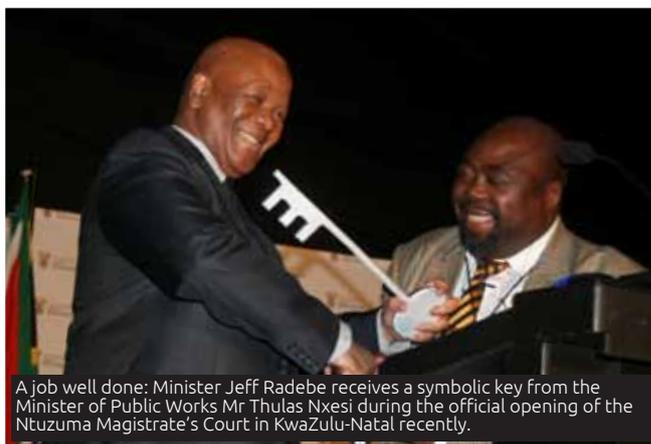
Other facilities include investigator's office; criminal court preparation office; typist; messenger and photocopying

offices; store rooms; sick rooms; and the public and staff toilet facilities; court orderlies' offices and kitchens which most of these resources were not available at the old Ntuzuma Magistrate's Court.

After the event, the minister attended a public participation programme where he acknowledged some of the community concerns regarding the high rate of crime in the area including the abuse of women and children. He pledged that the new court will address such issues.

"The notorious criminals and all perpetrators who use drugs and commit serious crimes will have nowhere to hide. Officials in this court will ensure that justice is served," he cautioned.

He appealed to the community members to utilise the court and work together with the police to track down criminals. [BT](#)



CHIEF MASTER - LEGAL AID SA AGREEMENT HELPS VULNERABLE CHILDREN.

Mokgethwa Ngoepe



An on-going partnership between Office of the Chief Master and the Legal Aid South Africa on co-operation agreement to assist with the administration of child-headed household estates is yielding positive results.

Out of **2071 cases** that were referred to Legal Aid SA on minors in 2012, **1564 matters were dealt with** whilst the remaining **507 were referred** to LASA for finalisation by March 2013.

This partnership has encouraged the department to work hard in ensuring that the children and vulnerable groups are always protected. The Office of the Chief Master has doubled its efforts to extend its perpetual services to assist minor heirs who qualify for assistance.

According to the Assistant Master, Ms Hester Venter, a preliminary agreement between the two stakeholders was signed in April 2009, to agree on the service level and procedures of accessing Legal Aid SA for minors who need legal assistance to administer estates of their deceased parent(s).

This preliminary agreement was implemented with effect from May 2009 with the Master of the High Court: Bloemfontein which started as a pilot site. Reports indicated that there was a great need for this partnership and it was agreed that it should be rolled out countrywide.

"The final co-operation agreement between Legal Aid SA and the Office of the Chief Master was then signed in July 2010, implemented and rolled out to all Master's offices countrywide," said Ms Venter. She added that this co-operation agreement was part of the Office of the Chief Master's drive to continuously identify measures to ensure that the protection of the vulnerable and the poor receives priority.

This is especially in the administration of estates where it gives Legal Aid SA a mandate to protect children/minors' interests by administering estates on their behalf. Ms Venter indicated that a training manual was drafted in order to train attorneys of the Legal Aid SA to do estates, and to work in accordance with the Master's requirements. A committee, consisting of Justice College, Office of the Chief Master, Legal Aid SA and the Master of the High Court: Bloemfontein was instrumental in drafting of the document.

"In order to protect the interests of children (especially where a minor heir does not have a legal guardian), it became a practice that the Master would proceed to ask an attorney to either take the appointment or assist the appointee in finalising the estate. However, this incurred further costs to a sometimes already thinly-spread estate," explained Ms Venter.

The agreement regulates the provision of services by Legal Aid South Africa such as assistance with the appointment of legal guardians for minors whose parents or legal guardians have passed away. This assistance also extends to the appointment of guardians to enable a minor to access money that is in the Guardian's Fund; the institution and defence of litigation in connection with any benefit that may be claimable by an applicant against an estate as well as the appointment or removal of an executor.

Ms Venter further indicated that the arrangement is assisting vulnerable, poor and minor beneficiaries, as they can have their estates finalised without the need to pay for the services provided by Legal Aid SA.

"If Legal Aid SA did not assist, these beneficiaries would have had to obtain the services of attorneys and accordingly pay for it out of an already small estate and limited funds they have," she said.

It stipulates further that Legal Aid SA may make use of the services of attorneys, notaries, conveyancers and advocates when the need arises. However, accountability for the correct administration of an estate remains with the Legal Aid SA. In terms of the agreement, Ms Venter indicated that Legal Aid SA, reserves the right to request the client to contribute to the payment of costs associated with the administration of the estate and/or the debts of the estate.

Where the estate cannot be finalised as a result of non-payment of debts or other costs of winding up of the estate, Legal Aid SA shall close its file if the debts or costs are not cleared within a period of six months of Legal Aid SA requesting the client or guardian to do so.

The Office of the Chief Master exempts Legal Aid SA from the need to open separate bank accounts for each estate, as required by the Act. Legal Aid SA may make use of its trust account, provided each estate can be accounted for separately. This exemption is granted due to the fact that the trust account of Legal Aid SA is covered by fidelity insurance and Legal Aid SA is accountable for any failure to properly administer any estate under its control. **BT**

CROSSWORD Puzzle

The Justice Today **CROSSWORD PUZZLE** has clues whose solutions can be found by carefully reading all the articles in this issue. Fill in the answers correctly and stand a chance to **WIN**.



CROSSWORD PUZZLE QUESTIONS

ACROSS

3. Which Court has been a branch court of Verulam Magistrate's Court since the 1970's?
6. Where do you apply for a protection order when you are harassed?
8. What is the surname of the Human Rights Commissioner?
9. Where is Freedom Park situated?
10. What is the abbreviation of Missing Persons Task Team?
11. What is the abbreviation of Legal Aid South Africa?

DOWN

1. In May 2012 Missing Person's Task Team handed the remains of Mr to his family.
2. What is a form of modern slavery?
4. Minister Jeff Radebe held an Imbizo at Local Municipality.
5. In terms of trafficking in person's bill any person who..... shall be punished by the law of human trafficking.
7.was one of the 25 young people who were taken to the Bosasa Youth Development Centre in Klerksdorp for rehabilitation.

HOW TO ENTER & WIN

Complete the Crossword Puzzle and **STAND A CHANCE TO WIN A PRIZE**. Fill in your details on the entry form and fax to 086 226 0222, attention Nthabiseng Ngwetsana. The first 3 correct entries drawn will **WIN** a prize.

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