



FOUNDATION FOR  
**HUMAN RIGHTS**

# **HUMAN RIGHTS NEWS**

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## EDITOR'S NOTE

### **Dear Friends and Partners,**

Happy New Year to all our readers! The FHR would like to wish you a great 2021 full of hope and good health.

In this edition we will take a look at the Executive Director's International Human Rights Day address which was delivered at the South African Human Rights Commission (SAHRC) webinar on the 10<sup>th</sup> of December 2020 commemorating the SAHRC 25<sup>th</sup> anniversary. The webinar focused on COVID-19-19, Gender Based Violence (GBV), and corruption, both in South Africa and around the world. We will also take a brief look at Tosunga Banninga, a Civil Society Organisation (CSO) which is funded by the FHR under the Masibambisane GBVF Free Zones programme. With support from the FHR, Tsounga Banninga has been doing good work empowering survivors of abuse. We also discuss gender inequality.

As COVID-19-19 continues to rise in our country and around the world we must all take the necessary precautions to protect and prevent the spread of the virus.

*I look forward to hearing from you after reading this March 2021 edition. Please let me know what you would like to see featured in the next HUMAN RIGHTS NEWS issue.*

Please send your comments and contributions to [lsibiya@fhr.org.za](mailto:lsibiya@fhr.org.za)

Happy Reading!

Linds



On the 4<sup>th</sup> of December 2020, the FHR's Executive Director (ED), Hanif Vally, took part in a Dialogue on GBV hosted by the Minister of the Department of International Relations and Cooperation, and the Minister of the Department of Women, Children and Disabled persons. The ambassadors from the United Nations, Kenya and the United Kingdom also participated in the discussion. FHR Executive Director Hanif Vally opened his address by stating that the President of South Africa has made it very clear that there are three pandemics in this country; COVID-19-19, GBV / Femicide, and Corruption. The FHR continues to address these pressing issues in a practical way, involving people and communities, as Vally explained:

*"We give agency back to people on the ground who are experiencing... violations. We know that impunity is one of the major causes of gross violation of human rights in our country".*

It is this same lack of accountability, exposed by the lack of prosecutions during and after the Truth and Reconciliation Commission, that has created a society where criminality, corruption and human rights violations are perpetrated without consequence.

The ED reiterated the importance of accountability with regards to addressing GBV in South Africa; South Africa is a nation of laws founded on our Constitution, and South Africa has clear laws regarding gender based violence. These are basic laws that are part of the common law in our country. In particular, the Prevention of Domestic Violence Act allows for clerk of the court to grant an interim interdict, which may provide immediate relief. However, despite the relative availability of legal remedies, access to these remedies remains low and there is a steady yet incremental increase in gender based violence. The inability to access the justice system means that many persons who are abused, especially women and children, often don't get their day in court. The lack of intervention and successful prosecution leaving them vulnerable to their abusers.

The FHR continues to work hard to address GBV, and has a long-lasting and productive relationship with the Deputy Minister of Justice and Constitutional Development (DOJ&CD), Honorable John Jeffery's as well as Major General Linda from the South African Police Services (SAPS). With the support of these key figures, as well as support from other government departments and stakeholders, the FHR has conducted a series of provincial workshops around the country. As a successful sexual violence conviction requires the police, prosecutors, forensic nurses, health professionals, forensic investigators to all work together, these workshops included participants from many different government departments. However, even when all of these departments are able to work effectively, NGOs often provide additional support to the survivor who may have been left alone and vulnerable during a lengthy investigation and prosecution.

Survivors of GBV face multiple layers of trauma and stress when attempting to access justice, and many depend on NGOs support during this time. NGOs provide vital support to survivors of GBV who face

additional victimization when reporting the crime, attending court, potential court postponements and other negative impacts on their livelihoods.

In the series of workshops the FHR held around the country, FHR discovered that the police, prosecutors, and forensic people had not been talking to each other, nor had they been coordinating the evidence required to obtain convictions. This basic lack of communication may seriously compromise prosecution of sexual violence and it is vital that organisations like the FHR continue to work with both government and civil society to bridge this gap.

Apart from the lack of communication between the departments, the FHR also became aware that some province did not have rape kits due to corruption during the tender process. This corruption forced the cancellation of contracts, leaving entire provinces without rape kits.

The FHR's experience in this sector has shown the need for accountability mechanisms to address these problems. In particular, the FHR calls for permanent accountability structures in all provinces, involving the different governmental departments. This structure must facilitate cooperation and resource distribution to ensure that people are able to properly access justice and support. The lack of accountability and the inefficiency in government departments places enormous pressure on NGOs, who are forced to fulfill the responsibilities of government, while being chronically under-resourced.

The workshops showed that, while there are committed and hard-working people in all government departments, these people need proper support from their senior department officials to allow them to properly coordinate with each other, and to ensure that blockages are removed and accountability maintained.

### **The role of the communities and how they can address the issue of GBV:**

- Prior to the publication of the six principles by the Honorable Minister as well as the issues raised by the Honorable Ambassador from the UN, Ms. Bekele Thomas, FHR had already identified 18 or 19 areas around the country, a lot of them designated as GBV hot spots by the Minister of Police.
- The FHR has created local structures and provided training on the causes of the gross violations of human rights that occur in the form of GBV. The also FHR calls for a dedicated person in the municipality responsible for addressing GBV issues, as well as safe houses and shelters in every municipality.
- The FHR conducted a nation-wide survey of 124 Community Advice Offices to assess the state of human rights in South Africa during the lockdown. An analysis of the survey results

determined that there has been an increase in GBV during lockdown. Increased GBV during lockdown appears to be an international trend and must be addressed on the ground by changing the harmful culture of patriarchy, through active engagement directly with communities.

### **What has the FHR been doing to address GBV during COVID-19?**

- The FHR has been working closely with communities, helping people in local organisations in the communities with high levels of GBV. The FHR assists organisations that provide safe spots, using a 'safety in numbers' approach to ensure that community members are trained and able to support each other. The FHR uses both our own considerable experience, as well as the experiences in other countries such as the UK, Uganda, Kenya and Malawi. As an example, the FHR has drawn from Kenya where excellent work is being done teaching school boys about respecting their mothers and sisters. Starting at a young age, education and awareness can change minds and start to undermine harmful patriarchal beliefs and practices.
- The FHR has found that the cost of data and airtime is prohibitive to many CSOs and vulnerable groups. When the FHR does work with local CSOs that requires them to make use of cellphones or internet, FHR often provides them with an appropriate amount of airtime and data, allowing them to conduct training and do their work online. The use of data and airtime is becoming more important during COVID-19, as it allows CSOs to continue to work with their community and still remain safely socially-distance.
- The FHR works with local activist within the Masibambisane project to create Gender Based Violence and Femicide Free Zones. The FHR communicates with local activists and assists them to take a pledge in their local indigenous language. The pledge is a promise for them to fight GBV, and commit themselves to be part of a GBV free zone in their area. This innovative approach is part of the FHR's plan to change address GBV by changing societal beliefs and practices that allow GBV to take place.

While GBV is a significant issue in urban areas, people in rural areas also face GBV – and this problem is made worse by the distance amongst people making it hard for survivors of GBV to access support. One of the ways to address this is to consider the practice amongst the Maasai women in Tanzania. These women have established their own villages when they had been cast out of houses, or tried to escape from GBV. While this may not be practical in all areas of South Africa (in some rural areas where patriarchy is prevalent, women are not able to get permission to occupy and own land), it shows how innovate solutions may be possible for rural communities.

The FHR's approach of training and empowerment has proven effective in the past, and is also very cost effective as not much money is required. The FHR has found that the cost of one conference will fund about 20 different areas where we can create these local committees. This is how the FHR is running its Masibambisane programme, and the implementation of this programme is monitored by the communities themselves to ensure that prosecution and other appropriate action is taken. The FHR intends on building in monitoring systems that can detect if someone has been accused of perpetrating GBV in the local area and follow the case from reporting to investigation, prosecution and conviction.

The FHR is already part of a similar monitoring national system for LGBTI+ rights through the LGBTI+ National Task Team (NTT) that includes affected communities and government representatives. The NTT's system allows government and stakeholders to monitor the progress of incidents reported against LGBTI+ people, to ensure that cases are successfully prosecuted and do not 'slip between the cracks'. Members of the NTT's Rapid Response Task team (RRT) include senior members of the DOJCD, the NPA and SAPS as well as representatives of LGBTI+ CSOs at both a national and provincial level. Cases reported to the NTT are monitored at a high level and interventions are targeted where blockages are identified. The combination of multiple responsible government departments and LGBTI+ CSOs allows for effective communication and rapid resolution of cases. The FHR intends to replicate this model to address both GBV and violence against farm workers.

To watch webinar follow this link: <https://t.co/gRLAOGIVYs?amp=1>

## **Executive Director Hanif Vally address at the 25 Years of SAHRC**



We are in the unfortunate situation where in the words of the President we face three pandemics; COVID-19-19, GBV and corruption. In addition, the checks and balances supposedly by the executive and legislature

have been severely compromised through reasons of party discipline and patronage. Corruption seems to have permeated large segments of our society, including politics at the

highest levels and appears present in most major political parties.

It is a known fact that all societies require checks and balances to ensure that there is no abuse of power. The concept of legislature, executive and judiciary playing this role was developed by 18<sup>th</sup> century French Philosopher Charles-Louis de Secondat Montesquieu. However the world has moved considerably since that time. There is a recognition that there has to be specific provision made to protect citizens and ensure that their rights are protected, especially in view of the enormous power of the state in the 21<sup>st</sup> century. Hence the need to create what has been referred to as the Chapter 9 institutions in South Africa; an additional checks and balances on government and a further tool for civil society.

A serious concern is the extent to which Chapter 9 institutions can be undermined by the appointment of compromised persons to be key roles in these institutions. It should be remembered that the Paris Principles make specific provisions for the involvement of human rights NGO, religious, philosophical, experts and universities to be involved in the selection process for significant members of these institutions, in addition to parliament.

We have also seen corruption at local government level whereby funds needed for basic utilities such as provision of water and sanitation were illegally diverted by corrupt officials to VBS Mutual Bank. We have noted the looting of VBS Mutual Bank by politicians from different political parties. We have reached the astounding situation where towns across the country do not have water available, requiring

a charity/NGO to provide water by drilling new boreholes.

The constitutional mandate of the SAHRC is, *inter alia*, to promote the attainment of our human rights. We know apartheid was a crime against humanity. Not only was there no respect for civil and political rights during apartheid, but the majority of South Africans were prevented from accessing and realising socio-economic rights resulted in a population intentionally stunted in almost every respect. South Africa is unenviably one of the most unequal societies in the world, yet the very first clause in our constitution sets out the achievement of equality as one of our founding values. In view of the all-pervasive poverty in our country, people's constitutional rights to dignity is clearly not being respected. Respect for human rights is the responsibility of all of us, including Civil Society Organizations.

As a member of Civil Society, the FHR conducted a survey on the respect for human rights during the COVID-19-19 lockdown through 124 CAO across the country. We found that access to food, increased GBV, lack of access to social security and inaction by local government were most pervasive.

Under the leadership of South African Council of Churches, the FHR and a number of CSOs wrote an open letter to government decrying the sheer depravity of the corruption taking place around the budget dedicated to the fighting of the COVID-19-19 pandemic. We attended meetings with the ANC Top 6 and separately with relevant government Ministers. What is clear to all of us is that the battle for the soul and future of our nation is taking place



## Happy International Women's Day 2021



It has been 72 years since the Universal Declaration of Human Rights, 26 years since the landmark Beijing Declaration and Platform for Action, more than 25 years into our South African democracy and yet no country in the world has achieved gender equality.<sup>1</sup>

Not one country.

The global theme for International Women's Day on the 8<sup>th</sup> of March 2021 is **'Women in leadership: Achieving an equal future in a COVID-19-19 world'**. Sadly, women still face significant cultural, socio-economic and political barriers to accessing leadership. Achieving women's equality and socio-economic independence are not only important for domestic development and growth, but also constitute a vital part of sustainable development and democracy. If we are to meet the ambitious target set by the United Nations' Sustainable Development Goal (SDG) 5.5

focusing on ensuring "women's full and effective participation and equal opportunities for leadership at all levels of decision making in political, economic and public life" we must address gender imbalances at every level.<sup>2</sup>

The COVID-19 pandemic and associated restrictions has exacerbated the situation of women and girls in the world. Many women and girls have faced an increased burden of care, assuming multiple care responsibilities at home, taking care of the children, the elderly and their families. Many women have lost and are continuing to lose their jobs, and sources of income. Unemployment levels continue to rise and young and black women continue to be at the receiving end. Between April and May 2020, the FHR conducted an online survey of 127 Community Advice Offices (CAOs) throughout South Africa, which showed that 54% of CAOs reported an increase in GBV incidents during lockdown, across all provinces.

<sup>1</sup> According to the World Economic Forum, no advanced or middle-income economy has reduced the gender gap below 7 percentage points.

<sup>2</sup> Ntsoaki Gwaelane, Covid-19 and women leadership struggles in South Africa, 3<sup>rd</sup> June 2020

<https://unstats.un.org/sdgs/metadata/?Text=&Goal=5&Target=5.5#:~:text=Target%205.5%3A%20Ensure%20women's%20full%20political%2C%20economic%20and%20public%20life>

The pandemic has been a setback to the advancement and progress of women both nationally and on a global scale, but it has also highlighted the high level of inequality women experience in senior management roles in the health care industry. According to World Health Organisation (WHO), although women make up 70% of the health workforce, they hold only 25% of senior roles. In South Africa, in business only one of the top 40 listed JSE companies has a female CEO. About 68% of all senior management positions are held by men and women hold only 32% of executive positions.<sup>3</sup>

Numerous studies have shown that women are as capable of leading as their male counterparts. If anything, the COVID-19 response has illustrated this, countries such as Iceland, New Zealand, Denmark, Finland, Taiwan and Norway, all led by women, have shown low rates of COVID-19 infection and death. So why it is that women continue to lack access to opportunities due to structural barriers and institutional mindsets? Attitudes such as silencing, erasure, discrimination, lack of support, harassment –are deeply rooted dynamics that continue to undermine and undervalue women. In the 21<sup>st</sup> Century, we need a radical shift, new ways of thinking and new strategies to ensure that more is done to give all women the best possible chances of rising to the top. To bridge the gap, businesses must confront old leadership stereotypes that affects their workforce and provide women the same opportunities and tools given to men to

enable them to succeed. The visibility of women in leadership positions is very critical. Progress in women’s leadership will not happen without a deliberate shift in policies and actions to ensure women are given opportunities, and that conducive environments, knowledge, skills and resources are provided to women. The increasing levels of unemployed young women tertiary graduates demonstrates overwhelmingly that women remain an underutilized, dynamic and valuable pool of talent.

South Africa is a country of many contradictions when it comes to political leadership. Globally it is ranked as the tenth best country in the world in terms of the number of women in parliament. Yet this does not mean much when one considers the high levels of gender based violence, poverty and unemployment of women in South Africa. Significant numbers of women, mainly Black African women, remain trapped in low-productivity jobs, often in informal sector and with very poor access to technology (where there is access at all). Vulnerable groups of women who already face multiple layers of exclusion are hit even harder by reduced economic opportunities and food shortages. These include women and girls with disabilities, migrant women, and gender non-conforming persons who face significant barriers to mobility, and lack accessible information and services targeted to their needs.

Whilst we acknowledge there is still a long way to go, women have started to break through

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<sup>3</sup> South Africa’s Report on the Progress made on the Implementation of the Beijing Platform for Action 2014- 2019 available at

<https://www.readkong.com/page/south-africa-s-report-department-of-women-6812898>

glass ceilings in some sectors, especially in previously male dominated fields such as manufacturing, finance, big business, science, engineering, mathematics, technology, ICT related fields, mining and construction. <sup>4</sup> Women who are employed and successful in business help to drive economic growth. Due to traditional gender roles and societal expectations, money in women's hands means tends to be used to provide food for families (reducing food insecurity), access basic healthcare, and enhance women and girls

safety by reducing economic vulnerability for women in abusive relationships.

Deconstructing the barriers to women's ability to respond to crises and increasing women's access to, and control over, resources is critical. As we envision a world beyond COVID-19 we need capable, resourced and strong women in leadership roles.

Unless women are empowered to take up space and lead we will continue to face problems in our society and attainment of gender equality will remain a pipe dream.

## Dr. Neil Aggett's Inquest resumes



The inquest into the death of Dr Neil Aggett resumed virtually on 18 January 2021. After running for five weeks in January and February 2020, the inquest had to be postponed due to the Presiding Judge's illness.

The delay has come at an inopportune moment when many perpetrators of human rights violations committed during the apartheid era

have died before they could disclose the truth of their involvement and what actually transpired. The purpose of the inquest is to uncover the truth by piercing the cloak of secrecy surrounding the activities of the then Security Branch in the detention, torture and death of anti-apartheid activists, and to determine the chain of command in the

apartheid government that gave the orders for the 'removal' of anti-apartheid activists.

Another unforeseen development has been the decision taken by the Minister of Justice and Constitutional Development directing that the inquest into the death of Ernest Dipale be jointly heard with that of the Aggett inquest. This decision was contained in a letter dated on the 1<sup>st</sup> of December 2020, which was only received by the Aggett legal team on the 8<sup>th</sup> of December 2020. This decision was taken on the basis that Ernest Dipale was detained at the same prison in 1982 and met a similar fate as that of Aggett in that he too was found hanged in his cell. However, this very late notice meant that there was no time for the Aggett legal team to properly investigate Dipale's case.

Dr [Neil Hudson Aggett](#) was a medical doctor and trade union organiser, and the first white person to die in detention during apartheid. On 5<sup>th</sup> of February 1982, Aggett was found hanging in his cell at John Vorster Square, after 70 days in police custody. An initial inquest in 1982 ruled his death the result of suicide. Almost three decades later, based on new evidence, a reopened inquest was ordered on 16<sup>th</sup> of August 2019. The reopened inquest commenced on 20<sup>th</sup> of January 2020 in the South Gauteng High Court of Johannesburg.

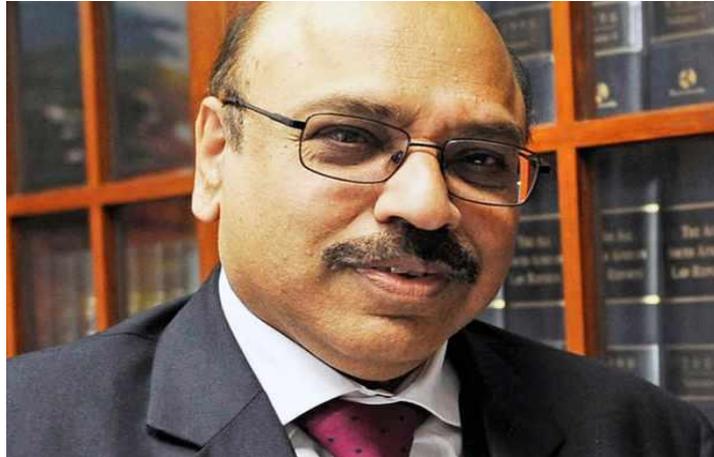
Upon resuming in 2020, the inquest saw the family members, experts and political activists testifying about their interactions with Dr

Aggett before his death, their experiences from detention and about the methods employed by Security Branch of the South African Police in relation to political activists. The court also conducted the inspection *in loco* of the 2<sup>nd</sup> and 10<sup>th</sup> floor of the John Vorster Square, where political activists were kept and interrogated and where the body of Dr Aggett was found in 1982.

As a result of deliberate fabrication and withholding of information from the Truth and Reconciliation Commission, many perpetrators of human rights violations have escaped scrutiny and responsibility for their actions. The survivors and the families of those who died in detention need to know the truth about how their loved ones were tortured and killed so that they can get closure on a painful chapter in their lives.

Now it is time for the former Security Branch Officers of the South African Police to take the witness stand and tell their story about the death of Dr Aggett. A number of high profile members of the Security Branch including, among others, Martin Naude, Joseph Woensdregt, Roelof Venter, William Smith or Eddie Chauke have been subpoenaed to testify. They will testify virtually during the four-week court sitting. ***The closing arguments have been scheduled for 18 March but there is a possibility that the hearing might be further delayed.***

## **Judge Siraj Desai's tenure comes to an end at the Western Cape High Court**



Judge Desai is an advocate and judge at the Western Cape High Court. He was appointed as a judge on the Cape Supreme Court bench in 1995. In July 1995 he was elevated to the bench of the Western Cape High Court (then the Cape Supreme Court, later the Cape High Court). Judge Desai has served as chairperson of the National Council for Correctional Services (NCCS) since 1998. Judge Desai is the Deputy Chairperson of the FHR Supervisory Board. Judge Desai is stepping down after a legal career spanning 43 years and has been instrumental in many judgments which put murderers behind bars.

To watch follow on this link: <https://www.youtube.com/watch?v=GQof8b0-ZbA>

## **FHR Congratulates Adv. Dumisa Ntsebenza on his appointments to the African Court on Human and Peoples Rights**



The FHR congratulates Adv. Dumisa Ntsebenza on being appointed as a member of the African Court on Human and Peoples Rights. His appointment is an outcome of the support and confidence African countries have for South Africa. FHR wishes Adv. Ntsebenza well in his new assignment. His extensive experience and knowledge in the field of human rights will be of immense contribution to our continent.

Adv. Dumisa Buhle Ntsebenza SC is a renowned judge who served as a Commissioner on the United Nations International Commission of Inquiry Darfur. In South Africa, he was a Commissioner and Head of the Truth and Reconciliation Commissions Investigative Unit. On several occasions he served as a Judge of the High Court and the Labour Court of South Africa. Adv. Dumisa also sits on the Board of the Foundation for Human Rights.

## CONTACT US

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*"We would like to thank our partners in the European Union and the DOJCD and look forward to working with them in the future".*

